

19103774D

SENATE BILL NO. 1093

Offered January 16, 2019

A *BILL to amend and reenact §§ 22.1-142 and 62.1-199 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 22.1-146.1 and 58.1-638.4, relating to the Literary Fund; School Modernization Subfund.*

Patron—Ruff

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-142 and 62.1-199 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 22.1-146.1 and 58.1-638.4 as follows:

§ 22.1-142. How Fund constituted; management.

A. There shall be set apart as a permanent and perpetual fund, to be known as the "Literary Fund," the present Literary Fund of the Commonwealth, donations to the Literary Fund, sums appropriated to the Literary Fund, all funds received by the State Treasurer and required to be deposited in the Literary Fund pursuant to Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 and the proceeds of (i) all public lands donated by Congress for public school purposes, (ii) all escheated property, (iii) all waste and unappropriated lands, (iv) all property accruing to the Commonwealth by forfeiture except those items specifically exempted, (v) all fines collected for offenses committed against the Commonwealth, and (vi) the annual interest on the Literary Fund. The Literary Fund shall be invested and managed by the Board of Education as prescribed by § 22.1-145.

B. *There is hereby established a subfund of the Literary Fund, to be known as the "School Modernization Subfund" (the Subfund). All funds required to be deposited pursuant to § 58.1-638.4 and any other funds appropriated for such purpose, and any gifts, donations, grants, bequests, and other funds received on its behalf, shall be paid into the state treasury and credited to the Subfund. Moneys in the Subfund shall be used to subsidize interest payments on certain loans pursuant to § 22.1-146.1.*

§ 22.1-146.1. Loan interest rate subsidy payments.

A. *The Board of Education shall establish a program to subsidize interest payments on certain loans made by the Virginia Resources Authority, or other entity approved by the Board, to local governing bodies and school boards for the design and construction of new school buildings and facilities or the modernization and maintenance of existing school buildings and facilities as follows:*

1. *For school divisions with a composite index of local-ability-to-pay that is greater than 0.2500 but less than 0.4000 at the time an application to the program is made, the Board may subsidize up to 50 percent of the interest due on such loan;*

2. *For school divisions with a composite index of local-ability-to-pay that is 0.2500 or less at the time an application to the program is made, the Board may subsidize up to 100 percent of the interest rate on such loan.*

B. *Funds for the program established pursuant to this section shall be paid from the School Modernization Subfund created pursuant to subsection B of § 22.1-142.*

§ 58.1-638.4. Disposition of remote sales and use tax revenue.

The state sales and use tax collected from remote sellers and marketplace facilitators that register for the first time after the effective date of any legislation adopted by the General Assembly that requires the remittance of state sales and use tax by remote sellers and marketplace facilitators shall be distributed to the School Modernization Subfund created pursuant to subsection B of § 22.1-142.

§ 62.1-199. Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions or any other obligations of the Authority for the payment of money.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § 62.1-215.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. It includes, without limitation,

INTRODUCED

SB1093

59 all necessary developmental, planning and feasibility studies, surveys, plans and specifications,
60 architectural, engineering, financial, legal or other special services, the cost of acquisition of land and
61 any buildings and improvements thereon, including the discharge of any obligations of the sellers of
62 such land, buildings or improvements, real estate appraisals, site preparation and development, including
63 demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery
64 and equipment, the reasonable costs of financing incurred by the local government in the course of the
65 development of the project, including the cost of any credit enhancements, carrying charges incurred
66 before placing the project in service, interest on local obligations issued to finance the project to a date
67 subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in
68 connection with placing the project in service, the funding of accounts and reserves which the Authority
69 may require and the cost of other items which the Authority determines to be reasonable and necessary.
70 It also includes the amount of any contribution, grant or aid which a local government may make or
71 give to any adjoining state, the District of Columbia or any department, agency or instrumentality
72 thereof to pay the costs incident and necessary to the accomplishment of any project, including, without
73 limitation, the items set forth above. The term also includes interest and principal payments pursuant to
74 any installment purchase agreement.

75 "Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees and other
76 forms of collateral or security.

77 "Defective drywall" means the same as that term is defined in § 36-156.1.

78 "Federal facility" means any building or infrastructure used or to be used by the federal government,
79 including any building or infrastructure located on lands owned by the federal government.

80 "Federal government" means the United States of America, or any department, agency or
81 instrumentality, corporate or otherwise, of the United States of America.

82 "Former federal facility" means any federal facility formerly used by the federal government or in
83 transition from use by the federal government to a facility all or part of which is to serve any local
84 government.

