

CHAPTER ~~3~~ 11.

BONDS AND OTHER OBLIGATIONS.

Drafting note: Existing Chapter 3 is reorganized as proposed Chapter 11 and technical changes are made throughout to modernize, simplify, and clarify language related to bonds of public institutions of higher education and certain other entities. Repeal of obsolete existing §§ 23-5, 23-6, and 23-30 is recommended.

~~§ 23-5. Payment of interest on bonds of State held by colleges, etc.~~

~~The Comptroller is authorized and directed to draw upon the state treasury in favor of the proper authorities of any incorporated college, institution, or seminary of learning, or manual labor school, in this Commonwealth, for all interest which has accrued, or may hereafter accrue, and as the same may fall due, upon all obligations of the Commonwealth, or of the James River and Kanawha Company, guaranteed by the Commonwealth, held by or for such college, institution, or seminary of learning, or manual labor school, or to which they were entitled, on the first day of January, 1882, so long as they may continue to hold the same; provided, that no interest shall be paid upon any bonds, the payment of which is forbidden by the Constitution.~~

Drafting note: Repeal of obsolete existing § 23-5 is recommended.

~~§ 23-6. Exchange and cancellation of consol coupon bonds of State.~~

~~The following sections of the Code of Virginia of 1919 are continued in effect:~~

~~(1) Section 991, relating to the exchange of consol coupon bonds held by colleges, etc., for funded registered consol bonds; and~~

~~(2) Section 992, relating to the cancellation of such bonds surrendered in exchange.~~

Drafting note: Repeal of obsolete existing § 23-6 is recommended.

~~§ 23-15~~ 23.1-1100. Definitions.

~~Whenever as As used in this chapter, unless a different meaning clearly appears from the context requires a different meaning:~~

~~"Institution" means any educational institution referred to in § 23-14 hereof.~~

"Board" means the members of the board of visitors, board of trustees, or other governing ~~body, by whatever name known,~~ board of an institution.

"Bonds" means any ~~bonds bond, notes note~~ or other ~~evidences evidence~~ of indebtedness, or other ~~obligations obligation~~ of an institution issued by an institution pursuant to this chapter.

~~"Governor" means the Governor of the Commonwealth of Virginia.~~

"Erect" includes building, constructing, reconstructing, erecting, demolishing, extending, bettering, equipping, installing, modifying, and improving.

"Institution" means each public institution of higher education, as that term is defined in § 23.1-100; the Eastern Virginia Medical School; the Institute for Advanced Learning and Research; the New College Institute; the Roanoke Higher Education Authority; the Southern Virginia Higher Education Center; the Southwest Virginia Higher Education Center;; the Virginia School for the Deaf and the Blind; and the Wilson Workforce and Rehabilitation Center.

"Project" means (i) any (a) building, facility, addition, extension, or improvement of a capital nature ~~required by that is necessary~~ or convenient ~~for to carry out~~ the purposes of an ~~educational~~ institution, including, ~~without limitation,~~ administration, and teaching facilities, lecture and exhibition halls, libraries, dormitories, student apartments, faculty dwellings, dining halls, cafeterias, snack bars, laundries, hospitals, laboratories, research centers, infirmaries, field houses, gymnasiums, auditoriums, student unions, recreation centers, stadiums, athletic facilities, garages, parking facilities, warehouses and storage buildings, and book and student supplies centers ~~and all buildings, or (b) building, lands and any other appurtenances land, appurtenance, furnishings and furnishing, or~~ equipment necessary or desirable in connection ~~therewith or incidental thereto and with or incidental to a project or~~ (ii) any personal property at ~~the institutions~~ an institution.

~~"To erect" or "erection" includes building, constructing, reconstructing, erecting, demolishing, extending, bettering, equipping, installing, modifying, and improving.~~

Drafting note: The definition of institution is revised to incorporate existing § 23-14 by referring to the new title-wide definition for public institution of higher education in proposed § 23.1-100 and listing exceptions rather than listing individual entities. The definition of Governor is stricken because in each instance in which the term is used in this proposed chapter, the meaning is clearly understood from the context. The definition of To erect or erection is revised to "Erect" and moved to alphabetical order and changes are made throughout the chapter to reflect the change. Technical changes are made, including removing "without limitation" used in conjunction with "including" in the project on the basis of the Code-wide application of § 1-218, which states, "'Includes' means includes, but not limited to."

~~§ 23-14 23.1-1101. Certain educational Powers of~~ institutions ~~declared governmental instrumentalities; powers~~ vested in majority of members of board; quorum.

~~The College of William and Mary in Virginia, at Williamsburg; Richard Bland College of the College of William and Mary at Dinwiddie and Prince George; the rector and visitors of Christopher Newport University, at Newport News; Longwood University, at Farmville; the University of Mary Washington, at Fredericksburg; George Mason University, at Fairfax; the James Madison University, at Harrisonburg; Old Dominion University, at Norfolk; the State Board for Community Colleges, at Richmond; the Virginia Commonwealth University, at Richmond; the Radford University, at Radford; the Roanoke Higher Education Authority and Center; the rector and visitors of the University of Virginia, at Charlottesville; the University of Virginia's College at Wise; the Virginia Military Institute, at Lexington; the Virginia Polytechnic Institute and State University, at Blacksburg; the Virginia Schools for the Deaf and the Blind; the Virginia State University, at Petersburg; Norfolk State University, at Norfolk; the Wilson Workforce and Rehabilitation Center, at Fishersville; the Eastern Virginia Medical School; the Southern Virginia Higher Education Center; the Southwest Virginia Higher Education Center; the Institute for Advanced Learning and Research; and the New College Institute are hereby classified as educational institutions and are declared to be public bodies~~

~~and constituted as governmental instrumentalities for the dissemination of education.~~ The powers of ~~every such~~ each institution derived directly or indirectly from this chapter ~~shall be~~ are vested in and may be exercised by a majority of the members of its board, and a majority of such board shall be a quorum for the transaction of any business authorized by this chapter. ~~Wherever the word "board" is used in this chapter, it shall be deemed to include the members of a governing body designated by another title.~~

Drafting note: Provisions of existing § 23-14 are stricken here and incorporated into the definition of "institution" in proposed § 23.1-1100. Technical changes are made.

