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**SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE
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FOR

Senate Bill No. 67

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,
BY REQUEST OF THE EXECUTIVE)

[Passed March 10, 2007; to take effect ninety days from passage.]

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(BY SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,
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[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §18-9D-2 and §18-9D-15 the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-9D-20; and to amend said code by adding thereto a new article,

designated §18-9F-1, §18-9F-2, §18-9F-3, §18-9F-4, §18-9F-5, §18-9F-6, §18-9F-7 and §18-9F-8, all relating to the School Building Authority and school access safety generally; declaring legislative findings and intent; defining certain terms; authorizing the School Building Authority to facilitate and provide funding for enhancing the safe ingress to and egress from public schools; providing for county boards to develop and submit to the authority school access safety plans; requiring authority to establish certain guidelines and procedures regarding the plans, plan modifications and evaluation of projects developed pursuant to the plans; creating a special account in the State Treasury; authorizing carry-forward of account funds; providing process, requirements and eligibility for allocating and disbursing moneys to counties; establishing school access safety requirements for certain new school buildings; authorizing legislative rules; requiring refiling of authority rules; requiring certain rules of authority to be refiled as legislative rules; and requiring report on implementation of school access safety requirements.

Be it enacted by the Legislature of West Virginia:

That §18-9D-2 and §18-9D-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-9D-20; that said code be amended by adding thereto a new article, designated §18-9F-1, §18-9F-2, §18-9F-3, §18-9F-4, §18-9F-5, §18-9F-6, §18-9F-7 and §18-9F-8, all to read as follows:

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-2. Definitions.

1 For the purposes of this article, unless a different

2 meaning clearly appears from the context:

3 (1) "Authority" means the School Building Authority
4 of West Virginia;

5 (2) "Bonds" means bonds issued by the authority
6 pursuant to this article;

7 (3) "Construction project" means a project in the
8 furtherance of a facilities plan with a cost greater than
9 five hundred thousand dollars for the new construction,
10 expansion or major renovation of facilities, buildings
11 and structures for school purposes, including:

12 (A) The acquisition of land for current or future use in
13 connection with the construction project;

14 (B) New or substantial upgrading of existing
15 equipment, machinery and furnishings;

16 (C) Installation of utilities and other similar items
17 related to making the construction project operational.

18 (D) Construction project does not include such items
19 as books, computers or equipment used for instructional
20 purposes; fuel; supplies; routine utility services fees;
21 routine maintenance costs; ordinary course of business
22 improvements; other items which are customarily
23 considered to result in a current or ordinary course of
24 business operating charge or a major improvement
25 project;

26 (4) "Cost of project" means the cost of construction,
27 expansion, renovation, repair and safety upgrading of
28 facilities, buildings and structures for school purposes;

29 the cost of land, equipment, machinery, furnishings,
30 installation of utilities and other similar items related to
31 making the project operational and the cost of
32 financing, interest during construction, professional
33 service fees and all other charges or expenses necessary,
34 appurtenant or incidental to the foregoing, including
35 the cost of administration of this article;

36 (5) "Facilities plan" means the ten-year countywide
37 comprehensive educational facilities plan established by
38 a county board in accordance with guidelines adopted
39 by the authority to meet the goals and objectives of this
40 article that:

41 (A) Addresses the existing school facilities and facility
42 needs of the county to provide a thorough and efficient
43 education in accordance with the provisions of this code
44 and policies of the state board;

45 (B) Best serves the needs of individual students, the
46 general school population and the communities served
47 by the facilities;

48 (C) Includes the school major improvement plan;

49 (D) Includes the county board's school access safety
50 plan required by section three, article nine-f of this
51 chapter;

52 (E) Is updated annually to reflect projects completed,
53 current enrollment projections and new or continuing
54 needs; and

55 (F) Is approved by the state board and the authority
56 prior to the distribution of state funds pursuant to this

57 article to any county board or other entity applying for
58 funds;

59 (6) "Project" means a construction project or a major
60 improvement project;

61 (7) "Region" means the area encompassed within and
62 serviced by a Regional Educational Service Agency
63 established pursuant to section twenty-six, article two
64 of this chapter;

65 (8) "Revenue" or "revenues" means moneys:

66 (A) Deposited in the School Building Capital
67 Improvements Fund pursuant to section ten, article
68 nine-a of this chapter;

