

CHAPTER 121

An Act to amend and reenact §§ 22.1-146, 22.1-148, 22.1-151, 22.1-153, and 22.1-161 of the Code of Virginia, and to repeal §§ 22.1-154 through 22.1-157 of the Code of Virginia, relating to the Literary Fund.

[H 2350]

Approved March 8, 2007

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-146, 22.1-148, 22.1-151, 22.1-153, and 22.1-161 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-146. Power of Board to make loans from fund for erection, etc., of school buildings and fueling facilities for school buses.

The Board of Education may make loans or, subject to the approval of the General Assembly, loan interest rate subsidy payments from the Literary Fund to the school boards of the several school divisions making application therefor in the manner prescribed by law, *authorized by the governing body and the school board*, for the purposes of (i) erecting, altering or enlarging school buildings in such school divisions; (ii) purchasing and installing educational technology equipment and infrastructure; (iii) equipping school buses for alternative fuel conversions and for construction of school bus fueling facilities for supplying compressed natural gas or other alternative fuels; and (iv) refinancing or redemption of negotiable notes, bonds, and other evidences of indebtedness or obligations incurred by a locality on behalf of a school division which has an application for a Literary Fund loan for an approved school project pending before the Board of Education. For the purpose of this section, "alternative fuels" means motor fuels other than gasoline and diesel fuel.

§ 22.1-148. Restrictions upon making loans; retirement of previous loans.

A. No loan from the Literary Fund shall exceed 100% of the cost of the building, addition thereto, and site on account of which such loan is made. No loan shall be made from the Literary Fund to aid in the erection of a building or addition to cost less than \$500. Whenever a loan is made from the Literary Fund for the purpose of enlarging a building, any part of the proceeds of such loan may, in the discretion of the Board, be used to retire any previous loan or loans on such building although not matured at the time of such additional loan. ~~No loan shall be made from the Literary Fund in any case in which the payment of same with interest would, in the judgment of the Board of Education, entail too heavy a charge upon the revenues of the county, city or town comprising the school division to which such loan is granted.~~ The Board may refuse to make any loan from the Literary Fund to any school board which is in default in the payment of any part of the principal of any previous loan from the Literary Fund or which for the two years next preceding the loan has been more than six months in default in the payment of interest due on any loan from the Literary Fund.

B. Any school division which has an application for a Literary Fund loan for an approved school project pending before the Board of Education shall not be denied or delayed in obtaining such loan solely for the reason that alternative financing had been obtained to begin or complete construction on such project.

Change 1: Authorizing signatures of both the chairman of the school board and the chairman of the local governing body are now required at the time of initial application and again prior to the release of any funds.

§ 22.1-151. Evidence of loan.

A loan from the Literary Fund shall be evidenced by bonds or notes payable to the Commonwealth of Virginia for the benefit of the Literary Fund, executed or signed by the *mayor or the chairman of the governing body and the chairman of the school board* and attested by the clerk thereof. Evidence of debt taken for such loans ~~and a certificate of recordation of a memorandum of lien in the appropriate circuit court~~ shall be deposited with the State Treasurer and kept by him.

§ 22.1-153. School boards authorized to borrow from Fund; form of application.

The school boards of the several school divisions are authorized to borrow money belonging to the Literary Fund, and any school board desiring to borrow from the Fund shall make written application to the Board of Education for such loan on a form to be prescribed by the Board.

The Board shall not disburse any proceeds of any approved loan prior to its receipt of the concurrent approval of the governing body at the time of initial disbursement and an acceptable opinion of bond counsel obtained by the governing body as to the validity of the loan.

§ 22.1-161. Loan declared indebtedness of the county, city or town; lien on locality's funds created.

Any bonds or notes of a school board held by the Literary Fund are hereby declared to be valid and legally binding indebtedness of the county, city or combination thereof constituting the school division or of the town if the town constitutes the school division. There shall be a lien in favor of the Literary Fund on all funds and income of the county, city or town for the amount of such bonds and notes. *Therefore, Literary Fund loans are considered to be general obligation debt of the governing body as defined in § 15.2-2602, and are subject to the provisions of §§ 15.2-2638 and 15.2-2659.*

2. That §§ 22.1-154 through 22.1-157 of the Code of Virginia are repealed.

Change 2: Documents no longer required are (a) the Attorney's Certificate of Title and accompanying Certificate of the Clerk of the Court, OR a policy of insurance in lieu of; (b) Statement of the Court or City Treasurer; and (c) recordation of a Memorandum of Lien.

Change 3: The bond counsel opinion is still required but only as to the validity of the loan, not in regard to the tax-exempt status of the loan. Prior to release of funds, the Department of Treasury will send **local governing body** and school board a Temporary Note to be executed.