



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
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Memorandum

To: The Honorable Raymond E. Gallison, Jr.
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: April 15, 2015

Subject: Amendments to Article 9 of the FY 2016 Appropriations Act (15-H-5900)

The Governor requests that Article 9 entitled "Relating to School Building Authority Capital Fund" be replaced with the new, attached version. The new version makes amendments to Sections 1, 2 and 4. Changes from the original version submitted on March 12, 2015 are described below:

Section 1 – § 16-7-41.1 entitled "Eligibility for reimbursement" is added to the article and subsequently amended by adding a new subsection (d) to change the approval cycle for construction projects from a rolling basis to an annual basis beginning in FY 2016

Section 2 – A new § 16-105-1 entitled "Legislative findings" is added to outline the challenges facing school facilities and explain the need for a School Building Authority and a School Building Authority Capital Fund. Other items in the preamble outline the requirements of participants in the new fund relating to school consolidation, altering grade configurations if necessary for maximizing existing square footage, and annual maintenance of buildings financed through the fund. The original § 16-105-1 is then renumbered to § 16-105-2.

The original Section §16-105-2 is renumbered to §16-105-3. It is then amended by adding a new subsection (11) to require an annual reporting requirement to the House and Senate Finance Committees.

The original Section §16-105-3 is renumbered to §16-105-4. Section §16-105-4 is then amended to clarify that the School Building Authority is within the Department of Elementary and Secondary Education.

The original Section §16-105-4 is renumbered to §16-105-5. Section §16-105-5 is then amended to clarify the role of the School Building Authority in considering projects to be financed by striking the word ‘investment’ and replacing with the word ‘project’ and by adding the words ‘or financing’ when discussing the methods available for financial assistance. Also in this section, new language is added requiring districts to maintain a comprehensive asset protection plan to be eligible for funding.

The original Section §16-105-5 is renumbered to §16-105-6.

The original Section §16-105-6 is renumbered to §16-105-7. Section §16-105-7 is then amended to clarify the source of fund transfers for departmental expenses and reporting on such requests.

The original Sections §16-105-7 and §16-105-8 are renumbered to §16-105-8 and §16-105-9, respectively.

Section 4 – Amendments to §45-38.2-1 include removal of annual construction plan language inadvertently included in the first submission, and language to include the council on elementary and secondary education as an approver of eligible projects on the project priority list. Also in Section 4, §45-38.2-2 is amended to correct obsolete language or errors in the first submission, and to add a new section (c) which clarifies the internal controls to be instituted by the Department in terms of requiring asset protection plans, funding projects on a priority basis, and filling facility gaps in state priority areas. Also in this section, §45-38.2-3 is amended to clarify trustee and trust agreement language, and to remove an error in the subsidy assistance provision included in the original submission. Lastly, §45-38.2-4 is amended to change “Notwithstanding” to “Except in instances of” when describing a community’s ability to borrow up to \$500,000 without voter approval.

A copy of the replacement article is attached, with the changes from the original version indicated with gray shading. If you have any questions regarding this amendment, please feel free to call me or my staff at 222-6300.

TAM: 15-Amend-09

Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Michael DiBiase, Director of Administration
Jonathan Womer, Director, Office of Management and Budget
Kevin Gallagher, Office of the Governor
Gregory Stack, Supervising Budget Analyst

1 Corporation or its designee including, but not limited to, a trustee under a bond indenture or loan and trust
2 agreement, in support of bonds issued for specific projects of the local community in accordance with this
3 section, § 16-7-40 and § 16-7-44. Notwithstanding the preceding, in case of failure of any city, town or
4 district to pay the amount due in support of bonds issued on behalf of a city, town, school or district project
5 financed by the Rhode Island Health and Educational Building Corporation, upon notification by the
6 Rhode Island Health and Educational Building Corporation, the general treasurer shall deduct the amount
7 from aid provided under this section, § 16-7-40, § 16-7-44 and § 16-7-15 through § 16-7-34.3 due the city,
8 town or district and direct said funding to the Rhode Island Health and Educational Building Corporation
9 or its designee.