69 (B) Deposited in the School Construction Fund
70 pursuant to section thirty, article fifteen, chapter eleven
71 of this code and section eighteen, article twenty-two,
72 chapter twenty-nine of this code;

73 (C) Deposited in the School Building Debt Service
74 Fund pursuant to section eighteen, article twenty-two,
75 chapter twenty-nine of this code;

76 (D) Deposited in the School Major Improvement Fund
77 pursuant to section thirty, article fifteen, chapter eleven
78 of this code;

79 (E) Received, directly or indirectly, from any source
80 for use in any project completed pursuant to this article;
81 and

82 (F) Received by the authority for the purposes of this

83 article;

84 (9) "School major improvement plan" means a ten-
85 year school maintenance plan that:

86 (A) Is prepared by a county board in accordance with
87 the guidelines established by the authority and
88 incorporated in its Countywide Comprehensive
89 Educational Facilities Plan, or is prepared by the state
90 board or the administrative council of an area
91 vocational educational center in accordance with the
92 guidelines if the entities seek funding from the
93 authority for a major improvement project;

94 (B) Addresses the regularly scheduled maintenance for
95 all school facilities of the county or under the
96 jurisdiction of the entity seeking funding;

97 (C) Includes a projected repair and replacement
98 schedule for all school facilities of the county or of
99 entity seeking funding;

100 (D) Addresses the major improvement needs of each
101 school within the county or under the jurisdiction of the
102 entity seeking funding; and

103 (E) Is required prior to the distribution of state funds
104 for a major improvement project pursuant to this article
105 to the county board, state board or administrative
106 council; and

107 (10) "School major improvement project" means a
108 project with a cost greater than fifty thousand dollars
109 and less than five hundred thousand dollars for the
110 renovation, expansion, repair and safety upgrading of

111 existing school facilities, buildings and structures,
112 including the substantial repair or upgrading of
113 equipment, machinery, building systems, utilities and
114 other similar items related to the renovation, repair or
115 upgrading in the furtherance of a school major
116 improvement plan. A major improvement project does
117 not include such items as books, computers or
118 equipment used for instructional purposes; fuel;
119 supplies; routine utility services fees; routine
120 maintenance costs; ordinary course of business
121 improvements; or other items which are customarily
122 considered to result in a current or ordinary course of
123 business operating charge.

§18-9D-15. Legislative intent; allocation of money among categories of projects; lease purchase options; limitation on time period for expenditure of project allocation; county maintenance budget requirements; project disbursements over period of years; preference for multicounty arrangements; submission of project designs; set-aside to encourage local participation.

1 (a) It is the intent of the Legislature to empower the
2 School Building Authority to facilitate and provide
3 state funds and to administer all federal funds provided
4 for the construction and major improvement of school
5 facilities so as to meet the educational needs of the
6 people of this state in an efficient and economical
7 manner. The authority shall make funding
8 determinations in accordance with the provisions of this
9 article and shall assess existing school facilities and
10 each facility's school major improvement plan in
11 relation to the needs of the individual student, the
12 general school population, the communities served by

13 the facilities and facility needs statewide.

14 (b) An amount that is not more than three percent of
15 the sum of moneys that are determined by the authority
16 to be available for distribution during the then current
17 fiscal year from:

18 (1) Moneys paid into the School Building Capital
19 Improvements Fund pursuant to section ten, article
20 nine-a of this chapter;

21 (2) The issuance of revenue bonds for which moneys in
22 the School Building Debt Service Fund are pledged as
23 security;

24 (3) Moneys paid into the School Construction Fund
25 pursuant to section six of this article; and

26 (4) Any other moneys received by the authority, except
27 moneys paid into the School Major Improvement Fund
28 pursuant to section six of this article and moneys
29 deposited into the School Access Safety Fund pursuant
30 to section five, article nine-f of this chapter, may be
31 allocated and may be expended by the authority for
32 projects authorized in accordance with the provisions of
33 section sixteen of this article that service the
34 educational community statewide or, upon application
35 by the state board, for educational programs that are
36 under the jurisdiction of the state board. In addition,
37 upon application by the state board or the
38 administrative council of an area vocational educational
39 center established pursuant to article two-b of this
40 chapter, the authority may allocate and expend under
41 this subsection moneys for school major improvement
42 projects authorized in accordance with the provisions of

