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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO EDUCATION -- SCHOOL BUILDING AUTHORITY CAPITAL FUND

Introduced By: Senators Pearson, Satchell, Conley, Ottiano, and Metts

Date Introduced: January 22, 2015

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

- 1 SECTION 1. Sections 16-7-41.1 and 16-7-44 of the General Laws in Chapter 16-7
2 entitled "Foundation Level School Support" are hereby amended to read as follows:
- 3 **16-7-41.1. Eligibility for reimbursement.** -- (a) School districts, not municipalities, may
4 apply for and obtain approval for a project under the necessity of school construction process set
5 forth in the regulations of the board of regents for elementary and secondary education, provided,
6 however, in the case of municipality which issues bonds through the Rhode Island Health and
7 Educational Building Corporation to finance or refinance school facilities for a school district
8 which is not part of the municipality, the municipality may apply for and obtain approval for a
9 project. Such approval will remain valid until June 30 of the third fiscal year following the fiscal
10 year in which the board of regents for elementary and secondary education's approval is granted.
11 Only those projects undertaken at school facilities under the care and control of the school
12 committee and located on school property may qualify for reimbursement under §§ 16-7-35 -- 16-
13 7-47. Facilities with combined school and municipal uses or facilities that are operated jointly
14 with any other profit or non-profit agency do not qualify for reimbursement under §§ 16-7-35 --
15 16-7-47. Projects completed by June 30 of a fiscal year are eligible for reimbursement in the
16 following fiscal year. A project for new school housing or additional housing shall be deemed to
17 be completed when the work has been officially accepted by the school committee or when the
18 housing is occupied for its intended use by the school committee, whichever is earlier.
- 19 (b) Notwithstanding the provisions of this section, the board of regents shall not grant

1 final approval for any project between June 30, 2011 and May 1, 2015 except for projects that are
2 necessitated by immediate health and safety reasons. In the event that a project is requested
3 during the moratorium because of immediate health and safety reasons, those proposals shall be
4 reported to the chairs of the house and senate finance committees.

5 (c) Any project approval granted prior to the adoption of the school construction
6 regulations in 2007, and which are currently inactive; and any project approval granted prior to
7 the adoption of the school construction regulations in 2007 which did not receive voter approval
8 or which has not been previously financed, are no longer eligible for reimbursement under this
9 chapter. The department of elementary and secondary education shall develop recommendations
10 for further cost containment strategies in the school housing aid program.

11 [\(d\) Beginning July 1, 2015, the council on elementary and secondary education shall](#)
12 [approve new necessity of school construction applications on an annual basis. The department of](#)
13 [elementary and secondary education shall develop an annual application timeline for LEAs](#)
14 [seeking new necessity of school construction approvals.](#)

15 **16-7-44. School housing project costs.** – School housing project costs, the date of
16 completion of school housing projects, and the applicable amount of school housing project cost
17 commitments shall be in accordance with the regulations of the commissioner of elementary and
18 secondary education and the provisions of §§ 16-7-35 – 16-7-47; provided, however, that school
19 housing project costs shall include the purchase of sites, buildings, and equipment, the
20 construction of buildings, and additions or renovations of existing buildings and/or facilities.
21 School housing project costs shall include the cost of interest payment on any bond issued after
22 July 1, 1988, provided that such bond is approved by the voters on or before June 30, 2003 or
23 issued by a municipal public building authority or by the appropriate approving authority on or
24 before June 30, 2003. Except as provided in subsection 16-7-41(d), those projects approved after
25 June 30, 2003, interest payments may only be included in project costs provided that the bonds
26 for these projects are issued through the Rhode Island Health, ~~and Education~~ [Educational](#) ~~and~~
27 Building Corporation. School housing project costs shall exclude: (1) any bond issuance costs
28 incurred by the municipality or regional school district; (2) demolition costs for buildings,
29 facilities, or sites deemed surplus by the school committee; and (3) restrictions pursuant to § 16-
30 7-44.1 below. A building, facility, or site is declared surplus by a school committee when the
31 committee no longer has such building, facility, or site under its direct care and control and
32 transfers control to the municipality, § 16-2-15. The board of regents for elementary and
33 secondary education will promulgate rules and regulations for the administration of this section.
34 These rules and regulations may provide for the use of lease revenue bonds, capital leases, or