10 (d) Notwithstanding any provisions of law to the contrary, in connection with the issuance of
11 refunding bonds benefiting any local community, any net interest savings resulting from the
12 refunding bonds issued by such community or a municipal public buildings authority for the benefit
13 of the community or by the Rhode Island health and educational building corporation for the benefit of
14 the community, in each case in support of school housing projects for the community, shall be allocated
15 between the community and the state of Rhode Island, by applying the applicable school housing aid
16 ratio at the time of issuance of the refunding bonds, calculated pursuant to § 16-7-39, that would
17 otherwise apply in connection with school housing projects of the community; provided however, that for
18 any refundings that occur between July 1, 2013 and ~~December 31~~ June 30, 2015, the community
19 shall receive eighty percent (80%) of the total savings and the state shall receive twenty percent
20 (20%). In connection with any such refunding of bonds, the finance director or the chief financial officer
21 of the community shall certify such net interest savings to the commissioner of elementary and
22 secondary education. Notwithstanding § 16-7-44 or any other provision of law to the contrary, school
23 housing projects costs in connection with any such refunding bond issue shall include bond issuance
24 costs incurred by the community, the municipal public buildings authority or the Rhode Island health and
25 educational building corporation, as the case may be, in connection therewith. In connection with any
26 refunding bond issue, school housing project costs shall include the cost of interest payments on such

1 refunding bonds, if the cost of interest payments was included as a school housing cost for the bonds
2 being refunded. A local community or municipal public buildings authority shall not be entitled to the
3 benefits of this subsection (d) unless the net present value savings resulting from the refunding is at
4 least three percent (3%) of the refunded bond issue.

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

20 (b) Notwithstanding the provisions of this section, the board of regents shall not grant final
21 approval for any project between June 30, 2011 and May 1, 2015 except for projects that are necessitated
22 by immediate health and safety reasons. In the event that a project is requested during the moratorium
23 because of immediate health and safety reasons, those proposals shall be reported to the chairs of the house
24 and senate finance committees.

25 (c) Any project approval granted prior to the adoption of the school construction regulations in
26 2007, and which are currently inactive; and any project approval granted prior to the adoption of the school

1 construction regulations in 2007 which did not receive voter approval or which has not been previously
2 financed, are no longer eligible for reimbursement under this chapter. The department of elementary and
3 secondary education shall develop recommendations for further cost containment strategies in the school
4 housing aid program.

5 (d) Beginning July 1, 2015, the Board of Education shall approve new Necessity of School
6 Construction applications on an annual basis. The department of elementary and secondary education shall
7 develop an annual application timeline for LEAs seeking new Necessity of School Construction approvals.

8 § 16-7-44. School housing project costs. – School housing project costs, the date of
9 completion of school housing projects, and the applicable amount of school housing project cost
10 commitments shall be in accordance with the regulations of the commissioner of elementary and
11 secondary education and the provisions of §§ 16-7-35 – 16-7-47; provided, however, that school housing
12 project costs shall include the purchase of sites, buildings, and equipment, the construction of buildings,
13 and additions or renovations of existing buildings and/or facilities. School housing project costs shall
14 include the cost of interest payment on any bond issued after July 1, 1988, provided that such bond is
15 approved by the voters on or before June 30, 2003 or issued by a municipal public building authority or
16 by the appropriate approving authority on or before June 30, 2003. Except as provided in subsection 16-
17 7-41(d), those projects approved after June 30, 2003, interest payments may only be included in project
18 costs provided that the bonds for these projects are issued through the Rhode Island Health, Education
19 and Building Corporation. School housing project costs shall exclude: (1) any bond issuance costs
20 incurred by the municipality or regional school district; (2) demolition costs for buildings, facilities, or
21 sites deemed surplus by the school committee; and (3) restrictions pursuant to § 16-7-44.1 below. A
22 building, facility, or site is declared surplus by a school committee when the committee no longer has such
23 building, facility, or site under its direct care and control and transfers control to the municipality, §
24 16-2-15. The board of regents for elementary and secondary education will promulgate rules and
25 regulations for the administration of this section. These rules and regulations may provide for the use
26 of lease revenue bonds, capital leases, or capital reserve funding, to finance school housing provided

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

11 SECTION 2. Title 16 of the General Laws entitled "Education" is hereby amended by adding
12 thereto the following chapter:

13 CHAPTER 105

14 SCHOOL BUILDING AUTHORITY

15 **§ 16-105-1. Legislative Findings – The general assembly finds and declares that:**

16 (a) Our State's children and school staff deserve safe, healthy, adequate, and educationally
17 appropriate school facilities

18 (b) The Rhode Island Department of Education's Public Schoolhouse Assessment and
19 the Senate Task Force on School Housing Aid found:

20 (1) The average age of Rhode Island public schools is 60 years.