43 section sixteen of this article proposed by the state
44 board or an administrative council for school facilities
45 under the direct supervision of the state board or an
46 administrative council, respectively. Furthermore, upon
47 application by a county board, the authority may
48 allocate and expend under this subsection moneys for
49 school major improvement projects for vocational
50 programs at comprehensive high schools, vocational
51 schools cooperating with community and technical
52 college programs, or both. Each county board is
53 encouraged to cooperate with community and technical
54 colleges in the use of existing or development of new
55 vocational technical facilities. All projects eligible for
56 funds from this subsection shall be submitted directly
57 to the authority which shall be solely responsible for the
58 project's evaluation, subject to the following:

59 (A) The authority may not expend any moneys for a
60 school major improvement project proposed by the state
61 board or the administrative council of an area
62 vocational educational center unless the state board or
63 an administrative council has submitted a ten-year
64 facilities plan; and

65 (B) The authority shall, before allocating any moneys
66 to the state board or the administrative council of an
67 area vocational educational center for a school
68 improvement project, consider all other funding sources
69 available for the project.

70 (c) An amount that is not more than two percent of the
71 moneys that are determined by the authority to be
72 available for distribution during the current fiscal year
73 from:

74 (1) Moneys paid into the School Building Capital
75 Improvements Fund pursuant to section ten, article
76 nine-a of this chapter;

77 (2) The issuance of revenue bonds for which moneys in
78 the School Building Debt Service Fund are pledged as
79 security;

80 (3) Moneys paid into the School Construction Fund
81 pursuant to section six of this article; and

82 (4) Any other moneys received by the authority, except
83 moneys deposited into the School Major Improvement
84 Fund and moneys deposited into the School Access
85 Safety Fund pursuant to section five, article nine-f of
86 this chapter, shall be set aside by the authority as an
87 emergency fund to be distributed in accordance with
88 the guidelines adopted by the authority.

89 (d) An amount that is not more than five percent of
90 the moneys that are determined by the authority to be
91 available for distribution during the current fiscal year
92 from:

93 (1) Moneys paid into the School Building Capital
94 Improvements fund pursuant to section ten, article
95 nine-a of this chapter;

96 (2) The issuance of revenue bonds for which moneys in
97 the School Building Debt Service Fund are pledged as
98 security;

99 (3) Moneys paid into the School Construction Fund
100 pursuant to section six of this article; and

101 (4) Any other moneys received by the authority, except
102 moneys deposited into the School Major Improvement
103 Fund and moneys deposited into the School Access
104 Safety Fund pursuant to section five, article nine-f of
105 this chapter, may be reserved by the authority for
106 multiuse vocational-technical education facilities
107 projects that may include post-secondary programs as
108 a first priority use. The authority may allocate and
109 expend under this subsection moneys for any purposes
110 authorized in this article on multiuse
111 vocational-technical education facilities projects,
112 including equipment and equipment updates at the
113 facilities, authorized in accordance with the provisions
114 of section sixteen of this article. If the projects approved
115 under this subsection do not require the full amount of
116 moneys reserved, moneys above the amount required
117 may be allocated and expended in accordance with
118 other provisions of this article. A county board, the state
119 board, an administrative council or the joint
120 administrative board of a vocational-technical
121 education facility which includes post-secondary
122 programs may propose projects for facilities or
123 equipment, or both, which are under the direct
124 supervision of the respective body: *Provided*, That the
125 authority shall, before allocating any moneys for a
126 project under this subsection, consider all other funding
127 sources available for the project.

128 (e) The remaining moneys determined by the authority
129 to be available for distribution during the then current
130 fiscal year from:

131 (1) Moneys paid into the School Building Capital
132 Improvements Fund pursuant to section ten, article
133 nine-a of this chapter;

134 (2) The issuance of revenue bonds for which moneys in
135 the School Building Debt Service Fund are pledged as
136 security;

137 (3) Moneys paid into the School Construction Fund
138 pursuant to section six of this article; and

139 (4) Any other moneys received by the authority, except
140 moneys deposited into the School Major Improvement
141 Fund and moneys deposited into the School Access
142 Safety Fund pursuant to section five, article nine-f of
143 this chapter, shall be allocated and expended on the
144 basis of need and efficient use of resources for projects
145 funded in accordance with the provisions of section
146 sixteen of this article.