~~§ 23-17 23.1-1102. Purposes~~ Purpose of institutions ~~to acquire, install, modify, and erect projects.~~

In addition to any other purposes provided by law or otherwise, the purpose of every institution ~~shall be~~ is to acquire, install, modify, and erect ~~any project as defined in § 23-15 projects.~~

Drafting note: Technical changes.

~~§ 23-16 23.1-1103. Powers of institutions~~ Institutions; powers generally.

~~In addition to any powers to sue and be sued heretofore conferred upon it, every institution shall have power, in its proper corporate name and style, if any, to sue, and also power to be sued on any bonds, agreements or other contractual or quasi-contractual obligations issued, made or incurred pursuant to this chapter and for the enforcement thereof and of any duty in connection therewith and of any debt thereon or evidence thereby and of any terms, provisions, conditions, or covenants contained therein or made in connection with the issuance, making or procuring thereof, and for the enforcement of any contract or agreement with or liability of any nature to a federal agency or the holders of any bonds or any trustee therefor or representative thereof.~~

~~In addition to the powers now enjoyed by it, every~~ Any institution ~~shall have power~~ may, in its proper corporate name and style, ~~if any:~~

1. Sue and be sued (i) on any bond, agreement, or other contractual or quasi-contractual obligation issued, made, or incurred pursuant to this chapter; (ii) on any duty, debt, evidence of debt, term, provision, condition, or covenant related to any bond, agreement, or other contractual or quasi-contractual obligation issued, made, or incurred pursuant to this chapter; (iii) for the enforcement of any bond, agreement, or other contractual or quasi-contractual obligations issued, made, or incurred pursuant to this chapter; or (iv) for the enforcement of any contract or agreement with or liability to any federal agency or bondholder or any trustee or representative of such bondholder.

~~(a) To have~~ 2. Adopt and alter a common seal ~~and alter the same at pleasure.~~

~~(b) To acquire and~~ 3. Acquire and hold real or personal property or interests ~~therein in~~ such property in its own name.

~~(c) To execute all instruments~~ 4. Execute any instrument that it deems necessary or convenient ~~for~~ to carry out the purposes of this chapter.

~~(d)~~ 5. With the consent of the Governor, ~~to~~ issue bonds and ~~to~~ provide for and secure the rights of the ~~holders thereof and to secure the same, all as hereinafter provided~~ bondholders.

~~(e) To perform~~ 6. Perform any ~~acts and do any things~~ act authorized by this chapter ~~under~~, through ~~or by means of~~ its own officers, agents, or employees, or by contracts with private corporations, firms, or individuals.

~~(f) To do all acts and things~~ 7. Perform any act that it deems necessary or convenient to carry out the powers and purposes expressly ~~given~~ provided in this chapter.

Drafting note: Technical changes.

§ ~~23-18~~ 23.1-1104. ~~Consent of Governor to acquisition, erection or refinancing of project; borrowing money and issuing bonds; securing grants or loans under acts of Congress or of Commonwealth Institutions; powers; projects and bonds.~~

~~The~~ With the consent of the Governor ~~being first had and obtained, every~~ any institution ~~shall have power and is hereby authorized and empowered to~~ may acquire any project by purchase, gift, or otherwise, ~~any project or to erect the same~~ any project, or ~~to~~ refinance the cost

of ~~acquisition~~ acquiring or ~~erection of~~ erecting any project, and in connection ~~therewith to~~ with
any such acquisition, erection, or refinancing, any institution may borrow money, ~~and~~; make,
issue, and sell its bonds as ~~hereinafter~~ provided in this chapter, and to; enter into and perform all
lawful contracts and agreements ~~and~~, do all lawful acts ~~and things~~ necessary or proper, and
~~further to~~ make such lawful contracts and agreements and ~~do and~~ perform all such lawful acts
~~and things~~ as may be necessary, proper, or advisable for the purpose of obtaining ~~and/or or~~
securing grants, loans ~~and/or, or~~ financial assistance of any kind ~~or sort in connection therewith~~
under any act of Congress or ~~of this~~ the Commonwealth.

Drafting note: Technical changes.

§ ~~23-30.04~~ 23.1-1105. ~~Borrowing Institutions; powers; borrowing~~ upon endowment and
other investments.

~~(a) In addition to the powers conferred upon institutions by other provisions of this~~
~~chapter, any~~ A. Any institution ~~is hereby authorized may, by and~~ with the approval of the
Governor, and upon the affirmative vote of at least two-thirds of its board ~~to~~, borrow ~~from time~~
~~to time; sums that it deems necessary~~ for and in the name of the institution, ~~such sum or sums as~~
~~it may determine necessary for its uses and purposes~~ and ~~to~~ secure payment ~~thereof of such~~
sums by the pledge of any ~~stocks stock, notes note, bonds bond,~~ and other ~~assets asset~~ held by
such institution as a part of its endowment funds or unrestricted gifts from private sources.

