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## HOUSE BILL NO. 894

Offered January 26, 1998

A BILL to amend the Code of Virginia by adding in Title 22.1 a chapter numbered 11.2, consisting of sections numbered 22.1-175.4 through 22.1-175.8, relating to funding for public school construction.

Patrons—May, Albo, Callahan, Davies, Day, Jones, J.C., McClure, Orrock, Plum, Puller, Rollison, Rust and Scott; Senator: Mims

Referred to Committee on Appropriations

**Be it enacted by the General Assembly of Virginia:**

1. That the Code of Virginia is amended by adding in Title 22.1 a chapter numbered 11.2, consisting of sections numbered 22.1-175.4 through 22.1-175.8, as follows:

## CHAPTER 11.2.

## FUNDING FOR PUBLIC SCHOOL CONSTRUCTION.

§ 22.1-175.4. State reimbursement of localities for construction.

A. On and after July 1, 1998, the Commonwealth shall reimburse any locality up to one-half of the capital costs of a public school construction, enlargement, or renovation project upon a basis approved by the Board of Education in accordance with the provisions of this chapter. The Board shall promulgate regulations, to include criteria which may be used to assess need and establish priorities, to serve as guidelines in evaluating requests for such reimbursement and to ensure the fair and equitable distribution of state funds provided for such purpose. The Department of Education shall apply such regulations in preparing requests for appropriations.

No such reimbursement shall be made unless the plans and specifications thereof, including the need for additional personnel, have been submitted to the Governor and the project has been approved by him. Reimbursements shall be paid subject to the provisions of § 22.1-175.6.

B. In the event that a locality requests and receives financial assistance for capital costs of such project from the Literary Fund, the Virginia Public School Authority, or from other public fund sources outside of the provisions of this chapter, the total financial assistance and reimbursement shall not exceed the total cost of the project.

C. When such project involves the construction, enlargement or renovation of a school in a division that is comprised of more than one locality, the Commonwealth shall reimburse each such locality its pro rata share, up to one-half, of the capital costs, as defined in this chapter, of such project in accordance with the provisions of this section and § 22.1-175.6.

§ 22.1-175.5. Approval of projects by the Board.

The Board shall promulgate regulations requiring localities seeking approval of a school construction, enlargement, or renovation project to submit a plan for such project and demonstrate that the project can be completed and operated in a cost-efficient manner. Such regulations shall require, at a minimum, that the request include an analysis of staffing needs and a six-year operating budget for the proposed facility. The Board shall not approve a proposed project unless it conforms to the regulations promulgated pursuant to this section.

§ 22.1-175.6. Method of reimbursement; involvement of the Treasury Board.

A. Reimbursements by the Commonwealth to localities for a portion of the capital costs of a school construction, enlargement, or renovation project, made pursuant to this chapter may be effected by one of the following methods:

1. In one lump sum payment to be made upon completion of the project, for minor renovation projects; or two equal lump sum payments, one such payment to be made upon certification that the construction, enlargement or renovation is fifty percent complete and the second such payment to be made upon completion of the project, such payments to be paid by the State Treasurer out of funds appropriated to the Department of Education; or

2. Over a specified period of time through a contractual agreement entered into by the Treasury Board and approved by the Governor, on behalf of the Commonwealth, and the locality or combination of localities undertaking a school construction or renovation project, such payments to be paid by the State Treasurer out of funds appropriated to the Treasury Board.

B. The General Assembly shall have the sole authority to determine whether reimbursement will be made pursuant to subdivision A 1 or A 2. The Department of Planning and Budget, after consulting with the Treasury Board, shall evaluate all proposed school construction, enlargement, and renovation projects and make recommendations to the Governor regarding the method of reimbursement for inclusion in his biennial budget.

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60 C. Any contract for reimbursement over a specified period of time entered into pursuant to  
61 subdivision A 2 shall include the following:

62 1. The Commonwealth shall reimburse a portion of financing costs as defined in subsection E;

63 2. The Commonwealth's reimbursement payments shall be subject to appropriation;

64 3. In the event that the project is financed through an issuance of securities, the Commonwealth's  
65 reimbursement payments shall be calculated using the coupon interest rates received by the locality at  
66 the time the securities for the project are sold and shall be made pursuant to a schedule to be set forth  
67 in the contract;

68 4. In the event that a project is financed through an issuance of securities, and coupon interest rates  
69 are not available due to the structure of the securities, the Treasury Board is authorized to make such  
70 adjustments as are necessary and reasonable to calculate the Commonwealth's payments;

71 5. In the event that the project is financed through a method other than the issuance of securities,  
72 the Commonwealth's payment shall include interest payments based on an interest rate assumption equal  
73 to the prevailing AA rate for tax-exempt bonds issued by the Commonwealth or agencies thereof, or the  
74 actual rate achieved, whichever is lower, and the schedule for the Commonwealth's reimbursement  
75 payments shall be set forth in the contract; and

76 6. Such other terms and conditions as are necessary to specify the structure of the Commonwealth's  
77 participation in project financing and as may be required by guidelines established by the Treasury  
78 Board.

79 D. For purposes of this chapter, "capital costs" includes, but is not limited to, actual construction  
80 costs, architectural and engineering fees, and fixed equipment. "Capital costs" does not include costs of  
81 site acquisition or development, furnishings and fixtures, administrative costs, nor a financial advisor's,  
82 an investment banker's, or an attorney's fees incurred by local governments.

83 E. For purposes of this chapter, "financing costs" means the total of all costs incurred by the locality  
84 or combination of localities as are deemed reasonable and necessary by the Treasury Board to execute  
85 the financing of the Commonwealth's payment of capital costs and to fund such funds and accounts as  
86 the Treasury Board determines to be reasonable and necessary.

87 § 22.1-175.7. Budgeting schedule for school construction, enlargement, and renovation projects.

88 A. Any locality or any combination of localities requesting state financial assistance pursuant to this  
89 chapter shall, on or before March 1 biennially in the odd-numbered years, submit to the Governor, in a  
90 format prescribed by the Department of Education for such purpose, school construction, enlargement,  
91 or renovation plans and specifications, including detailed cost estimates of any such project. On or  
92 before July 1 in the odd-numbered years, such localities shall also submit to the Governor, in a format  
93 prescribed for such purpose by the Treasury Board, the expected financing costs for any such  
94 construction, enlargement, or renovation in accordance with § 22.1-175.6. The Governor shall submit  
95 his recommendations for funding such projects as part of the budget bill on or before December 20 of  
96 the year immediately prior to the beginning of each regular session held in an even-numbered year of  
97 the General Assembly. Requests for appropriations of such funds shall be considered by the General  
98 Assembly only in even-numbered years.

99 B. In the event that the state share of reimbursable costs of the project is estimated to be less than  
100 or equal to one million dollars, such localities shall be exempt from submitting to the Governor, in a  
101 format prescribed for such purpose by the Treasury Board, the expected financing costs for any such  
102 school construction or renovation project in accordance with subsection A, unless such localities seek  
103 reimbursement of financial costs associated with such construction, enlargement, or renovation.

104 § 22.1-175.8. Limits on state expenditures.

105 The Governor may withhold approval for state expenditures, by reimbursement or otherwise, for the  
106 purposes set out in this chapter as provided in the current general appropriation act.