147 (f) If a county board proposes to finance a project that
148 is authorized in accordance with section sixteen of this
149 article through a lease with an option to purchase
150 leased premises upon the expiration of the total lease
151 period pursuant to an investment contract, the
152 authority may not allocate moneys to the county board
153 in connection with the project: *Provided*, That the
154 authority may transfer moneys to the state board which,
155 with the authority, shall lend the amount transferred to
156 the county board to be used only for a one-time
157 payment due at the beginning of the lease term, made
158 for the purpose of reducing annual lease payments
159 under the investment contract, subject to the following
160 conditions:

161 (1) The loan shall be secured in the manner required
162 by the authority, in consultation with the state board,
163 and shall be repaid in a period and bear interest at a
164 rate as determined by the state board and the authority

165 and shall have any terms and conditions that are
166 required by the authority, all of which shall be set forth
167 in a loan agreement among the authority, the state
168 board and the county board;

169 (2) The loan agreement shall provide for the state
170 board and the authority to defer the payment of
171 principal and interest upon any loan made to the county
172 board during the term of the investment contract, and
173 annual renewals of the investment contract, among the
174 state board, the authority, the county board and a
175 lessor, subject to the following:

176 (A) In the event a county board which has received a
177 loan from the authority for a one-time payment at the
178 beginning of the lease term does not renew the lease
179 annually until performance of the investment contract
180 in its entirety is completed, the county board is in
181 default and the principal of the loan, together with all
182 unpaid interest accrued to the date of the default, shall,
183 at the option of the authority, in consultation with the
184 state board, become due and payable immediately or
185 subject to renegotiation among the state board, the
186 authority and the county board;

187 (B) If a county board renews the lease annually
188 through the performance of the investment contract in
189 its entirety, the county board shall exercise its option to
190 purchase the leased premises;

191 (C) The failure of the county board to make a
192 scheduled payment pursuant to the investment contract
193 constitutes an event of default under the loan
194 agreement;

195 (D) Upon a default by a county board, the principal of
196 the loan, together with all unpaid interest accrued to
197 the date of the default, shall, at the option of the
198 authority, in consultation with the state board, become
199 due and payable immediately or subject to renegotiation
200 among the state board, the authority and the county
201 board; and

202 (E) If the loan becomes due and payable immediately,
203 the authority, in consultation with the state board, shall
204 use all means available under the loan agreement and
205 law to collect the outstanding principal balance of the
206 loan, together with all unpaid interest accrued to the
207 date of payment of the outstanding principal balance;
208 and

209 (3) The loan agreement shall provide for the state
210 board and the authority to forgive all principal and
211 interest of the loan upon the county board purchasing
212 the leased premises pursuant to the investment contract
213 and performance of the investment contract in its
214 entirety.

215 (g) To encourage county boards to proceed promptly
216 with facilities planning and to prepare for the
217 expenditure of any state moneys derived from the
218 sources described in this section, any county board or
219 other entity to whom moneys are allocated by the
220 authority that fails to expend the money within three
221 years of the allocation shall forfeit the allocation and
222 thereafter is ineligible for further allocations pursuant
223 to this section until it is ready to expend funds in
224 accordance with an approved facilities plan: *Provided*,
225 That the authority may authorize an extension beyond
226 the three-year forfeiture period not to exceed an

227 additional two years. Any amount forfeited shall be
228 added to the total funds available in the school
229 construction fund of the authority for future allocation
230 and distribution. Funds may not be distributed for any
231 project under this article unless the responsible entity
232 has a facilities plan approved by the state board and the
233 School Building Authority and is prepared to commence
234 expenditure of the funds during the fiscal year in which
235 the moneys are distributed.

236 (h) The remaining moneys that are determined by the
237 authority to be available for distribution during the
238 then current fiscal year from moneys paid into the
239 School Major Improvement Fund pursuant to section
240 six of this article shall be allocated and distributed on
241 the basis of need and efficient use of resources for
242 projects authorized in accordance with the provisions of
243 section sixteen of this article, subject to the following:

244 (1) The moneys may not be distributed for any project
245 under this section unless the responsible entity has a
246 facilities plan approved by the state board and the
247 authority and is to commence expenditures of the funds
248 during the fiscal year in which the moneys are
249 distributed;

250 (2) Any moneys allocated to a project and not
251 distributed for that project shall be deposited in an
252 account to the credit of the project, the principal
253 amount to remain to the credit of and available to the
254 project for a period of two years; and

255 (3) Any moneys which are unexpended after a two-
256 year period shall be redistributed on the basis of need
257 from the school major improvement fund in that fiscal

258 year.

