

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 734

An Act to authorize the issuance of bonds subject to the provisions of Section 9 (c) of Article X of the Constitution of Virginia in an amount not to exceed \$89,997,400, plus amounts needed to fund issuance costs, reserve funds and other financing expenses, for the purpose of providing funds, together with any other available funds, for paying all or a portion of the costs incurred or to be incurred for acquiring, constructing and equipping revenue-producing capital projects at institutions of higher education of the Commonwealth; to authorize the Treasury Board, by and with the consent of the Governor, to fix the details of such bonds, to provide for the sale of such bonds at public or private sale, and to issue notes to borrow money in anticipation of the issuance of such bonds; to provide for the pledge of the net revenues of such capital projects and the full faith, credit and taxing power of the Commonwealth for the payment of the principal of and the interest on such bonds; to provide that the interest income on such bonds shall be exempt from all taxation by the Commonwealth and any political subdivision thereof; and to repeal Chapter 845 of the Acts of Assembly of 1996.

[S 31]

Approved April 16, 1998

Whereas, Section 9 (c) of Article X of the Constitution of Virginia provides that the General Assembly may authorize the creation of debt secured by a pledge of net revenues derived from rates, fees or other charges and the full faith and credit of the Commonwealth of Virginia, provided that such debt is created for specific revenue-producing capital projects, including the enlargement or improvement thereof, at, among others, institutions of higher education of the Commonwealth; and

Whereas, in accordance with the provisions of Section 9 (c) of Article X of the Constitution of Virginia, the Governor has certified in writing, filed with the Auditor of Public Accounts, his opinion that the anticipated net revenues of each of the capital projects identified below to be pledged to the payment of the principal of and the interest on that portion of such debt issued for each such project will be sufficient to meet such payments as the same become due and to provide such reserves as may be required by law and that each of the capital projects complies with the requirements of Section 9 (c) of Article X of the Constitution of Virginia; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. Title.

This act shall be known and may be cited as the "Commonwealth of Virginia Higher Educational Institutions Bond Act of 1998."

§ 2. Authorization of bonds and BANs.

The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, subject to the provisions of Section 9 (c) of Article X of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series" in an aggregate principal amount not exceeding \$89,997,400, plus amounts needed to fund issuance costs, reserve funds, construction period interest, and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of the bonds by the issuance of bond anticipation notes ("BANs"), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs incurred or to be incurred for acquiring, constructing, renovating, enlarging, improving and equipping revenue-producing capital projects at institutions of higher education of the Commonwealth as follows:

Institution	Project Number	Debt	Project Name
University of Virginia	15400	\$ 1,142,000	Newcomb Hall Expansion
University of Virginia	16092	3,500,000	Rugby Road Apartments Renovation
University of Virginia	16094	4,000,000	Observatory Hill Dining Renovation
University of Virginia	16151	4,500,000	Clinch Valley College Residence Hall

Virginia Polytechnic Institute	14303	1,078,900	Major Repairs Dorm/Dining
Virginia Polytechnic Institute	14815	5,991,700	Parking Auxiliary Project
Virginia Polytechnic Institute	15525	3,269,000	Dining Hall
Virginia Polytechnic Institute	16095	2,098,000	Dietrick Dining Hall HVAC
Virginia Commonwealth University	15160	998,300	MCV Visitors Deck
Virginia Commonwealth University	16093	12,381,000	Student Residence Hall
George Mason University	15345	2,000,000	Arlington Metro Parking
George Mason University	15533	3,400,000	Housing Renovations
College of William and Mary	15745	6,660,000	Dormitory Renovation
James Madison University	15361	1,082,000	Dining Facility Renovation
James Madison University	15620	3,214,000	Parking Structure
Christopher Newport University	xxxxx	12,726,000	Residence Hall, Phase II
Virginia Community College System	xxxxx	635,500	Mt. Empire Community College Parking Auxiliary Project
University of Virginia	xxxxx	8,000,000	Clinch Valley College Student Services Building
Longwood College	xxxxx	2,800,000	Residence Hall Renovations
Longwood College	15502	2,975,000	New Dining Hall
Mary Washington College	15980	1,500,000	Residence Hall HVAC
Mary Washington College	16096	5,000,000	Seacobeck Dining Hall Renovation
Virginia State University	15622	1,046,000	Jones Dining Hall
TOTAL		\$89,997,400	

§ 3. Application of proceeds.

The proceeds, including any premium, of the bonds and BANs (except the proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs) shall be deposited in a special capital outlay fund in the state treasury and, together with the investment income thereon, shall be disbursed by the State Treasurer for paying costs of the acquisition, construction, renovation, enlargement, improvement and equipping of said capital projects, including financing costs. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs shall be used to pay such BANs, refunded bonds, and refunded BANs.

§ 4. Details, sale of bonds and BANs.