~~(b) Notes~~ B. Any institution may issue notes or bonds ~~issued by an institution~~ pursuant
to this section ~~may be issued~~ in one or more series, and such bonds or notes shall bear such date
~~or dates~~, mature at such time ~~or times~~, bear interest at such rate or rates not exceeding the rate
specified in § ~~23-30.03~~ 23.1-1112 that is payable at such time ~~or times~~, be in such
~~denominations denomination~~, be in such form, either coupon or registered, carry such
registration ~~privileges privilege~~, be executed in such manner, be payable in such medium of
payment, and at such place ~~or places~~, and be subject to such terms of redemption, with or
without premium, as ~~may be provided by resolution of~~ the board of such institution may provide
by resolution. Notes

161 C. Any notes or bonds ~~so~~ issued pursuant to this section may be sold at public or private
162 sale for such price or prices as the board ~~shall determine, provided that the~~ determines. The
163 interest cost to maturity of the ~~money~~ moneys received for any such issue of notes or bonds
164 shall not exceed the rate specified in § ~~23-30.03~~ 23.1-1112. Notes or bonds so issued and the
165 interest thereon ~~shall be~~ (i) is payable only out of the sale or ~~the~~ liquidation of the endowment
166 investments, investments of unrestricted gifts from private sources, and interest accruing ~~thereon~~
167 on such sale, liquidation, or investment that is pledged to secure the notes or bonds so issued;
168 and ~~shall in no event constitute~~ (ii) is not a general obligation of such institution, the
169 Commonwealth, the Governor, the members of the board of such institution, ~~nor or~~ any person
170 executing the notes or bonds so issued.

171 ~~(e) D.~~ All moneys received or derived from the sale of any notes or bonds ~~so~~ issued ~~shall~~
172 ~~not constitute state funds, but shall be and constitute~~ pursuant to this section are a part of the
173 local funds of ~~such the~~ institution and are not state funds.

174 ~~(d) The~~ E. Each institution ~~shall have power out of any funds~~ may use funds available
175 ~~therefor for such purpose~~ to purchase any ~~notes note~~ or ~~bonds so bond~~ issued, ~~but pursuant to~~
176 this section at a price not more than the sum of the principal amount ~~thereof of such note or~~
177 bond and accrued interest thereon, ~~and any. Any~~ note or bond so purchased shall be canceled
178 unless purchased as an endowment fund investment. This subsection shall not apply to the
179 redemption of bonds.

180 ~~(e) G.~~ Any ~~notes note~~ or ~~bonds so bond~~ issued ~~are hereby made securities pursuant to~~
181 this section is a security in which all public officers and bodies of ~~this the~~ Commonwealth and
182 ~~all its~~ political subdivisions ~~thereof, all~~ insurance companies and associations, ~~all and~~ savings
183 banks and savings institutions, including savings and loan associations, ~~in this the~~
184 Commonwealth, may properly and legally invest funds under their control; ~~and all notes.~~

185 H. Any note or ~~bonds so bond~~ issued pursuant to this section, ~~their the~~ transfer of such
186 note or bond, and the income ~~therefrom from such note or bond~~, including any profit derived
187 from the sale ~~thereof of such note or bond~~, ~~shall at all times be free and is~~ exempt from taxation

by ~~this the~~ Commonwealth, ~~and or~~ by any ~~municipality, county or any locality or~~ political subdivision ~~hereof of the Commonwealth.~~

(f) ~~I.~~ Any resolution ~~or resolutions~~ of the board authorizing the issuance of notes or bonds ~~to be issued~~ pursuant to this section may, ~~at the discretion of the board,~~ contain any provision ~~or provisions, which shall be a part of the contract with the holders of notes or bonds so issued, as are~~ that is authorized ~~by any other section of~~ pursuant to this chapter in connection with the issuance of bonds by institutions. Such provision shall be part of the contract with the holders of such notes or bonds.

Drafting note: Technical changes are made, including removing "or dates," "or times," and "or places" in proposed subsections B and C and "or resolutions" and "or provisions" in proposed subsection I because § 1-227 provides that throughout the Code any word in the singular includes the plural and vice versa. The term "locality" is used to replace "municipality, county" in proposed subsection H as a more broad term that conforms to §§ 1-221 and 1-224, which respectively state that throughout the Code "locality" means a county, city, or town and "municipality" means a city or town.

~~§ 23-19 23.1-1106. Amount of bonds; purposes; resolutions; Treasury Board to be paying agent and to approve terms and structure; payment or purchase by institution; no personal liability Bonds generally.~~

~~(a) Every A.~~ The Treasury Board is designated as the paying agent of institutions for the purposes of this chapter and shall approve the terms and structure of bonds executed pursuant to this chapter.

B. ~~Any~~ institution ~~shall have power and is hereby authorized and empowered from time to time to may~~ execute its bonds in ~~such an~~ aggregate principal amount ~~as may be~~ determined ~~upon~~ by its board ~~and,~~ approved by the Governor. ~~All such bonds shall be, and~~ approved by the Treasury Board pursuant to § 2.2-2416, ~~and the Treasury Board is hereby designated the paying agent of such institutions under this chapter. The Treasury Board's duties shall include the approval of the terms and structure of such bonds.~~ Such aggregate principal amount may include

~~without limitation~~ any ~~costs~~ cost associated with the development and management of the project ~~or~~, legal or accounting expenses incurred by the institution in connection with the project for ~~the erection of~~ which such bonds are issued, and the cost of ~~issuance of~~ issuing the bonds, including printing, engraving, advertising, legal, and other similar expenses.

