

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3095

FISCAL
NOTE

By Delegates Howell, Westfall, Dean, Jeffries, Fast,
Zatezalo, Kelly, Phillips, Hillenbrand, Clark, and
Storch

[Introduced January 26, 2023; Referred to the
Committee on Economic Development and Tourism
then Education]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §5B-2-16a; and to amend and reenact §18-9D-3 of said code, all relating to
 3 creating a Department of Economic Development grant program; to create a special
 4 revenue account in the State Treasury known as the "School Building Authority
 5 Agricultural, Vocational and Technical Training Facilities Grant Fund;" and to authorize
 6 project administration of the "School Building Authority Agricultural, Vocational and
 7 Technical Training Facilities Grant Fund" projects by the School Building Authority and
 8 School Building Authority project administration program for constructing, renovating
 9 and/or expanding agricultural, vocational and technical training facilities at West Virginia
 10 primary and secondary schools.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.

§5B-2-16a. School Building Authority Agricultural, Vocational and Technical Training

Facilities	Grant	Fund.
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1 (a) A special revenue account in the State Treasury known as the "School Building
 2 Authority Agricultural, Vocational and Technical Training Facilities Grant Fund" is hereby created
 3 and to be continued. The receipt of applications for, and the awarding of grants from, the School
 4 Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund shall be
 5 administered by the Secretary of the Department of Economic Development or his/her designee.
 6 Administration and management of construction projects funded in whole or in part from the
 7 awarding of grants from this fund shall be the responsibility of the School Building Authority.

8 (b) The School Building Authority Agricultural, Vocational and Technical Training Facilities
 9 Grant Fund shall consist of all moneys appropriated by legislative budget or otherwise lawfully
 10 acquired from other sources, solely for awarding grants from the School Building Authority

11 Agricultural, Vocational and Technical Training Facilities Fund for aiding in constructing,
12 renovating and/or expanding agricultural, vocational and technical training facilities at West
13 Virginia primary and secondary schools, and as otherwise set forth in this §5B-2-16a and §18-9D-
14 3 of this code. Individual grant applicants and the Secretary of the West Virginia Department of
15 Economic Development or his/her designee are authorized to partner with private sector
16 agriculture, industry and business to secure private sector funding for the purposes of
17 constructing, renovating and/or expanding agricultural, vocational and technical training facilities
18 at West Virginia primary and secondary schools.

19 (c) The fund consists of moneys received from the following sources:

20 (1) All appropriations provided by the Legislature;

21 (2) Any moneys lawfully available from external sources; and

22 (3) All interest and other income earned from investment of moneys in the fund.

23 (d) The Department of Economic Development shall use moneys in the fund to award
24 grants to approved applicants for aid in constructing, renovating and/or expanding agricultural,
25 vocational and technical training facilities at West Virginia primary and secondary schools in order
26 to facilitate improvements in agricultural, vocational and technical workforce participation in West
27 Virginia, and to attract individuals in agricultural, vocational and technical fields to relocate to West
28 Virginia.

29 (e) Grants from the fund by may only be awarded by the Department of Economic
30 Development in accordance with specific designated appropriation by the Legislature, if any,
31 and/or only for funding any construction, renovation and/or expansion project budget shortfalls for
32 agricultural, vocational and technical training facilities at West Virginia primary and secondary
33 schools after the applicant has been denied and/or exhausted all other moneys available from
34 other external grants or other funding sources. In applying for any grant, the applicant must
35 establish that they have applied for all available Appalachian Regional Commission, US
36 Department of Agriculture, and other applicable government or private sector grants in order to

37 qualify for any grant from the School Building Authority for Agricultural, Vocational and Technical
38 Training Facilities Grant Fund. Secretary of Economic Development or his or her designee is
39 authorized to determine that applicants have met the requirement to have applied for all other
40 requisite funding.

41 (f) The Secretary of the West Virginia Department of Economic Development may
42 promulgate rules to carry out the purposes and programs of the School Building Authority
43 Agricultural, Vocational and Technical Training Facilities Grant Fund and the procedures and
44 eligibility requirements for applications for grants under this program. These rules are not subject
45 to Chapter 29A of this code, but shall be filed with the Secretary of State.