1 capital reserve funding, to finance school housing provided that the term of any bond, or capital
2 lease shall not be longer than the useful life of the project and these instruments are subject to the
3 public review and voter approval otherwise required by law for the issuance of bonds or capital
4 leases. Cities or towns issuing bonds, or leases issued by municipal public buildings authority for
5 the benefit of a local community pursuant to chapter 50 of title 45 shall not require voter
6 approval. Effective January 1, 2008, and except for interim finance mechanisms, refunding
7 bonds, [borrowing from the school building authority capital fund](#), and bonds issued by the Rhode
8 Island Health and Educational Building Corporation to finance school housing projects for towns,
9 cities, or regional school districts borrowing for which has previously been authorized by an
10 enabling act of the general assembly, all bonds, notes and other forms of indebtedness issued in
11 support of school housing projects shall require passage of an enabling act by the general
12 assembly.

13 SECTION 2. Title 16 of the General Laws entitled "EDUCATION" is hereby amended
14 by adding thereto the following chapter:

15 [CHAPTER 105](#)

16 [SCHOOL BUILDING AUTHORITY](#)

17 **16-105-1. Legislative findings.** – [\(a\) The state of Rhode Island is committed to providing](#)
18 [high quality educational opportunities for all public school students.](#)

19 [\(b\) School facilities provide more than a place for instruction. The physical learning](#)
20 [environment contributes to the successful performance of educational programs designed to meet](#)
21 [students' educational needs.](#)

22 [\(c\) Every student needs a safe, healthy, and sanitary learning environment that promotes](#)
23 [student learning and development.](#)

24 [\(d\) School construction policies should encourage districts to reduce excess capacity](#)
25 [through means such as partnering with other districts, closing buildings, and altering grade](#)
26 [configurations in certain buildings to maximize the use of square feet.](#)

27 [\(e\) In order to maximize limited state resources, the project prioritization process should](#)
28 [focus on projects with the most urgent and immediate need.](#)

29 [\(f\) State funded school construction project financing should transition from a system that](#)
30 [largely reimburses local debt service to one that provides a set amount of financing annually, to](#)
31 [provide greater stability from a budgetary perspective while guiding limited resources to best use.](#)

32 **16-105-2. School building authority established.** -- [The general assembly hereby](#)
33 [designates the department of elementary and secondary education as the state's school building](#)
34 [authority with the responsibility to implement a system of state funding for school facilities](#)

1 designed to:

2 (1) Promote adequate school housing for all public school children in the state, and

3 (2) Prevent the cost of school housing from interfering with the effective operation of the
4 schools.

5 **16-105-3. Roles and responsibilities. --** The school building authority roles and
6 responsibilities shall include:

7 (1) Management of a system with the goal of assuring equitable and adequate school
8 housing for all public school children in the state;

9 (2) Prevention of the cost of school housing from interfering with the effective operation
10 of the schools;

11 (3) Management of school housing aid in accordance with statute;

12 (4) Reviewing and making recommendations to the council on elementary and secondary
13 education on necessity of school construction applications for state school housing aid and the
14 school building authority capital fund, based on the recommendations of the school building
15 authority advisory board;

16 (5) Managing and maintaining school construction regulations, standards, and guidelines
17 applicable to the school housing program, based on the recommendations of the school building
18 authority advisory board, created in § 16-105-8;

19 (6) Providing technical advice and assistance, training and education to cities, towns,
20 and/or LEAs and to general contractors, subcontractors, construction or project managers,
21 designers and others in planning, maintenance and establishment of school facility space;

22 (7) Developing a project priority system, based on the recommendations of the school
23 building authority advisory board, in accordance with school construction regulations for the state
24 school housing aid set forth in §§ 16-7-35 to 16-7-47 and the school building authority capital
25 fund, subject to review and if necessary to be revised on intervals not to exceed five (5) years.

