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SENATE BILL NO. 481

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 3, 2022)

(Patron Prior to Substitute—Senator McClellan)

A *BILL to amend and reenact §§ 22.1-100 and 22.1-100.1 of the Code of Virginia, relating to school boards and local governing bodies; unexpended local funds; school maintenance, renovation, and construction.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-100 and 22.1-100.1 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-100. Unexpended school and educational funds; collaborative agreements for use.

A. All sums of money derived from the Commonwealth ~~which~~ that are unexpended in any year in any school division shall revert to the fund of the Commonwealth from which derived unless the Board of Education directs otherwise. ~~All~~ *Except as otherwise provided in subsection B, all* sums derived from local funds unexpended in any year shall remain a part of the funds of the local governing body appropriating the funds for use the next year, but no ~~local~~ such funds shall be subject to redivision outside of the locality in which they were raised.

B. *Each local governing body and local school board is encouraged to enter into a collaborative agreement to set aside in a separate fund any sums appropriated to the school board by the local governing body that are unexpended by the school board in any year in order to use such sums to finance school maintenance, renovation, or construction in the local school division. Any such agreement may permit the local school board to retain and make authorized expenditures from such separate fund.*

§ 22.1-100.1. Lottery proceeds nonrecurring costs escrow accounts.

A. Notwithstanding the provisions of subsection A of § 22.1-100, the governing body of any locality may authorize the local treasurer or fiscal officer, by ordinance or resolution, to create a separate escrow account upon the books of the locality for the deposit of that portion of the locality's appropriation from the lottery proceeds ~~which~~ that are designated, pursuant to Item 139 B 4 of Chapter 935 of the 1999 Acts of Assembly or any other state law, for nonrecurring costs incurred by the relevant school division.

Such nonrecurring costs shall include school construction, additions, infrastructure, site acquisition, renovations, technology, and other expenditures related to modernizing classroom equipment, and debt service payments on school projects completed during the last ten years. Upon adoption of the proper ordinance or resolution, the treasurer or local fiscal officer of the locality shall place such appropriation into a separate lottery proceeds nonrecurring costs escrow account. Under no circumstances shall the escrow account allowed for the school construction grants pursuant to § 22.1-175.5 be used for these deposits.

B. The escrow account shall be known as the "County/City/Town of _____ Lottery Proceeds Nonrecurring Costs Fund." All principal deposited to such fund, together with all income from or attributable to the fund, shall be used solely for (i) construction, additions, renovations, including retrofitting and enlarging public school buildings, infrastructure, including technology infrastructure, and site acquisition for public school buildings and facilities or (ii) debt service payments, or a portion thereof, for any such projects completed in the previous ten years if so designated.

No disbursement from the fund may be made except upon specific appropriation by the governing body in accordance with applicable law. If a locality establishes such a fund and designates any portion of the funds deposited therein to pay debt service for (i) any general obligation of the locality held by the Virginia Public School Authority or (ii) any Literary Fund loan, the locality shall obtain an opinion of bond counsel that designation of funds to pay debt service on obligations described in clauses (i) and (ii) hereof does not adversely impact the tax-exempt status of such obligations.

C. All moneys deposited in the fund, including all income from or attributable to such fund, shall be deemed public funds of the locality and shall be subject to all limitations upon deposit and investment provided by general law, including, but not limited to, the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.). Income, dividends, distributions, and grants accruing to the fund shall be retained in such fund and shall be expended only in accordance with the terms of this section.

D. Nothing in this section shall be deemed or construed to authorize a school board or school division to receive, hold or invest funds in its own name, or to expend funds in the absence of a specific appropriation by the governing body of the locality in accordance with applicable law.