~~(b) Such bonds~~ C. Bonds issued pursuant to this chapter shall be authorized:

1. Be subject to approval by the Governor and authorization by resolution of the board, ~~approved by the Governor, and may be issued in one or more series, shall bear such date or dates, mature at such time or times, bear interest at such rate not exceeding the rate specified in § 23-30.03 payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, with or without premium, as such resolution or resolutions may provide. Such bonds may be sold at public or private sale for such price or prices as the board with the approval of the Governor shall determine, provided that the interest cost to maturity of the money received for any issue of such bonds shall not exceed the rate specified in § 23-30.03; however, prior to the issuance of bonds to finance any "project," the approval of the General Assembly must be obtained; and provided further, that biennially on or before the first day of September in the odd-numbered years, each educational institution shall submit to the Governor any project or projects and the estimated cost of each separate project such educational institution desires to have financed under the provisions of this chapter, and the Governor shall consider such projects and make his recommendation to the General Assembly in the budget submitted in accordance with the provisions of § 2-2-1508. Each educational institution is authorized to finance only those projects approved by the General Assembly in the appropriations act for the biennium covered by such appropriations act, which projects need not be limited to the projects recommended by the Governor.~~

~~(c) Such bonds may be issued to finance all or a portion of the cost of any project plus amounts to fund issuance costs, reserve funds, capitalized interest for a period not to exceed one~~

~~year following completion of the project and for the corporate purpose or purposes of the institution specified by § 23-17 hereof or to carry out the powers conferred on the institution by § 23-18 hereof.~~

~~(d) Any and any such~~ resolution ~~or resolutions authorizing such bonds~~ may contain ~~a provision or~~ provisions, which shall be part of the contract with the ~~holders of such bonds as bondholders, related~~ to:

~~(1) a.~~ Fixing, revising, charging, and collecting fees, rents, and charges for or in connection with the use, occupation, or services of the project ~~and or~~ pledging ~~the same and such fees, rents, and charges and~~ any ~~increases~~ increase in revenues ~~to be~~ derived from any existing facilities at such institution resulting from any increase in ~~the such~~ fees, rents, or charges ~~for or in connection with the use, occupation or services of any such existing facilities~~ to the payment of the principal of and the interest on such bonds;

~~(2) b.~~ Fixing, revising, charging, and collecting fees, rents, and charges for or in connection with the use, occupation, or services of any existing ~~facilities~~ facility at such institution and pledging ~~the same~~ such fees, rents, and charges to the payment of the principal of and the interest on such bonds;

~~(3) c.~~ Fixing, revising, charging, and collecting student building fees and other student fees from students enrolled at such institution and pledging ~~the same in whole or in part~~ all or part of such fees to the payment of the principal of and the interest on such bonds;

~~(4) d.~~ Pledging to the payment of the principal of and the interest on such bonds any moneys available for the use of such institution, including, ~~but not limited to, and subject to Treasury Board guidelines and approval pursuant to § 2.2-2416,~~ moneys appropriated to such institution from the general fund of the Commonwealth or from nongeneral funds, ~~without regard to the source of such moneys, and which that~~ are not required by law or by previous binding contract to be devoted to some other purpose, without regard to the source of such moneys but subject to Treasury Board guidelines and approval pursuant to § 2.2-2416;

~~(5)-e.~~ Paying the cost of operating and maintaining any project and any such existing facilities from any ~~one or more of the~~ revenue ~~sources~~ source mentioned in ~~subdivisions (1), (2), (3) and (4) of this subsection~~ subdivision a, b, c, or d, creating reserves for such purposes, and providing for the use and application ~~thereof of such reserves~~;

~~(6)-f.~~ Creating sinking funds for the payment of the principal of and the interest on such bonds, creating reserves for such purposes, and providing for the use and application ~~thereof of~~ such reserves;

~~(7)-g.~~ Limiting the right of the institution to restrict and regulate the use, occupation, and services of the project and such other existing facilities or the services rendered ~~therein in such~~ project or other existing facilities;

~~(8)-h.~~ Limiting the purposes to which the proceeds of sale of any issue of bonds ~~then or thereafter to be issued~~ may be applied;

~~(9)-i.~~ Limiting the issuance of additional bonds;

~~(10)-j.~~ Setting forth the procedure, ~~if any~~, by which the terms of any contract with the ~~holders of such bonds~~ bondholders may be amended or abrogated and the manner in which such bondholders may give consent ~~of such holders~~ to any such amendment or abrogation ~~may be given~~; and

~~(11)-k.~~ Setting forth such other ~~condition or~~ conditions precedent as may be required by the United States ~~of America~~ or any federal agency ~~as a condition precedent to or a requirement in connection with the obtaining of~~ to obtain a direct grant ~~or grants of money for or in aid of the erection of or loan to erect or defray the cost of labor and material to erect~~ any project, ~~or to defray or to partially defray the cost of labor and material employed in the erection of any project, or to obtain a loan or loans of money for or in aid of the erection of any project~~ from the United States ~~of America~~ or any federal agency, ~~provided that such other condition or conditions are approved by~~ subject to the approval of the Governor.;

2. Bear such date, mature at such time, bear interest at such rate not exceeding the rate specified in § 23.1-1112 payable at such times, be in such denomination, be in such form, either

coupon or registered, carry such registration privilege, be executed in such manner, be payable in such medium of payment and at such place, and be subject to such terms of redemption, with or without premium, as the resolution of the board provides;

3. Be issued to finance only those projects approved by the General Assembly in the biennial general appropriation act;

4. Be pledged pursuant to a resolution of the board and payable only from the revenue sources set forth in subdivision 1 a, b, c, or d;

5. Not constitute an indebtedness of the institution, except to the extent of the collection of such revenues. Institutions shall not be liable to pay such bonds or the interest on such bonds from any other funds. No contract entered into by an institution pursuant to this chapter shall be construed to require the costs or expenses to operate and maintain a project for which bonds are issued and any other existing facilities to be paid out of any funds other than the revenues derived and pledged from the sources set forth in subdivisions 1 a, b, c, and d; and