26 Project priorities shall be in accordance with, but not limited to, the following order of priorities:

27 (i) Projects to replace or renovate a building which is structurally unsound or otherwise in
28 a condition seriously jeopardizing the health and safety of school children, where no alternative
29 exists;

30 (ii) Projects needed to prevent loss of accreditation;

31 (iii) Projects needed for the replacement, renovation or modernization of the HVAC
32 system in any schoolhouse to increase energy conservation and decrease energy related costs in
33 said schoolhouse;

34 (iv) Projects needed to replace or add to obsolete buildings in order to provide for a full

1 range of programs consistent with state and approved local requirements; and
2 (v) Projects needed to comply with mandatory instructional programs.
3 (8) Maintaining a current list of requested school projects and the priority given them;
4 (9) Collecting and maintaining readily available data on all the public school facilities in
5 the state;
6 (10) Recommending policies and procedures designed to reduce borrowing for school
7 construction programs at both state and local levels;
8 (11) At least every five (5) years, conducting a needs survey to ascertain the capital
9 construction, reconstruction, maintenance and other capital needs for schools in each district of
10 the state including public charter schools;
11 (12) Developing a formal enrollment projection model or using projection models already
12 available;
13 (13) Encouraging local education agencies to investigate opportunities for the maximum
14 utilization of space in and around the district;
15 (14) Collecting and maintaining a clearinghouse of prototypical school plans which may
16 be consulted by eligible applicants;
17 (15) By regulation, offering additional incentive points to the school housing aid ratio
18 calculation set forth in § 16-7-39, as the authority, based upon the recommendation of the
19 advisory board, determines will promote the purposes of this chapter. Said regulations may
20 delineate the type and amounts of any such incentive percentage points; provided, however, that
21 no individual category of incentive points shall exceed two (2) additional points; and provided
22 further, that no district shall receive a combined total of more than five (5) incentive percentage
23 points. Such incentive points may be awarded for a district's use of highly efficient construction
24 delivery methods; regionalization with other districts; superior maintenance practices of a district;
25 energy efficient and sustainable design and construction; the use of model schools as adopted by
26 the authority; and other incentives as recommended by the advisory board and determined by the
27 authority to encourage the most cost-effective and quality construction. Notwithstanding any
28 provision of the general laws to the contrary, the reimbursement or aid received under this chapter
29 or § 45-38.2 shall not exceed one hundred percent (100%) of the sum of the total project costs
30 plus interest costs.

31 **16-105-4. Funding mechanisms for school facilities. --** The school building authority,
32 within the department shall oversee and manage two distinct funding mechanisms for school
33 facilities: the foundation program for school housing, as set forth in §§ 16-7-35 to 16-7-47, and
34 the school building authority capital fund, as set forth in chapter 38.2 of title 45. The school

1 building authority shall determine the necessity of school construction, establish standards for
2 design and construction of school buildings, ensure that districts have adequate asset protection
3 plans in place to maintain their school facilities, make recommendations to the council on
4 elementary and secondary education for approval of projects for school housing aid
5 reimbursement and establish a project priority list for projects funded by the school building
6 authority capital fund and school housing aid set forth in §§ 16-7-35 to 16-7-47 that shall apply to
7 any projects submitted or reviewed on or after May 1, 2015.

8 **16-105-5. Procedure for school building authority capital fund project approval. –**

9 (a) The department of elementary and secondary education shall promulgate rules and regulations
10 that establish the process through which a city, town, or LEA may submit an application for
11 school building authority capital funding. The department may also prescribe, without limitation,
12 forms for financial assistance applications. All rules and regulations promulgated pursuant to this
13 chapter shall be promulgated in accordance with the provisions of chapter 42-35, and shall apply
14 to any projects submitted or reviewed on or after May 1, 2015.