259 (i) Local matching funds may not be required under
260 the provisions of this section. However, this article does
261 not negate the responsibilities of the county boards to
262 maintain school facilities. To be eligible to receive an
263 allocation of school major improvement funds from the
264 authority, a county board must have expended in the
265 previous fiscal year an amount of county moneys equal
266 to or exceeding the lowest average amount of money
267 included in the county board's maintenance budget over
268 any three of the previous five years and must have
269 budgeted an amount equal to or greater than the
270 average in the current fiscal year: *Provided*, That the
271 state board shall promulgate rules relating to county
272 boards' maintenance budgets, including items which
273 shall be included in the budgets.

274 (j) Any county board may use moneys provided by the
275 authority under this article in conjunction with local
276 funds derived from bonding, special levy or other
277 sources. Distribution to a county board, or to the state
278 board or the administrative council of an area
279 vocational educational center pursuant to subsection (b)
280 of this section may be in a lump sum or in accordance
281 with a schedule of payments adopted by the authority
282 pursuant to guidelines adopted by the authority.

283 (k) Funds in the School Construction Fund shall first
284 be transferred and expended as follows:

285 (1) Any funds deposited in the School Construction
286 Fund shall be expended first in accordance with an
287 appropriation by the Legislature.

288 (2) To the extent that funds are available in the School
289 Construction Fund in excess of that amount
290 appropriated in any fiscal year, the excess funds may be
291 expended for projects authorized in accordance with the
292 provisions of section sixteen of this article.

293 (l) It is the intent of the Legislature to encourage
294 county boards to explore and consider arrangements
295 with other counties that may facilitate the highest and
296 best use of all available funds, which may result in
297 improved transportation arrangements for students or
298 which otherwise may create efficiencies for county
299 boards and the students. In order to address the intent
300 of the Legislature contained in this subsection, the
301 authority shall grant preference to those projects which
302 involve multicounty arrangements as the authority shall
303 determine reasonable and proper.

304 (m) County boards shall submit all designs for
305 construction of new school buildings to the School
306 Building Authority for review and approval prior to
307 preparation of final bid documents. A vendor who has
308 been debarred pursuant to the provisions of sections
309 thirty-three-a through thirty-three-f, inclusive, article
310 three, chapter five-a of this code may not bid on or be
311 awarded a contract under this section.

312 (n) The authority may elect to disburse funds for
313 approved construction projects over a period of more
314 than one year subject to the following:

315 (1) The authority may not approve the funding of a
316 school construction project over a period of more than
317 three years;

318 (2) The authority may not approve the use of more
319 than fifty percent of the revenue available for
320 distribution in any given fiscal year for projects that are
321 to be funded over a period of more than one year; and

322 (3) In order to encourage local participation in
323 funding school construction projects, the authority may
324 set aside limited funding, not to exceed five hundred
325 thousand dollars, in reserve for one additional year to
326 provide a county the opportunity to complete financial
327 planning for a project prior to the allocation of
328 construction funds. Any funding shall be on a reserve
329 basis and converted to a part of the construction grant
330 only after all project budget funds have been secured
331 and all county commitments have been fulfilled. Failure
332 of the county to solidify the project budget and meet its
333 obligations to the state within eighteen months of the
334 date the funding is set aside by the authority will result
335 in expiration of the reserve and the funds shall be
336 reallocated by the authority in the succeeding funding
337 cycle.

§18-9D-20. Rules.

1 (a) The authority is hereby empowered to promulgate,
2 adopt, amend or repeal rules in accordance with the
3 provisions of article three-a, chapter twenty-nine-a of
4 this code.

5 (b) All rules adopted or promulgated by the authority
6 and in effect immediately prior to the effective date of
7 this section shall be refiled pursuant to the provisions of
8 article three-a, chapter twenty-nine-a of this code on or
9 before the first day of September, two thousand seven.

10 (1) Any interpretive or procedural rule shall continue
11 in effect until rescinded or appropriately refiled by the
12 authority.

13 (2) Any legislative rule shall continue in effect until
14 approved or rejected by the Legislature or rescinded by
15 the authority.

ARTICLE 9F. SCHOOL ACCESS SAFETY ACT.