85 "Local government" means any county, city, town, municipal corporation, authority, district,
86 commission or political subdivision created by the General Assembly or pursuant to the Constitution and
87 laws of the Commonwealth or any combination of any two or more of the foregoing.

88 "Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or revenue
89 anticipation notes, leases, credit enhancements, or any other obligations of a local government for the
90 payment of money.

91 "Minimum capital reserve fund requirement" means, as of any particular date of computation, the
92 amount of money designated as the minimum capital reserve fund requirement which may be established
93 in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any
94 outstanding issue of bonds or credit enhancement.

95 "Project" means (i) any water supply or wastewater treatment facility, including a facility for
96 receiving and stabilizing septage or a soil drainage management facility, and any solid waste treatment,
97 disposal, or management facility, recycling facility, federal facility or former federal facility, or resource
98 recovery facility located or to be located in the Commonwealth, the District of Columbia, or any
99 adjoining state, all or part of which facility serves or is to serve any local government, and (ii) any
100 federal facility located or to be located in the Commonwealth, provided that both the Board of Directors
101 of the Authority and the governing body of the local government receiving the benefit of the loan, grant,
102 or credit enhancement from the Authority make a determination or finding to be embodied in a
103 resolution or ordinance that the undertaking and financing of such facility is necessary for the location
104 or retention of such facility and the related use by the federal government in the Commonwealth. The
105 term includes, without limitation, water supply and intake facilities; water treatment and filtration
106 facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface
107 and ground water) collection, treatment, and disposal facilities; drainage facilities and projects; solid
108 waste treatment, disposal, or management facilities; recycling facilities; resource recovery facilities;
109 related office, administrative, storage, maintenance, and laboratory facilities; and interests in land related
110 thereto. The term also includes energy conservation measures and facility technology infrastructure as
111 defined in § 11-34.2 and other energy objectives as defined in § 67-101. The term also means any heavy
112 rail transportation facilities operated by a transportation district created under the Transportation District
113 Act of 1964 (§ 33.2-1900 et seq.) that operates heavy rail freight service, including rolling stock, barge
114 loading facilities, and any related marine or rail equipment. The term also means, without limitation, the
115 design and construction of roads, the construction of local government buildings, including
116 administrative and operations systems and other local government equipment and infrastructure, public
117 parking garages and other public transportation facilities, and facilities for public transportation by
118 commuter rail. *The term also means the design of, and construction or modernization of, public primary
119 and secondary school buildings and facilities.* In addition, the term means any project as defined in
120 § 5.1-30.1 and any professional sports facility, including a major league baseball stadium as defined in

§ 15.2-5800, provided that the specific professional sports facility projects have been designated by the General Assembly as eligible for assistance from the Authority. The term also means any equipment, facilities, and technology infrastructure designed to provide broadband service. The term also means facilities supporting, related to, or otherwise used for public safety, including but not limited to law-enforcement training facilities and emergency response, fire, rescue, and police stations. The term also means the remediation, redevelopment, and rehabilitation of property contaminated by the release of hazardous substances, hazardous wastes, solid wastes, or petroleum, where such remediation has not clearly been mandated by the United States Environmental Protection Agency, the Department of Environmental Quality, or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived. The term also means any program or project for land conservation, parks, park facilities, land for recreational purposes, or land preservation, including but not limited to any program or project involving the acquisition of rights or interests in land for the conservation or preservation of such land. The term also means any dredging program or dredging project undertaken to benefit the economic and community development goals of a local government but does not include any dredging program or dredging project undertaken for or by the Virginia Port Authority. The term also means any oyster restoration project, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters. The term also means any program or project to perform site acquisition or site development work for the benefit of economic and community development projects for any local government. The term also means any undertaking by a local government to build or facilitate the building of a recovered gas energy facility; and any local government renewable energy project, including solar, wind, biomass, waste-to-energy, and geothermal projects. The term also means any undertaking by a local government to facilitate the remediation of residential properties contaminated by the presence of defective drywall.

"Recovered gas energy facility" means a facility, located at or adjacent to (i) a solid waste management facility permitted by the Department of Environmental Quality or (ii) a sewerage system or sewage treatment work described in § 62.1-44.18 that is constructed and operated for the purpose of treating sewage and wastewater for discharge to state waters, which facility or work is constructed and operated for the purpose of (a) reclaiming or collecting methane or other combustible gas from the biodegradation or decomposition of solid waste, as defined in § 10.1-1400, that has been deposited in the solid waste management facility or sewerage system or sewage treatment work and (b) either using such gas to generate electric energy or upgrading the gas to pipeline quality and transmitting it off premises for sale or delivery to commercial or industrial purchasers or to a public utility or locality.