Bonds and BANs shall be dated and may be made redeemable before their maturity or maturities at such price or prices or within such price parameters, all as may be determined by the Treasury Board, by and with the consent of the Governor. Bonds and BANs shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as determined by the Treasury Board or, when authorized by the Treasury Board, the State Treasurer. The principal of and premium, if any, and the interest on bonds and BANs shall be payable in lawful money of the United States of America. Bonds and BANs may be certificated or uncertificated as determined by the Treasury Board. The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the bonds and BANs. Bonds and BANs issued in certificated form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds and BANs. The Treasury Board shall fix the authorized denomination or denominations of the bonds and BANs and the place or places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or times not exceeding thirty years from their date or dates, and BANs shall mature at such time or times not exceeding five years from their date or dates.

The Treasury Board may sell the bonds and BANs in such manner, by competitive bidding, negotiated sale, or private placement, and for such price or within such price parameters as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth.

In the discretion of the Treasury Board, bonds and BANs may be issued at one time or from time to time and may be sold and issued at the same time with other general obligation bonds and BANs, respectively, of the Commonwealth authorized pursuant to Section 9 (a) (3), (b), and (c) of Article X of the Constitution of Virginia, as separate issues or as a combined issue, designated "Commonwealth of Virginia General Obligation Bonds [Bond Anticipation Notes], Series ____."

§ 5. Execution of bonds and BANs.

Certificated bonds and BANs shall be signed on behalf of the Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds or BANs bear the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign them by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds or BANs ceases to be such officer before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by, such persons as at the actual time of the execution are the proper officers to sign such bond or BAN although, at the date of such bond or BAN, such persons may not have been such officers.

§ 6. Sources of payment of expenses.

All expenses incurred under this act shall be paid from the proceeds of the bonds or BANs, from payments made by the institutions for which the capital projects were authorized in § 2 hereof or from any other available funds as the Treasury Board shall determine.

§ 7. Revenues.

Each institution of higher education mentioned above is hereby authorized (i) to fix, revise, charge and collect a building fee or other comprehensive student fee and other rates, fees and charges for or in connection with the use, occupancy and services of each capital project mentioned above or the system of which such capital project is a part and (ii) to pledge to the payment of the portion of the bonds or BANs issued for such capital project the net revenues resulting from such rates, fees and charges remaining after payment of the expenses of operating the project or system, as the case may be. Each such institution is further authorized to create debt service and sinking funds for the payments of the principal of, premium, if any, and interest on the bonds and other reserves required by any agency of the United States of America purchasing the bonds or any portion thereof.

§ 8. Authorized investments.

Pending the application of the proceeds of the bonds and BANs to the purpose for which they have been authorized and the application of the net revenues and other sums set aside for the payment of bonds and BANs, all or any part of such funds may be invested by the State Treasurer in securities that

are legal investments under the laws of the Commonwealth for public funds. Such investments shall be deemed at all times to be a part of such funds, and the interest thereon and any profit realized from such investments shall be credited to such funds, and any losses shall be deducted therefrom.

§ 9. Security for bonds and BANs.

The net revenues of the capital projects set forth above and the full faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the principal of and the interest on bonds and BANs (unless the Treasury Board, by and with the consent of the Governor, shall provide otherwise) issued under this act. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest on and any premium on the bonds or BANs to be paid or redeemed thereby. In the event the net revenues pledged to the payment of the bonds or BANs are insufficient in any fiscal year for the timely payment of the principal of, premium, if any, and interest on the bonds or BANs where the full faith and credit of the Commonwealth have been pledged, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct payment therefor from the general fund revenues of the Commonwealth.

§ 10. Exemption of interest from tax.

The interest income on the bonds and any BANs issued under the provisions of this act shall at all times be exempt from taxation by the Commonwealth and by any county, city or town, or other political subdivision thereof. The Treasury Board is authorized to take or refrain from taking any and all actions and to covenant to such effect, and to require the participating institutions to do and to covenant likewise, to the extent that, in the judgment of the Treasury Board, it is appropriate in order that the interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on bonds and BANs may be made subject to inclusion in gross income of the holders thereof for federal income tax purposes.

§ 11. Refunding bonds and BANs.

The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the Commonwealth, to refund any or all of the bonds and BANs, respectively, issued under this act or otherwise authorized pursuant to Section 9 (c) of Article X of the Constitution of Virginia. Refunding bonds and BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the bonds or BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the obligations to be refunded are then subject to redemption.

§ 12. Defeasance.

Any bond or BAN for which cash or direct obligations of the United States of America shall have been set aside in escrow with the State Treasurer or a bank or trust company, within or without the Commonwealth, shall be deemed no longer outstanding under the applicable authorizing instrument, this act, and Section 9 (b) or (c) of Article X, as the case may be, of the Constitution of Virginia.

§ 13. Severability.

The provisions of this act or the application thereof to any person or circumstance which are held invalid shall not affect the validity of other provisions or applications of this act which can be given effect without the invalid provisions or applications.

2. That Chapter 845 of the Acts of Assembly of 1996 is repealed; however, such repeal shall not operate to invalidate, alter the security of or prohibit the refunding of bonds heretofore issued pursuant to such act.

3. That an emergency exists and this act is in force from its passage.