§18-9F-1. Legislative findings and intent.

1 (a) The Legislature finds that:

2 (1) Establishing and maintaining safe and secure
3 schools is critical to fostering a healthy learning
4 environment and maximizing student achievement;

5 (2) All school facilities in the state should be designed,
6 constructed, furnished and maintained in a manner that
7 enhances a healthy learning environment and provides
8 necessary safeguards for the health, safety and security
9 of persons who enter and use the facilities;

10 (3) Adequate safeguards for the ingress to and egress
11 from school facilities of pupils, school employees,
12 parents, visitors and emergency personnel are critical to
13 the overall safety of the public schools in this state;

14 (4) Safety upgrades to the means of ingress to and
15 egress from school facilities for pupils, school
16 employees, parents, visitors and emergency personnel
17 must be part of a comprehensive analysis of overall
18 school safety issues that takes into consideration the
19 input of local law-enforcement agencies, local
20 emergency services agencies, community leaders,

21 parents, pupils, teachers, administrators and other
22 school employees interested in the prevention of school
23 crime and violence.

24 (b) It is the intent of the Legislature to empower the
25 School Building Authority to facilitate and provide
26 state funds for the design, construction, renovation,
27 repair and upgrading of facilities so as to enhance
28 school access safety and provide secure ingress to and
29 egress from school facilities to pupils, school employees,
30 parents, visitors and emergency personnel.

§18-9F-2. Definitions.

1 As used in this article, these terms have the meanings
2 ascribed unless the context clearly indicates a different
3 meaning:

4 (1) "Authority" means the School Building Authority
5 of West Virginia;

6 (2) "Department of Education" means the West
7 Virginia Department of Education;

8 (3) "New school building" means any public school in
9 the state for educating students in any of grades
10 kindergarten through twelve, for which design and
11 construction begin after the first day of July, two
12 thousand seven;

13 (4) "Project cost" means the cost of:

14 (A) Evaluating a school facility to ascertain its safety
15 needs;

16 (B) Determining appropriate measures to address
17 safety needs;

18 (C) Developing a safety plan;

19 (D) Administering a safety project;

20 (E) The design, construction, renovation, repair and
21 safety upgrading of a school's means of ingress and
22 egress;

23 (F) Equipment, machinery, installation of utilities and
24 other similar items necessary to making the project
25 operational;

26 (G) Effectively maintaining structural and equipment
27 investments made pursuant to this article, including,
28 but not limited to, such provisions as maintenance
29 contracts on security equipment and video surveillance
30 services; and

31 (H) All other charges necessary, appurtenant or
32 incidental to the provisions of this subdivision,
33 including the cost of administering this article;

34 (5) "School Access Safety Fund" means the special
35 account established in section five of this article;

36 (6) "School access safety plan" or "safety plan" means
37 the comprehensive countywide school access safety plan
38 that:

39 (A) Is prepared by each county board seeking funding
40 under this article and incorporated into its
41 comprehensive educational facilities plan in accordance

42 with guidelines established by the authority;

43 (B) Addresses the access safety needs for all school
44 facilities in the county;

45 (C) Includes a projected school access safety repair
46 and renovation schedule for all school facilities of the
47 county; and

48 (D) Is required prior to the disbursement of state
49 funds for a school access safety project pursuant to this
50 article; and

51 (7) "School access safety project" or "safety project"
52 means a project administered in furtherance of a school
53 access safety plan pursuant to the provisions of this
54 article.

§18-9F-3. School access safety plan.

1 (a) To facilitate the goals of this article and to ensure
2 the prudent and resourceful expenditure of state funds,
3 each county board seeking funds for school access
4 safety projects during a fiscal year shall submit to the
5 authority a school access safety plan or annual plan
6 update that addresses the school access safety needs of
7 each school facility in the county. In developing its plan,
8 the county board shall consult with the Countywide
9 Council on Productive and Safe Schools in accordance
10 with the provisions of this section and section forty-two,
11 article five of this chapter.