15 (b) As part of the budget process, the governor shall specify the amount included in
16 his/her budget recommendation that the school building authority may commit to new projects in
17 the ensuing fiscal year, as well as any funding pursuant to § 16-105-7. Subsequently, the general
18 assembly shall authorize the maximum amount that the school building authority may commit to
19 new projects in the ensuing fiscal year.

20 (c) Each LEA shall develop, implement, and maintain a comprehensive asset protection
21 plan for every school building, not only buildings for which housing aid or school building
22 authority capital funds are sought or received. Only LEAs that have adequate asset protection
23 plans in place to maintain their school facilities are eligible for funding from the school building
24 authority capital fund. LEAs must annually provide asset protection information to the
25 department of elementary and secondary education. If an LEA fails to provide asset protection
26 information in a fiscal year, they are not eligible to receive school building authority capital funds
27 the next fiscal year.

28 (d) Upon issuance of the project priority list, the Rhode Island health and educational
29 building corporation shall award financial assistance to cities, towns, and LEAs for approved
30 projects. The corporation may decline to award financial assistance to an approved project which
31 the corporation determines will have a substantial adverse effect on the interests of holders of
32 bonds or other indebtedness of the corporation or the interests of other participants in the
33 financial assistance program, or for good and sufficient cause affecting the finances of the
34 corporation. All financial assistance shall be made pursuant to a loan or financing agreement

1 between the corporation and the city, town or LEA, acting by and through the officer or officers,
2 board, committee, or other body authorized by law, or otherwise its chief executive officer,
3 according to terms and conditions as determined by the corporation, and each loan shall be
4 evidenced and secured by the issue to the corporation of city or town obligations in principal
5 amount, bearing interest at the rate or rates specified in the applicable loan or financing
6 agreement, and shall otherwise bear such terms and conditions as authorized by this chapter
7 and/or the loan or financing agreement.

8 **16-105-6. Inspection of approved projects.** -- For any approved project, the school
9 building authority shall have the authority to inspect the construction and operation thereof to
10 ensure compliance with the provisions of this chapter.

11 **16-105-7. Expenses incurred by the department.** -- In order to provide for one-time or
12 limited expenses of the department of elementary and secondary education under this chapter, the
13 corporation shall provide funding from the school building authority capital fund. The school
14 building authority shall, by October 1 of each year, report to the governor and the chairs of the
15 senate and house finance committees, the senate fiscal advisor and the house fiscal advisor the
16 amount sought for expenses for the next fiscal year.

17 **16-105-8. School building authority advisory board established.** -- (a) There is hereby
18 established a school building authority advisory board that shall advise the school building
19 authority regarding the best use of the school building authority capital fund, including the setting
20 of statewide priorities, criteria for project approval, and recommendations for project approval
21 and prioritization.

22 (b) The school building authority advisory board shall consist of seven (7) members as
23 follows:

24 (1) The general treasurer;

25 (2) The director of the department of administration, who shall serve as chair;

26 (3) A member of the governor's staff, as designated by the governor; and

27 (4) Four (4) members of the public, appointed by the governor, and who serve at the
28 pleasure of the governor, each of whom shall have expertise in education and/or construction, real
29 estate, or finance. At least one of these four members shall represent a local education agency.