21 (2) Approximately 40% of housing aid reimbursements fund bond interest rather than
22 school improvements

23 (3) The total estimated cost to bring district schools to good condition is \$1.8 billion.

24 (c) Adequate funding is necessary to ensure that school facilities are safe and healthy.

25 (d) More funding can be redirected to classroom improvements by reducing the state and district
26 historic reliance on bonding.

1 (e) The creation of a State Capital Fund will remove barriers for project completion, prioritize
2 school construction funding to ensure statewide equity, and reduce the interest burden on the State and
3 LEAs. All communities shall have equal opportunity to apply for the State Capital Fund, which shall be
4 managed so as to maximize the number of affected students and facilities conditions.

5 (f) The State must take an active role in school construction to ensure the maximum return on the
6 state's investment, the greatest savings for state taxpayers through the implementation of creative financing
7 techniques and the maximization of consolidation opportunities to exit underutilized facilities.

8 (g) The State's school construction program must encourage districts to reduce excess capacity
9 through means such as partnering with other districts, closing buildings, and altering grade configuration in
10 certain buildings to maximize the use of square feet.

11 (h) The State's school construction program must require annual maintenance of facilities and
12 adequate asset protection plans and the creation of a Capital Fund can and will assist school districts with
13 maintenance obligations.

14 **§ 16-105-2 Declaration of policy.** -- The state of Rhode Island is committed to providing equal
15 education opportunities for all public school students. School facilities provide more than a place for
16 instruction. The physical learning environment must be designed and constructed in order to contribute
17 fully to the successful performance of educational programs designed to meet students' educational needs.
18 Every student has the right to a safe, healthy, and sanitary learning environment that promotes student
19 learning and development. To that end, the general assembly hereby designates the department of
20 elementary and secondary education as the state's school building authority with the responsibility to
21 implement a system of state funding for school facilities designed to:

22 (a) Guarantee adequate school housing for all public school children in the state, and

23 (b) Prevent the cost of school housing from interfering with the effective operation of the schools.

24 **§ 16-105-3. Roles and Responsibilities.** -- The school building authority roles and
25 responsibilities shall include:

26 (a) Management of a system with the goal of assuring equitable and adequate school housing

- 1 for all public school children in the state;
- 2 (b) Prevention of the cost of school housing from interfering with the effective operation of the
3 schools;
- 4 (c) Management of school housing aid in accordance with statute;
- 5 (d) Reviewing and making recommendations to the council on elementary and secondary
6 education on necessity of school construction applications for state school housing aid and the school
7 building authority capital fund;
- 8 (e) Managing and maintaining school construction regulations, standards, and guidelines
9 applicable to the school housing program;
- 10 (f) Providing technical advice and assistance, training and education to cities, towns, or LEAs
11 and to general contractors, subcontractors, construction or project managers, designers and others in
12 planning, maintenance and establish of school facility space;
- 13 (g) Developing a project priority system in accordance with school construction
14 regulations relevant to housing aid and the school building authority capital fund;
- 15 (h) Collecting and maintain readily-available data on all the public school facilities in the state;
- 16 (i) Promoting and incentivize local education agencies to optimize space utilization; and
- 17 (j) Recommending policies and procedures designed to reduce borrowing for school
18 construction programs at both state and local levels.
- 19 (k) The School Building Authority shall certify annually to the school building advisory board, the
20 council on elementary and secondary education, and house and senate finance committees, a report of
21 School Building Authority Capital Fund distribution, including a list of communities and projects funded
22 through this fund.