46 (g) The West Virginia Department of Economic Development is authorized to partner with
47 private sector agriculture, industry and business to secure private sector funding in order to seed
48 and/or maintain the grant fund dedicated to the purposes of constructing, renovating and/or
49 expanding agricultural, vocational and technical training facilities at West Virginia primary and
50 secondary schools.

51 (h) Any balance, including accrued interest and any other returns, in the Agricultural,
52 Vocational and Technical Training Facilities Grant Fund at the end of each fiscal year may not
53 expire to the General Revenue Fund but shall remain in the fund and be expended for the
54 purposes provided by §5B-2-16a and §18-9D-3 of this code.

55 (i) Fund balances may be invested with the state's Consolidated Investment Fund.
56 Earnings on the investments shall be used solely for the purposes defined in §5B-2-16a and §18-
57 9D-3 of this code.

CHAPTER 18. EDUCATION.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-3. Powers of authority; School Building Authority Fund; School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund Project

Administration.

1 (a) The School Building Authority has the power:

2 (1) To sue and be sued, plead and be impleaded;

3 (2) To have a seal and alter the same at pleasure;

4 (3) To contract to acquire and to acquire, in the name of the authority, by purchase, lease-
5 purchase not to exceed a term of twenty-five years, or otherwise, real property or rights or
6 easements necessary or convenient for its corporate purposes and to exercise the power of
7 eminent domain to accomplish those purposes;

8 (4) To acquire, hold and dispose of real and personal property for its corporate purposes;

9 (5) To make bylaws for the management and rule of its affairs;

10 (6) To appoint, contract with and employ attorneys, bond counsel, accountants,
11 construction and financial experts, underwriters, financial advisers, trustees, managers, officers
12 and such other employees and agents as may be necessary in the judgment of the authority and to
13 fix their compensation: *Provided*, That contracts entered into by the School Building Authority in
14 connection with the issuance of bonds under this article to provide professional and technical
15 services, including, without limitation, accounting, actuarial, underwriting, consulting, trustee,
16 bond counsel, legal services and contracts relating to the purchase or sale of bonds are subject to
17 the provisions of article three, chapter five-a of this code: *Provided, however*, That notwithstanding
18 any other provisions of this code, any authority of the Attorney General of this state relating to the
19 review of contracts and other documents to effectuate the issuance of bonds under this article
20 shall be exclusively limited to the form of the contract and document: *Provided further*, That the
21 Attorney General of this state shall complete all reviews of contracts and documents relating to the
22 issuance of bonds under this article within ten calendar days of receipt of the contract and
23 document for review;

24 (7) To make contracts and to execute all instruments necessary or convenient to effectuate
25 the intent of and to exercise the powers granted to it by this article;

26 (8) To renegotiate all contracts entered into by it whenever, due to a change in situation, it
27 appears to the authority that its interests will be best served;

28 (9) To acquire by purchase, eminent domain or otherwise all real property or interests in the
29 property necessary or convenient to accomplish the purposes of this article;

30 (10) To require proper maintenance and insurance of any project authorized under this
31 section, including flood insurance for any facility within the one hundred year flood plain at which
32 authority funds are expended;

33 (11) To charge rent for the use of all or any part of a project or buildings at any time
34 financed, constructed, acquired or improved, in whole or in part, with the revenues of the authority;

35 (12) To assist any county board of education that chooses to acquire land, buildings and
36 capital improvements to existing school buildings and property for use as public school facilities,
37 by lease from a private or public lessor for a term not to exceed twenty-five years with an option to
38 purchase pursuant to an investment contract with the lessor on such terms and conditions as may
39 be determined to be in the best interests of the authority, the state Board of Education and the
40 county board of education, consistent with the purposes of this article, by transferring funds to the
41 state Board of Education as provided in subsection (d), section fifteen of this article for the use of
42 the county board of education;

43 (13) To accept and expend any gift, grant, contribution, bequest or endowment of money
44 and equipment to, or for the benefit of, the authority or any project under this article, from the State
45 of West Virginia or any other source for any or all of the purposes specified in this article or for any
46 one or more of such purposes as may be specified in connection with the gift, grant, contribution,
47 bequest or endowment;

48 (14) To enter on any lands and premises for the purpose of making surveys, soundings and
49 examinations;