12 (b) The safety plan shall include at least the following:

13 (1) A countywide inventory of each school facility's

14 means of ingress to and egress from the school for
15 students, school employees, parents, visitors and
16 emergency personnel including, but not limited to:

17 (A) The number of controlled points of ingress to the
18 school facility;

19 (B) The number and placement of exterior doors;

20 (C) The use of monitoring systems on exterior doors;

21 (D) The use of timed, magnetic or other locks on
22 exterior doors;

23 (E) The use of two-way communication systems
24 between points of ingress and school personnel;

25 (F) The use of functional panic or other alarm
26 hardware on exterior doors; and

27 (G) The use of remote visitor access systems on points
28 of ingress;

29 (2) The recommendations and guidelines developed by
30 the Countywide Council on Productive and Safe
31 Schools pursuant to section forty-two, article five of
32 this chapter, together with the county board's
33 assessment of the recommendations and guidelines;

34 (3) Recommendations for effective communication and
35 coordination between school facilities, local law-
36 enforcement agencies and local emergency services
37 agencies in the county;

38 (4) An assessment of the current status of crime

39 committed on school campuses and at school-related
40 functions;

41 (5) A projected school access safety repair and
42 renovation schedule for all school facilities in the
43 county;

44 (6) A prioritized list of all projects contained in the
45 plan, including the projected cost of each project;

46 (7) A description of how:

47 (A) The plan addresses the goals of this article and
48 guidelines established by the authority;

49 (B) Each project furthers the county board's safety
50 plan, facilities plan and school major improvement
51 plan;

52 (8) Notation of the funds available for allocation and
53 disbursement to the county board pursuant to section
54 six of this article;

55 (9) A description of any source of local funds that the
56 county board intends to contribute to the safety
57 projects, or an approved financial hardship waiver, to
58 satisfy the local contribution requirements of section six
59 of this article; and

60 (10) Any other element considered appropriate by the
61 authority or required by the guidelines established
62 pursuant to section three of this article, including any
63 project and maintenance specification.

§18-9F-4. Guidelines and procedures for school access safety

plans; project evaluation; on-site inspection of facilities.

1 (a) By the first day of June, two thousand seven, the
2 authority shall establish and distribute to each county
3 board guidelines and procedures regarding school
4 access safety plans and school access safety projects,
5 which shall address at least the following:

6 (1) All of the necessary elements of the school access
7 safety plan required in accordance with the provisions
8 of section three of this article;

9 (2) The manner, time line and process for submission
10 to the authority of each safety plan and annual plan
11 update, including guidelines for modification of an
12 approved safety plan;

13 (3) Any project and maintenance specifications
14 considered appropriate by the authority;

15 (4) Procedures for a county board to submit a
16 preliminary plan, plan outline or plan proposal to the
17 authority prior to submitting the safety plan. The
18 preliminary plan, plan outline or plan proposal shall be
19 the basis for a consultation meeting between
20 representatives of the county board and the authority.
21 The meeting shall be held as soon as practicable
22 following submission in order to:

23 (A) Ensure understanding of the goals of this article;

24 (B) Discuss ways the plan may be structured to meet
25 the goals of this article; and

26 (C) Ensure efficiency and productivity in the approval
27 process; and

28 (5) Procedures for notifying county boards of the
29 funds available for allocation and disbursement during
30 each fiscal year pursuant to section six of this article.

31 (b) By the first day of June, two thousand seven, the
32 authority shall establish and distribute to each county
33 board guidelines and procedures for evaluating safety
34 plans and safety projects that address at least the
35 following:

36 (1) Whether the proposed safety project furthers the
37 safety plan and complies with the guidelines established
38 by the authority;

39 (2) How the safety plan and safety project will ensure
40 the prudent and resourceful expenditure of state funds
41 and achieve the purposes of this article;

42 (3) Whether the safety plan and safety project advance
43 student health and safety needs, including, but not
44 limited to, critical health and safety needs;

45 (4) Whether the safety plan and safety project include
46 regularly scheduled preventive maintenance; and

47 (5) Consideration of the prioritized list of projects
48 required by section three of this article.

49 (c) The authority shall establish guidelines and
50 procedures for allocating and disbursing funds in
51 accordance with section six of this article, subject to the
52 availability of funds.

53 (d) Each county board receiving funds pursuant to
54 this article annually shall conduct an on-site inspection
55 and submit an audit review to the state board. The
56 inspection shall be conducted in accordance with the
57 provisions of the Department of Education's Handbook
58 on Planning School Facilities.

§18-9F-5. School Access Safety Fund.

1 (a) There is hereby established in the State Treasury
2 a special account designated the School Access Safety
3 Fund.