30 (c) In addition to the purposes in subsection (a), the school building authority advisory
31 board shall advise the school building authority on, including but not limited to, the following:

32 (1) The project priorities for the school building authority capital fund;

33 (2) Legislation as it may deem desirable or necessary related to the school building
34 authority capital fund and the school housing aid program set forth in §§ 16-7-35 to 16-7-47;

1 (3) Policies and procedures designed to reduce borrowing for school construction
2 programs at both state and local levels;

3 (4) Development of a formal enrollment projection model or consideration of using
4 projection models already available;

5 (5) Processes and procedures necessary to apply for, receive, administer, and comply
6 with the conditions and requirements respecting any grant, gift or appropriation of property,
7 services or moneys;

8 (6) The collection and maintenance of a clearinghouse of prototypical school plans which
9 may be consulted by eligible applicants and recommend incentives to utilize these prototypes;

10 (7) The determination of eligible cost components of projects for funding or
11 reimbursement, including partial or full eligibility for project components for which the benefit is
12 shared between the school and other municipal and community entities;

13 (8) Development of a long term capital plan in accordance with needs and projected
14 funding;

15 (9) Collection and maintenance of data on all the public school facilities in the state,
16 including information on size, usage, enrollment, available facility space and maintenance;

17 (10) Advising districts on the conduct of a needs survey to ascertain the capital
18 construction, reconstruction, maintenance and other capital needs for schools across the state;

19 (12) The recommendation of policies, rules and regulations that move the state toward a
20 pay-as-you-go funding system for school construction programs; and

21 (13) Encouraging local education agencies to investigate opportunities for the maximum
22 utilization of space in and around the district.

23 **16-105-9. Severability. -- If any provision of this chapter or the application of this**
24 **chapter to any person or circumstances is held invalid, the invalidity shall not affect other**
25 **provisions or applications of the chapter, which can be given effect without the invalid provision**
26 **or application, and to this end the provisions of this chapter are declared to be severable.**

27 SECTION 3. Sections 45-38.1-4 and 45-38.1-17 of the General Laws in Chapter 45-38.1
28 entitled "Health and Educational Building Corporation" are hereby amended to read as follows:

29 **45-38.1-4. Corporation established.** – (a) There is hereby created a public body
30 corporate and corporation of the state to be known as the "Rhode Island health and educational
31 building corporation" as successor to the Rhode Island educational building corporation,
32 previously created as a nonbusiness corporation under and pursuant to chapter 6 of title 7, as
33 amended by chapter 121 of the Public Laws of 1966, and constituted and established as a public
34 body corporate and corporation of the state for the exercising of the powers conferred on the

1 corporation under and pursuant to §§ 45-38.1-1 – 45-38.1-24.

2 (b) All of the powers of the corporation are vested in the board of directors of the
3 corporation elected at the first meeting of the incorporators of the Rhode Island educational
4 building corporation, and the members of the board shall continue to serve for the duration of the
5 terms for which they were originally elected. Successors to the members of the board of directors
6 shall be appointed by the governor, as follows: prior to the month of June in each year,
7 commencing in the year 1968, the governor shall appoint a member to serve on the board of
8 directors for a term of five (5) years to succeed the member whose term will expire in June of that
9 year. In the event of a vacancy occurring in the membership of the board of directors, the
10 governor shall appoint a new member of the board of directors for the unexpired term. Any
11 member of the board of directors is eligible for reappointment.

12 (c) Each member of the board of directors, before entering upon his or her duties, shall
13 take an oath to administer the duties of his or her office faithfully and impartially, and the oath
14 shall be filed in the office of the secretary of state.

15 (d) The board of directors shall select two (2) of its members as chairperson and vice
16 chairperson, and also elect a secretary, assistant secretary, treasurer, and assistant treasurer, who
17 need not be members of the board. Three (3) members of the board of directors of the corporation
18 shall constitute a quorum, and the affirmative vote of the majority of the directors present and
19 entitled to vote at any regular or special meeting at which a quorum is present, is necessary for
20 any action to be taken by the corporation; except, however, that the affirmative vote of three (3)
21 members of the board of directors is necessary for the election of officers of the corporation and
22 to amend the bylaws of the corporation. No vacancy in the membership of the board of directors
23 of the corporation impairs the right of a quorum to exercise all the powers of and perform the
24 duties of the corporation.