6. Be fully negotiable within the meaning and for all the purposes set forth in Title 8.3A.

D. Bonds issued pursuant to this chapter may be:

1. Sold at public or private sale for such price or prices as the board determines and the Governor approves, provided that (i) the interest cost to maturity of the money received for any issue of such bonds shall not exceed the rate specified in § 23.1-1112; (ii) the General Assembly shall approve the issuance of bonds to finance projects; and (iii) biennially, on or before September 1 of each odd-numbered year, each institution shall submit to the Governor each proposed project and the estimated cost of each such project that the institution desires to have financed under the provisions of this chapter, and the Governor shall consider such projects and make his recommendation to the General Assembly in the budget submitted in accordance with the provisions of § 2.2-1508;

2. Issued to finance only those projects approved by the General Assembly in the biennial appropriation act, which projects need not be limited to the projects recommended by the Governor;

3. Issued to finance all or a portion of the cost of any project plus amounts to fund issuance costs, reserve funds, and capitalized interest for a period not to exceed one year following completion of the project; and

4. Issued for the purpose set forth in § 23.1-1102 or to carry out the powers conferred on the institution by § 23.1-1104.

~~(e) The power and obligation of an institution to pay any bonds issued under this chapter shall be limited. Such bonds shall be payable only from any one or more of the revenue sources mentioned in subdivisions (1), (2), (3) and (4) of subsection (d) of this section and pledged therefor pursuant to a resolution adopted under said subsection (d). Such bonds shall in no event constitute an indebtedness of the institution, except to the extent of the collection of such revenues and such institution shall not be liable to pay such bonds or the interest thereon from any other funds; and no contract entered into by the institution pursuant to subsection (b) of this section shall be construed to require the costs or expenses of operation and maintenance of the project for the erection of which the bonds are issued and any such other existing facilities to be paid out of any funds other than the revenues derived from the sources mentioned in subdivisions (1), (2), (3) and (4) of subsection (d) of this section and pledged therefor. Any provision of the general laws to the contrary notwithstanding, any bonds issued pursuant to the authority of this chapter shall be fully negotiable within the meaning and for all the purposes of Title 8.3A.~~

~~(f)~~ E. Neither the Governor nor the members of the board nor any person executing ~~such~~ bonds pursuant to this chapter shall be liable personally on the bonds or ~~be~~ subject to any personal liability or accountability by reason of the issuance ~~thereof of such bonds~~.

~~(g)~~ F. ~~Any~~ institution ~~shall have power out of any funds available therefor to~~ may purchase with funds available for such purchase any ~~bonds~~ bond that it has issued ~~by it~~ at a price not more than the sum of the principal amount ~~thereof~~ and ~~the~~ accrued interest. All bonds so purchased shall be cancelled unless purchased as an endowment fund investment. ~~This paragraph~~ Nothing in this subsection shall ~~not be construed to~~ apply to the redemption of bonds.

(h) ~~G.~~ In any case in which an institution ~~shall have obtained~~ obtains a loan ~~for or in aid of the erection of any project~~ from the United States ~~of America~~ or any federal agency, ~~which loan to erect any project that~~ requires the establishment of a debt service reserve, the institution, with the consent of the Governor, may deposit securities in a separate collateral account in an amount equal to the required debt service reserve, ~~which securities shall be pledged and pledge such securities~~ to meet the debt service requirements ~~only~~ if the revenues derived from any ~~one or more of the sources mentioned source set forth~~ in ~~subdivisions (1), (2), (3) and (4) of subsection (d) of this section~~ subdivision C 1 a, b, c, or d and pledged for the payment of such loan become insufficient for such purpose. The face value of United States government securities and the market value of all other securities ~~shall be deemed to be~~ is the value of any securities so deposited. Nothing ~~herein in this subsection~~ shall be construed ~~as prohibiting to prohibit~~ repayment of any portion of such loan from income derived from the securities so deposited. No securities shall be deposited in any such collateral account unless ~~the same shall have been such securities are~~ purchased with funds, ~~the whose use of which~~ is in ~~nowise no way~~ limited or restricted or ~~shall have been are~~ donated to such institution for the purpose of establishing such debt service reserve.

Drafting note: Requirements for bonds issued pursuant to this chapter are grouped in proposed subsection C, and permissive provisions related to such bonds are grouped in proposed subsection D. Technical changes are made, including (i) in proposed subsection B, removing the term "from time to time" as unnecessary; (ii) in proposed subsection B, removing "without limitation" used in conjunction with "include" on the basis of the Code-wide application of § 1-218, which states, "'Includes' means includes, but not limited to"; and (iii) in proposed subsections C and D, changing the use of both singular and plural phrases such as "date or dates" and "provision or provisions" to one or the other based on § 1-227, which provides that throughout the Code any word in the singular includes the plural and vice versa.

375 § ~~23-20~~ 23.1-1107. ~~Remedies of holders of bonds; powers of trustee representing holders~~
376 Bondholders; remedies and trustees.

377 ~~(a)-A.~~ The provisions of this section shall ~~be applicable~~ apply to an ~~issue~~ issuance of
378 bonds only if the resolution ~~or resolutions~~ authorizing such bonds ~~shall provide in substance~~
379 provides that the ~~holders of such bonds~~ bondholders are entitled to all the benefits of and subject
380 to the provisions of this section.