50 (15) To contract for architectural, engineering or other professional services considered
51 necessary or economical by the authority to provide consultative or other services to the authority

52 or to any regional educational service agency or county board requesting professional services
53 offered by the authority, to evaluate any facilities plan or any project encompassed in the plan, to
54 inspect existing facilities or any project that has received or may receive funding from the authority
55 or to perform any other service considered by the authority to be necessary or economical.
56 Assistance to the region or district may include the development of preapproved systems, plans,
57 designs, models or documents; advice or oversight on any plan or project; or any other service that
58 may be efficiently provided to Regional Educational Service Agencies or county boards by the
59 authority;

60 (16) To provide funds on an emergency basis to repair or replace property damaged by fire,
61 flood, wind, storm, earthquake or other natural occurrence, the funds to be made available in
62 accordance with guidelines of the School Building Authority;

63 (17) To transfer moneys to custodial accounts maintained by the School Building Authority
64 with a state financial institution from the school construction fund and the school improvement fund
65 created in the State Treasury pursuant to the provisions of section six of this article, as necessary
66 to the performance of any contracts executed by the School Building Authority in accordance with
67 the provisions of this article;

68 (18) To enter into agreements with county boards and persons, firms or corporations to
69 facilitate the development of county board projects and county board facilities plans. The county
70 board participating in an agreement shall pay at least twenty-five percent of the cost of the
71 agreement. Nothing in this section shall be construed to supersede, limit or impair the authority of
72 county boards to develop and prepare their projects or plans;

73 (19) To encourage any project or part thereof to provide opportunities for students to
74 participate in supervised, unpaid work-based learning experiences related to the student's
75 program of study approved by the county board. The work-based learning experience must be
76 conducted in accordance with a formal training plan approved by the instructor, the employer and
77 the student and which sets forth at a minimum the specific skills to be learned, the required

78 documentation of work-based learning experiences, the conditions of the placement, including
79 duration and safety provisions, and provisions for supervision and liability insurance coverage as
80 applicable. Projects involving the new construction and renovation of vocational-technical and
81 adult education facilities should provide opportunities for students to participate in supervised
82 work-based learning experiences, to the extent practical, which meet the requirements of this
83 subdivision. Nothing in this subdivision may be construed to affect registered youth apprenticeship
84 programs or the provisions governing those programs; and

85 (20) To do all things necessary or convenient to carry out the powers given in this article.

86 (b) The special revenue account in the State Treasury known as the "School Building
87 Authority Fund" is hereby continued. The fund is to be administered by the School Building
88 Authority. Expenditures from the fund shall be for the purposes set forth in this article and are not
89 authorized from collections but are to be made only in accordance with appropriation by the
90 Legislature and in accordance with the provisions of article three, chapter twelve of this code and
91 upon fulfillment of the provisions of article three, chapter twelve of this code and upon fulfillment of
92 the provisions of article two, chapter eleven-b of this code.

93 (c) The special revenue account in the State Treasury known as the "School Building
94 Authority Agricultural, Vocational and Technical Training Facilities Grant Fund" created in §5B-2-
95 16a of the Code of West Virginia is authorized to provide grants to the School Building Authority for
96 the purposes set forth in §5B-2-16a and this §18-9D-3(c) of this code.

97 (1) Any construction, renovation and/or expansion projects awarded grants from the West
98 Virginia Department of Economic Development and funded pursuant to §5B-2-16a of this code
99 from the School Building Authority Agricultural, Vocational and Technical Training Facilities Grant
100 Fund, are to be administered by the School Building Authority. Expenditures from such grant
101 funding shall be solely for the purposes of constructing, renovating and/or expanding agricultural,
102 vocational and technical training facilities at West Virginia primary and secondary schools.

103 (2) Individual grant recipients and the School Building Authority are authorized to partner

104 with private sector agriculture, industry and business to secure additional private sector funding for
105 the purposes of constructing, renovating and/or expanding agricultural, vocational and technical
106 training facilities at West Virginia primary and secondary schools.

NOTE: The purpose of this bill is to create a fund for, and a grant program dedicated to, the purposes of constructing, renovating and/or expanding agricultural, vocational and technical training facilities at West Virginia primary and secondary schools.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.