25 (e) Any action taken by the corporation under the provisions of this chapter may be
26 authorized by resolution at any regular or special meeting, and each resolution takes effect
27 immediately and need not be published or posted.

28 (f) The members of the board of directors shall receive compensation at the rate of fifty
29 dollars (\$50.00) per meeting attended; however, the compensation shall not exceed one thousand
30 five hundred dollars (\$1,500) per fiscal year per member.

31 (g) Notwithstanding any other law to the contrary, it shall not be or constitute a conflict
32 of interest for a trustee, director, officer, or employee of an institution for higher education or a
33 health care provider to serve as a member of the board of directors of the corporation; provided,
34 that the trustee, director, officer, or employee abstains from deliberation, action and vote by the

1 board under this chapter in specific respect to the institution for higher education or the health
2 care provider of which the member is a trustee, director, officer, or employee.

3 [\(h\) The board and corporation shall comply with provisions of chapter 155 of title 42, the](#)
4 [quasi-public corporations accountability and transparency act.](#)

5 **45-38.1-17. Annual report and audit.** -- Within four (4) months after the close of each
6 fiscal year of the corporation, it shall make a report to the governor, [the speaker of the house, the](#)
7 [president of the senate and the secretary of state](#) of its activities for the preceding fiscal year, and
8 the report shall present a complete operating and financial statement covering the corporation's
9 operations during the preceding fiscal year. [In addition the report shall provide a summary of the](#)
10 [applications received and approved loans or aid provided to the communities and a summary of](#)
11 [the status of loans and status of the school building authority capital fund.](#) The corporation shall
12 cause an audit of its books and accounts to be made at least once each fiscal year by certified
13 public accountants, and the cost of the audit shall be paid by the corporation from funds available
14 to it pursuant to this chapter. [The report shall be posted as prescribed in § 42-20-8.2. The director](#)
15 [of the department of administration shall be responsible for the enforcement of this provision.](#)

16 SECTION 4. Title 45 of the General Laws entitled "TOWNS AND CITIES" is hereby
17 amended by adding thereto the following chapter:

18 [CHAPTER 45-38.2](#)

19 [SCHOOL BUILDING AUTHORITY CAPITAL FUND](#)

20 **45-38.2-1. Definitions.** – [As used in this chapter, the following terms, unless the context](#)
21 [requires a different interpretation, shall have the following meanings:](#)

22 [\(1\) "Application" means a project proposed by a city, town, or LEA that would make](#)
23 [capital improvements to public school facilities consistent with project evaluation criteria and](#)
24 [chapter 41.1 of title 16-7;](#)

25 [\(2\) "Approved project" means any project approved for financial assistance by the](#)
26 [Council on Elementary and Secondary Education;](#)

27 [\(3\) "Corporation" means the Rhode Island health and educational building corporation as](#)
28 [set forth in chapter 38.1 of title 42;](#)

29 [\(4\) "Department" means the department of elementary and secondary education as](#)
30 [established under title 16;](#)

31 [\(5\) "Eligible project" means an application, or a portion of an application, that meets the](#)
32 [project evaluation criteria and approved by the council on elementary and secondary education;](#)

33 [\(6\) "Financial assistance" means any form of financial assistance provided by the](#)
34 [corporation to a city, town, or LEA in accordance with this chapter for all or any part of the cost](#)

1 of an approved project, including, without limitation, loans, guarantees, insurance, subsidies for
2 the payment of debt service on loans, lines of credit, and similar forms of financial assistance;

3 (7) "Fund" means the school building authority capital fund;

4 (8) "LEA" means a local education agency, a public board of education, school
5 committee or other public authority legally constituted within the state for administrative control
6 or direction of one or more Rhode Island public elementary or secondary schools;

7 (9) "Market rate" means the rate the city, town, or LEA would receive on the open market
8 at the time of the original loan agreement as determined by the corporation in accordance with its
9 rules and regulations;

10 (10) "Project evaluation criteria" means the criteria used by the school building authority
11 to evaluate applications and rank eligible projects;

12 (11) "Project priority list" means the list of eligible projects approved by the council on
13 elementary and secondary education ranked in the order in which financial assistance shall be
14 awarded by the corporation; and

15 (12) "Subsidy assistance" means the credit enhancements and other measures to reduce
16 the borrowing costs for a city, town, or LEA.