381 ~~(b)-In the event that~~ B. If any institution ~~shall default in~~ (i) defaults on the payment of
382 principal of or interest on any series of its bonds after the ~~same shall become~~ payment becomes
383 due, whether at maturity or upon call for redemption, and such default ~~shall continue~~ continues
384 for a period of ~~thirty~~ 30 days; ~~or in the event that such institution shall fail;~~ (ii) fails or ~~refuse~~
385 refuses to comply with the provisions of this chapter; ~~or shall default in~~ (iii) defaults on any
386 agreement made with the ~~holders of its bonds~~ bondholders of any series, the holders of ~~twenty~~
387 ~~five per centum in~~ 25 percent of the aggregate principal amount of the bonds of such series then
388 outstanding, by instrument ~~or instruments~~ filed with the Governor and proved or acknowledged
389 in the same manner as a deed to be recorded, may appoint a trustee to represent the ~~holders~~
390 bondholders of such series for the purposes ~~herein~~ provided in this section.

391 ~~(e)-Such~~ C. The trustee may, and upon written request of the holders of ~~twenty five per~~
392 ~~centum in~~ 25 percent of the aggregate principal amount of the bonds of such series then
393 outstanding shall, in his ~~or its~~ own name:

394 ~~(1)-1.~~ By mandamus or other suit, action, or proceeding at law or in equity, enforce all
395 rights of the ~~holders of bonds~~ bondholders of such series, including the right to require such
396 institution and its board to (i) collect fees, rents, charges, or other revenues adequate to carry out
397 any agreement as to, or pledge of, such revenues, ~~and to require such institution and board to or~~
398 (ii) carry out and perform any other agreements with the ~~holders of the bonds~~ bondholders of
399 such series ~~and to perform it~~ and their duties under this chapter;

400 ~~(2)-2.~~ Bring suit upon such bonds;

401 ~~(3)~~ 3. By action or suit in equity, require such institution to account as if it were the
402 ~~trustees~~ trustee of an express trust for the ~~holders of such bonds~~ bondholders; ~~and~~

403 ~~(4)~~ 4. By action or suit in equity, enjoin any acts ~~or things which~~ that may be unlawful or
404 in violation of the rights of the ~~holders of such bonds~~ bondholders.

405 ~~(d)~~ D. If the resolution ~~or resolutions which authorize~~ that authorizes any ~~bonds contain~~
406 bond contains the provision ~~authorized required~~ by subsection ~~(a) of this section A~~ and ~~further~~
407 ~~provide in substance~~ provides that any trustee appointed by the ~~holders of the bonds~~
408 bondholders pursuant to this section ~~shall have~~ has the powers provided by this subsection, then
409 any such trustee, whether or not all such bonds have been declared due and payable, ~~shall be is~~
410 entitled ~~as of right~~ to the appointment of a receiver who may (i) enter and take possession of any
411 property of the institution ~~any of the revenues~~ from which any of the revenues are pledged for
412 the security of the bonds of the holders of which are that are represented by such trustee ~~and, (ii)~~
413 operate and maintain ~~the same and such property, and (iii)~~ collect and receive all fees, rents,
414 charges, and other revenues ~~thereafter~~ arising ~~therefrom~~ from such property in the same manner
415 as the institution ~~itself might~~ is permitted to do and shall deposit all such moneys in a separate
416 account and apply ~~the same all such moneys~~ in such manner as the court ~~shall direct~~ directs. In
417 any suit, action, or proceeding by the trustee ~~the, any~~ fees, counsel fees, and expenses of the
418 trustee and ~~of the~~ receiver, ~~if any,~~ shall constitute taxable costs and disbursements and all costs
419 and disbursements allowed by the court shall be a first charge on any fees, rents, charges, and
420 other revenues of the institution that are pledged for the security of the bonds.

421 ~~(e) Such trustee shall, in addition to the foregoing, have and possess~~ E. Each trustee
422 appointed pursuant to subsection B has all of the powers necessary or appropriate for the
423 exercise of any functions specifically set forth ~~herein in this section~~ or incident to the general
424 representation of the ~~holders of bonds represented by such trustee~~ bondholders he represents in
425 the enforcement and protection of their rights.

426 **Drafting note: Technical changes are made, including removing "or resolutions" in**
427 **proposed subsections A and D and "or instruments" in proposed subsection B based on §**

1-227, which provides that throughout the Code any word in the singular includes the plural and vice versa.

§ ~~23-20.1~~ 23.1-1108. Bonds mutilated, lost, or destroyed.

~~Should-If~~ any bond issued by an institution ~~become~~ is mutilated ~~or be~~, lost, or destroyed, the board may ~~cause~~ execute and deliver a new bond of like date, number, and tenor ~~to be executed and delivered~~ in exchange and substitution for, and upon cancellation of, ~~such a~~ mutilated bond and its interest coupons, or in lieu of and in substitution for ~~such a~~ lost or destroyed bond and its unmatured interest coupons. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, or destroyed bond ~~(1) (i)~~ has paid the reasonable expense and charges in connection ~~therewith and (2)~~ with the execution and delivery; (ii) in the case of a lost or destroyed bond, has filed with the board and the State Treasurer satisfactory evidence that such bond was lost or destroyed and that the ~~holder~~ bondholder was the owner ~~thereof of the bond;~~ and ~~(3) (iii)~~ has furnished indemnity satisfactory to the State Treasurer.

Drafting note: Technical changes.

§ ~~23-24~~ 23.1-1109. ~~Proceeds of bonds and revenues to be paid into state treasury~~ Bonds and revenues; disposition.

All moneys derived from the sale of bonds pursuant to § ~~23-19~~ 23.1-1106 and all revenues derived from any ~~one or more of the sources mentioned~~ source set forth in ~~subdivisions (1), (2) and (3) of subsection (d)~~ subdivision C 1 a, b, or c of § ~~23-19~~ 23.1-1106, except those moneys that are exempt from deposit into the state treasury, shall be paid into the state treasury ~~and any such moneys and revenues so paid into the state treasury shall be~~, set aside in special funds, and devoted solely to the payment of (i) the cost of erecting the project for which such bonds shall have been issued ~~and to the payment of, (ii)~~ the principal of and the interest on such bonds, ~~and of (iii)~~ the cost of maintenance and operation of such project ~~and of any other existing facilities~~ the revenues of for which ~~are~~ any revenue is pledged either in whole or in part to the payment of the principal of and the interest on such bonds, respectively, and are

hereby (ii) specifically appropriated for ~~those~~ such purposes to be paid out by the State Treasurer on warrants of the Comptroller to be issued on vouchers of the treasurer or other fiscal officer of the board of such institution.