4 (b) All funds accruing to the authority pursuant to the
5 provisions of this article shall be deposited into the fund
6 and expended in accordance with provisions of this
7 article.

8 (c) Any funds remaining in the account at the end of
9 a fiscal year, including accrued interest, do not revert to
10 the General Revenue Fund, but remain in the account.

11 (d) The authority may transfer moneys from the fund
12 to custodial accounts maintained by the authority with
13 a state financial institution, as necessary to the
14 performance of any contracts executed by the authority
15 in accordance with the provisions of this article.

§18-9F-6. Allocation of funds; eligibility for funding.

1 (a) On or before the first day of May of each year, the
2 authority shall determine the amount of funds available
3 in the School Access Safety Fund for allocation and
4 disbursement during that fiscal year.

5 (b) The authority shall divide the amount of funds
6 available pursuant to subsection (a) of this section, by
7 the total net enrollment in public schools for the state as
8 a whole. That quotient is the per pupil amount. The
9 authority shall allocate to each county board the per
10 pupil amount of funds for each student in net
11 enrollment of that county, as defined in section two,
12 article nine-a of this chapter.

13 (c) The authority shall notify in writing each county
14 board of education the amount of funds available to
15 that board as soon as practicable upon determining that
16 amount pursuant to subsection (b) of this section.

17 (d) Except as provided in subdivision (3) of this
18 subsection, to be eligible to receive a disbursement of
19 funds pursuant to this article, a county board shall
20 contribute local funds derived from bonding, special
21 levy or other identified sources to the school access
22 safety projects contained in the county board's school
23 access safety plan.

24 (1) The amount of a county board's contribution shall
25 equal at least fifteen percent of the funds available to
26 the county board pursuant to subsection (b) of this
27 section.

28 (2) A county board may submit a financial hardship
29 waiver request to the state board for consideration
30 regarding the county board's inability to provide the
31 contribution required by this subsection. Upon review
32 and approval of the request by the state board, the
33 authority shall waive the contribution requirement for
34 that county board and allocate and disburse funds
35 pursuant to this article.

36 (e) The authority may disburse funds pursuant to this
37 section only to a county board that:

38 (1) Has a safety plan that has been approved by the
39 authority; and

40 (2) Is prepared to commence expending the funds
41 during the fiscal year in which the funds are disbursed.

42 (f) The authority may disburse funds to a county
43 board in a lump sum or according to a schedule of
44 payments adopted by the authority that is consistent
45 with its guidelines.

46 (g) To encourage county boards to proceed promptly
47 with school access safety planning and to prepare for
48 the expenditure of funds derived pursuant to this
49 article, a county board forfeits any funds that it fails to
50 expend within one year of disbursement by the
51 authority. The county board is ineligible for any
52 additional allocation or disbursement pursuant to this
53 article until it is prepared to expend funds according to
54 an approved school access safety plan.

55 (1) The authority may authorize an extension beyond
56 the one-year forfeiture period not to exceed an
57 additional six months.

58 (2) Any forfeited funds shall be returned to the School
59 Access Safety Fund and made available for future
60 allocation and disbursement.

§18-9F-7. School access safety requirements for new schools.

1 (a) Notwithstanding any other provision of this code

2 to the contrary, and in an effort to enhance school
3 access safety, the design and construction of any new
4 school building receiving funds from the authority shall
5 comply with the school access safety standards
6 established by the authority. Any new school building
7 that does not comply with the school access safety
8 standards may not receive any funds from the authority
9 pursuant to this article.

10 (b) The authority shall propose a rule for legislative
11 approval in accordance with the provisions of article
12 three-a, chapter twenty-nine-a of this code that
13 establishes standards for school access safety in public
14 school buildings. The rule shall require for any project
15 that will receive funding pursuant to this article that
16 the county board shall submit any new school design to
17 the authority for review and approval for compliance
18 with this section prior to preparing final bid documents.

§18-9F-8. Report.

1 The authority shall report to the Legislative Oversight
2 Commission on Education Accountability during the
3 June and September, two thousand seven, and January,
4 two thousand eight, interim meeting periods regarding
5 implementation of the provisions of this article.

31 [Enr. Com. Sub. for Com. Sub. for S. B. No. 67

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee



.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved this
the 4th Day of April , 2007.


.....
Governor

PRESENTED TO THE
GOVERNOR

APR 02 2007

Time 3:25 pm