17 **45-38.2-2. School building authority capital fund.** -- (a) There is hereby established a
18 school building authority capital fund. The corporation shall establish and set up on its books the
19 fund, to be held in trust and to be administered by the corporation as provided in this chapter.
20 This fund shall be in addition to the annual appropriation for committed expenses related to the
21 repayment of housing aid commitments. The corporation shall deposit the following monies into
22 the fund:

23 (1) The difference between the annual housing aid appropriation and housing aid
24 commitment amounts appropriated or designated to the corporation by the state for the purposes
25 of the foundation program for school housing;

26 (2) Loan repayments, bond refinance interest savings, and other payments received by the
27 corporation pursuant to loan or financing agreements with cities, towns, or LEAs executed in
28 accordance with this chapter;

29 (3) Investment earnings on amounts credited to the fund;

30 (4) Proceeds of bonds of the corporation issued in connection with this chapter to the
31 extent required by any trust agreement for such bonds;

32 (5) Administrative fees levied by the corporation, with respect to financial assistance
33 rendered under this chapter and specified in § 45-38.2-3(a)(4), less operating expenses;

34 (6) Other amounts required by provisions of this chapter or agreement, or any other law

1 or any trust agreement pertaining to bonds to be credited to the fund; and

2 (7) Any other funds permitted by law which the corporation in its discretion shall
3 determine to credit thereto.

4 (b) The corporation shall establish and maintain fiscal controls and accounting
5 procedures conforming to generally accepted government accounting standards sufficient to
6 ensure proper accounting for receipts in and disbursements from the school building authority
7 capital fund.

8 (c) The school building authority shall establish and maintain internal controls to ensure
9 that LEAs are providing adequate asset protection plans, all LEAs have equal access and
10 opportunity to address facility improvements on a priority basis, and to ensure that funding from
11 the school building authority capital fund has the greatest impact on facility gaps in state priority
12 areas. The school building authority will also manage necessity of school construction approvals
13 in accordance with the funding levels set forth by the general assembly.

14 **45-38.2-3. Administration. --** (a) The corporation shall have all the powers necessary or
15 incidental to carry out and effectuate the purposes and provisions of this chapter including:

16 (1) To receive and disburse such funds from the state as may be available for the purpose
17 of the fund subject to the provisions of this chapter;

18 (2) To make and enter into binding commitments to provide financial assistance to cities,
19 towns and LEAs from amounts on deposit in the fund;

20 (3) To enter into binding commitments to provide subsidy assistance for loans and city,
21 town, and LEA obligations from amounts on deposit in the fund;

22 (4) To levy administrative fees on cities, towns, and LEAs as necessary to effectuate the
23 provisions of this chapter; provided the fees have been previously authorized by an agreement
24 between the corporation and the city, town, or LEA;

25 (5) To engage the services of third-party vendors to provide professional services;

26 (6) To establish one or more accounts within the fund; and

27 (7) Such other authority as granted to the corporation under chapter 38.1 of title 45.

28 (b) Subject to the provisions of this chapter, and to any agreements with the holders of
29 any bonds of the corporation or any trustee therefor, amounts held by the corporation for the
30 account of the fund shall be applied by the corporation, either by direct expenditure,
31 disbursement, or transfer to one or more other funds and accounts held by the corporation or a
32 trustee under a trust agreement or trust indenture entered into by the corporation with respect to
33 bonds or notes issued by the corporation under this chapter or by a holder of bonds or notes
34 issued by the corporation under this chapter, either alone or with other funds of the corporation, to

1 the following purposes:

2 (1) To provide financial assistance to cities, towns and LEAs to finance costs of approved
3 projects, and to refinance the costs of the projects, subject to such terms and conditions, if any, as
4 are determined by the department and/or the corporation;

5 (2) To fund reserves for bonds of the corporation and to purchase insurance and pay the
6 premiums therefor, and pay fees and expenses of letters or lines of credit and costs of
7 reimbursement to the issuers thereof for any payments made thereon or on any insurance, and to
8 otherwise provide security for, and a source of payment for obligations of the corporation, by
9 pledge, lien, assignment, or otherwise as provided in chapter 38.1 of title 45;

10 (3) To pay or provide for subsidy assistance as determined by the school building
11 authority;

12 (4) To provide a reserve for, or to otherwise secure, amounts payable by cities, towns,
13 and LEAs on loans and city, town, and LEA obligations outstanding in the event of default
14 thereof; amounts in any account in the fund may be applied to defaults on loans outstanding to the
15 city, town, or LEA for which the account was established and, on a parity basis with all other
16 accounts, to defaults on any loans or city, town, or LEA obligations outstanding; and

17 (5) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or
18 otherwise as provided in chapter 38.1 of title 45, any bonds or notes of the corporation issued
19 under this chapter.

20 (c) The repayment obligations of the city, town, or LEA for loans shall be in accordance
21 with its eligibility for state aid for school housing as set forth in §§ 16-7-39, 16-77.1-5, and 105-
22 3(15).

23 (d) In addition to other remedies of the corporation under any loan or financing
24 agreement or otherwise provided by law, the corporation may also recover from a city, town or
25 LEA, in an action in superior court, any amount due the corporation together with any other
26 actual damages the corporation shall have sustained from the failure or refusal of the city, town,
27 or LEA to make the payments or abide by the terms of the loan or financing agreement.

28 **45-38.2-4. Payment of state funds.--** (a) Subject to the provisions of subsection (b),
29 upon the written request of the corporation, the general treasurer shall pay to the corporation,
30 from time to time, from the proceeds of any bonds or notes issued by the state for the purposes of
31 this chapter or funds otherwise lawfully payable to the corporation for the purposes of this
32 chapter, such amounts as shall have been appropriated or lawfully designated for the fund. All
33 amounts so paid shall be credited to the fund in addition to any other amounts credited or
34 expected to be credited to the fund.

1 (b) The corporation and the state may enter into, execute, and deliver one or more
2 agreements setting forth or otherwise determining the terms, conditions, and procedures for, and
3 the amount, time, and manner of payment of, all amounts available from the state to the
4 corporation under this section.

5 (c) The corporation, per order of the School Building Authority, is authorized to grant a
6 district or municipality its state share of an approved project cost, pursuant to § 16-7-39 and 16-
7 77.1-5. Construction pay-as-you-go grants received from the school building authority capital
8 fund shall not be considered a form of indebtedness subject to the provisions of § 16-7-44.

9 (d) Notwithstanding city charter provisions to the contrary, up to five hundred thousand
10 dollars (\$500,000) may be loaned to a city or town for the LEA's share of total project costs
11 without the requirement of voter approval.

12 (e) Notwithstanding any provision to the contrary, the term of any bond, capital lease or
13 other financing instrument shall not exceed the useful life of the project being financed.

14 SECTION 5. This act shall take effect upon passage.

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LC000736/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION -- SCHOOL BUILDING AUTHORITY CAPITAL FUND

1 This act would provide that beginning July 1, 2015, the council on elementary and
2 secondary education would approve all new necessity of school construction applications on an
3 annual basis. The department of elementary and secondary education is directed to develop an
4 application timeline for local education agencies to apply for such new construction. The act also
5 would designate the department as the state's school building authority and lists the roles and
6 responsibilities of a new procedure for school districts to obtain financial assistance on new
7 school building construction and maintenance projects.

8 This act would take effect upon passage.

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LC000736/SUB A
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