Drafting note: Technical changes.

§ ~~23-23~~ 23.1-1110. Bonds as legal investments.

Any bonds issued pursuant to ~~the authority of~~ this chapter are ~~hereby made~~ securities in which all public officers and bodies of ~~this~~ the Commonwealth and ~~all its~~ political subdivisions ~~thereof~~, ~~all~~ insurance companies and associations, ~~all~~ and savings banks and savings institutions, including savings and loan associations, in the Commonwealth may properly and legally invest funds in their control.

Drafting note: Technical changes.

§ ~~23-24~~ 23.1-1111. ~~Prohibition Bonds; prohibition~~ against obligating Commonwealth.

The bonds and other obligations of an institution ~~shall are~~ not ~~be in any way~~ a debt of the Commonwealth ~~and shall, do~~ not create or constitute any indebtedness or obligation of the Commonwealth, either legal, moral, or otherwise, ~~nor shall they be and are not~~ payable out of any funds other than those of the institution ~~and nothing. Nothing~~ in this chapter ~~contained~~ shall be construed to authorize any institution to incur any indebtedness on behalf of the Commonwealth or in any way to obligate the Commonwealth.

Drafting note: Technical changes.

§ ~~23-30.03~~ 23.1-1112. ~~Interest Bonds; interest~~.

No bond issued by institutions pursuant to this chapter ~~(a)~~ shall (i) bear interest at ~~a per centum per annum~~ an annual percentage rate exceeding the greater of the rates authorized under § 6.2-303 or ~~under § 15.2-2612~~, or ~~(b) shall (ii)~~ be sold at public or private sale such that the interest cost to maturity ~~shall exceed~~ exceeds the greater of such ~~per centum per annum~~ annual percentage rates ~~as is~~ authorized under § 6.2-303 or ~~under § 15.2-2612~~.

Drafting note: Technical changes.

§ ~~23-28~~ 23.1-1113. ~~Surplus Bonds; surplus~~ to be paid into state treasury.

When any institution ~~shall have~~ fully ~~met~~ meets and ~~discharged~~ discharges its bonds, ~~together with~~ interest thereon, ~~with~~ interest on any unpaid installments of interest on its bonds, and all costs and expenses in connection with any action or proceedings by or on behalf of the ~~holders of such bonds~~ bondholders and ~~shall have paid~~ pays in full or otherwise ~~discharged~~ discharges all of its liabilities incurred pursuant to this chapter, such institution shall pay into the state treasury ~~as now required by general law~~ all such ~~sum or~~ sums of money ~~received by~~ it receives pursuant to the provisions of this chapter or that are derived from any project erected pursuant to this chapter as may ~~then remain be~~ in its possession or control.

Drafting note: Technical changes, including removing "sum or" on the basis of § 1-227, which provides that throughout the Code any word in the singular includes the plural and vice versa.

~~§ 23-22 23.1-1114. Accounts~~ Projects; accounts to be kept by boards.

The board of ~~every~~ each institution shall keep and preserve complete and accurate accounts of all sums of money received and disbursed ~~in connection with the acquisition to acquire, erection erect~~, lease, ~~operation and maintenance of operate, or maintain~~ any project and any ~~such~~ other existing facilities, including ~~without limitation~~ a complete and accurate record of all revenues derived from any ~~one or more of the sources mentioned~~ source set forth in ~~subdivisions (1), (2), (3) and (4) of subsection (d) subdivision C 1 a, b, c, or d~~ of ~~§ 23-19 23.1-1106~~ and all sums disbursed for the payment of the principal of or interest on or other debt service with respect to any bonds issued pursuant to ~~the authority of~~ this chapter ~~and such~~. The annual portion of such revenues ~~as shall~~ that are not ~~be~~ required to discharge ~~in due course~~ any obligation, liability, or debt of the institution incurred in connection with the project or ~~such~~ other existing facilities, including the creation of reserves for such purposes, shall be paid into the state treasury, as provided in ~~§ 23-24 23.1-1109~~.

Drafting note: Technical changes, including removing "without limitation" used in conjunction with "including" on the basis of the Code-wide application of § 1-218, which states, "'Includes' means includes, but not limited to."

§ ~~23-25~~ 23.1-1115. ~~Exemptions Projects; exemption~~ from taxation.

The acquisition, erection, leasing, operation, and maintenance of any project authorized by this chapter are ~~in all respects~~ for the benefit of the ~~people~~ citizens of the Commonwealth ~~of Virginia~~, for the increase of their pleasure, knowledge, and welfare, and for the dissemination of education among them, ~~and every~~. Each institution ~~shall be regarded as performing performs~~ a governmental function and ~~shall be deemed to be~~ is an incorporated institution of learning in carrying out its purposes and exercising its powers ~~derived from pursuant to~~ this chapter and, so far as may be consistent with the Constitution of Virginia, ~~shall be~~ is not required to pay ~~no~~ taxes or assessments of any kind ~~whatsoever~~ upon any project ~~acquired, erected or leased and operated and maintained by it and~~ that it acquires, erects, or leases and operates and maintains. Any such project shall be exempt from taxation, and, insofar as may be permitted under the Constitution of Virginia, the bonds of such institution shall be exempt from taxation except for inheritance taxes.

Drafting note: Technical changes.

§ ~~23-26~~ 23.1-1116. Commonwealth not to limit revenues of institutions.

The Commonwealth ~~of Virginia does pledge to and agree with the holders of the bonds issued by any institution that the Commonwealth will~~ shall not (i) limit or alter the rights ~~hereby~~ vested in ~~such~~ any institution to establish ~~and~~, collect ~~the~~, and pledge fees, rents, and charges, including student building fees and other student fees ~~and to pledge the same~~, all as provided for in ~~subdivisions (1), (2), (3) and (4) of subsection (d)~~ subdivision C 1 a, b, c, or d of § ~~23-19~~ as may be convenient or 23.1-1106 that the institution deems necessary or convenient to produce sufficient revenues to meet the expense of maintenance and operation of such project and such other existing facilities and ~~to~~ fulfill the terms of any ~~agreements~~ agreement made with the ~~holders of the bonds~~ bondholders or (ii) in any way ~~to~~ impair the rights and remedies of such ~~holders~~, bondholders until the bonds, ~~together with the~~ interest thereon, ~~with the~~ interest on any unpaid installments of interest on the bonds, and all costs and expenses in connection with any action or proceedings by or on behalf of such ~~holders~~ bondholders are fully met and discharged.

Drafting note: Technical changes.

§ ~~23-30.02~~ 23.1-1117. Borrowing to purchase real estate.

~~(a) In addition to the powers conferred upon institutions by other provisions of this chapter, and notwithstanding any other provision of this title, any~~ A. Any institution ~~is hereby authorized by and may,~~ with the approval of the Governor, ~~and~~ upon the affirmative vote of at least ~~two-thirds~~ two-thirds of its board, ~~to (i) borrow from time to time,~~ for and in the name of the institution, such ~~sum or~~ sums as it ~~may determine~~ determines necessary for the acquisition of improved or unimproved real estate, ~~improved or unimproved,~~ whether ~~or not~~ such acquisition is ~~in pursuance for the purpose~~ of ~~the erection of~~ erecting a project, and ~~to (ii) secure payment thereof of such debts~~ by a lien on such real estate; ~~provided that interest upon the notes or bonds issued by an institution pursuant to this section may be further secured by or~~ the pledge of any endowment funds or unrestricted gifts from private sources available for the use of such institution ~~and which~~ that are not required by law or by previous binding contract to be devoted to some other purpose.

~~(b) B.~~ Notes or bonds issued by an institution pursuant to this section and the interest thereon shall ~~be required to~~ be paid only from the real estate, endowment funds, or unrestricted gifts from private sources, ~~including interest thereon,~~ pledged to secure the notes or bonds so issued; or the proceeds from the sale or liquidation ~~thereof of such real estate, funds, or gifts,~~ and shall ~~in no event not~~ constitute a general obligation of such institution, the Commonwealth, the Governor, the members of the board, ~~nor or~~ any person executing the notes or bonds so issued.

~~(c) C.~~ Any notes or bonds ~~so~~ issued by an institution pursuant to this section are ~~hereby made~~ securities in which all public officers and bodies of ~~this the~~ Commonwealth and ~~all its~~ political subdivisions ~~thereof,~~ ~~all~~ insurance companies and associations, ~~all and~~ savings banks and savings institutions, including savings and loan associations, in ~~this the~~ Commonwealth, may properly and legally invest funds under their control; ~~and all.~~

D. Any notes or bonds~~so issued, their transfer and the income therefrom pursuant to this section, the transfer of such notes or bonds, or the income from such notes or bonds,~~ including any profit derived from the sale ~~thereof of such notes or bonds,~~ shall at all times be free and is exempt from taxation by ~~this the~~ Commonwealth, ~~and by any municipality, county or any locality~~ or ~~any~~ political subdivision ~~thereof of the Commonwealth.~~

~~(d) E. Any board resolution or resolutions of the board~~ authorizing the issuance of notes or bonds ~~to be issued~~ pursuant to this section may, ~~at the discretion of the board,~~ contain any provision ~~or provisions which shall be a part of the contract with the holders of notes or bonds so issued as are~~ authorized by ~~any other section of~~ this chapter in connection with the issuance of bonds by institutions. Such provision shall be part of the contract with the holders of such notes or bonds.

Drafting note: The term "locality" is used to replace "municipality, county" in proposed subsection D as a more broad term that conforms to §§ 1-221 and 1-224, which state respectively that throughout the Code "locality" means a county, city, or town and "municipality" means a city or town. Technical changes are made.

~~§ 23-27~~ 23.1-1118. Discretion of Governor in granting or withholding consent or approval.

The Governor is ~~hereby~~ vested with absolute discretion ~~in with~~ respect to ~~the~~ withholding or granting ~~of~~ any consent or approval ~~required in connection with any act or thing authorized by made pursuant to~~ this chapter.

Drafting note: Technical changes.

~~§ 23-29~~ 23.1-1119. Provisions of chapter to control.

Insofar as the provisions of this chapter are inconsistent with the provisions of any other general or specific law, ~~general or special,~~ or ~~of~~ the charter or other organic law of any institution, the provisions of this chapter ~~shall be controlling control.~~

Drafting note: Technical changes.

~~§ 23-30. Certificates of indebtedness.~~

~~Chapter 489 of the Acts of 1926, approved March 25, 1926, and codified as §§ 992(1)-992(13) of Michie Code 1942, authorizing the governing boards of certain state educational institutions to issue certificates of indebtedness to raise funds for dormitory construction purposes, and Chapter 61 of the Acts of 1928, approved February 28, 1928, relating to similar certificates, are continued in effect.~~

Drafting note: Repeal of obsolete existing § 23-30 is recommended.

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