23 **§ 16-105-4. Funding mechanisms for school facilities.** -- The school building authority, within
24 the department shall oversee and manage two distinct funding mechanisms for school facilities: the
25 foundation program for school housing, as set forth in Sections 16-7-35 to 16-7-47 and the school
26 building authority capital fund, as set forth at Chapter 45-38.2. The school building authority shall

1 determine the necessity of school construction, establish standards for design and construction of
2 school buildings, ensure that districts have adequate asset protection plans in place to maintain their
3 school facilities, make recommendations to the council on elementary and secondary education for
4 approval of projects for school housing aid reimbursement and establish a project priority list for the
5 Rhode Island health and educational building corporation for projects funded by the school building
6 authority capital fund.

7 **§ 16-105-5. Procedure for School Building Authority Capital Fund project approval.** (a) The
8 department of elementary and secondary education shall promulgate rules and regulations that
9 establish the process through which a city, town, or LEA may submit an application for school
10 building authority capital funding. The department may also prescribe, without limitation, forms for
11 financial assistance applications. All rules and regulations promulgated pursuant to this chapter shall be
12 promulgated in accordance with the provisions of chapter 42-35.

13 (b) In consultation with the school building authority advisory board, the school building
14 authority shall establish the project priorities and project evaluation criteria for the school building
15 authority capital fund. These priorities shall be reviewed and if necessary, revised on intervals not to
16 exceed five years. The council on elementary and secondary education shall approve the project
17 priorities prior to implementation.

18 (c) In accordance with the project priorities established in 16-105-3, the school building
19 authority shall evaluate all submitted applications, identify and select eligible projects. The council
20 shall approve all projects prior to the award of financial assistance through the school building
21 authority capital fund.

22 (d) Each LEA shall develop, implement, and maintain a comprehensive asset protection plan for
23 every school building, not only buildings for which housing aid or School Building Authority Capital
24 Funds are sought or received. Only LEAs that have adequate asset protection plans in place to maintain
25 their school facilities are eligible for funding from the School Building Authority Capital Fund. LEAs must
26 annually provide asset protection information to RIDE. If an LEA fails to provide asset protection

1 information in a fiscal year, they are not eligible to receive School Building Authority Capital Funds the
2 next fiscal year.

3 (e) Upon issuance of the project priority list, the corporation shall award financial assistance to
4 cities, towns, and LEAs for approved projects. The corporation may decline to award financial
5 assistance to an approved project which the corporation determines will have a substantial adverse
6 effect on the interests of holders of bonds or other indebtedness of the corporation or the interests
7 of other participants in the financial assistance program, or for good and sufficient cause affecting the
8 finances of the corporation. All financial assistance shall be made pursuant to a loan or financing
9 agreement between the corporation and the city, town or LEA, acting by and through the officer or
10 officers, board, committee, or other body authorized by law, or otherwise its chief executive officer,
11 according to terms and conditions as determined by the corporation, and each loan shall be evidenced
12 and secured by the issue to the corporation of city or town obligations in principal amount, bearing
13 interest at the rate or rates specified in the applicable loan or financing agreement, and shall
14 otherwise bear such terms and conditions as authorized by this chapter and/or the loan or financing
15 agreement.

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

19 **§ 16-105-7. Expenses incurred by the department. –** In order to provide for the expenses of the
20 department under this chapter, the corporation shall transfer from the school building authority capital
21 fund to the department an amount necessary to complete tasks assigned herein to the school building
22 authority, the school building authority advisory board, as well as any additional tasks as may be
23 requested by the general assembly. The corporation may require a certified resolution of the council on
24 elementary and secondary education specifying the amount of the transfer being required for the expenses
25 of the department referenced in this section. The school building authority shall, by January 1 of each
26 year, report to the Governor and the General Assembly the amount sought for expenses for the next fiscal

1 year.

2 § 16-105-8. School Building Authority Advisory Board established. -- (a) There is
3 hereby established a school building authority advisory board that shall advise the school building
4 authority regarding the best use of the school building authority capital fund, including the setting of
5 statewide priorities and criteria for project approval.

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

8 (1) The general treasurer;

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

10 (3) A member of the governor's staff, as designated by the governor

11 (4) Four (4) members of the public, appointed by the governor, and who serve at the pleasure
12 of the governor, each of whom shall have expertise in education and/or construction, real estate, or finance.

13 (c) The school building authority advisory board shall advise the school building
14 authority with the following:

15 (1) Review and make recommendations regarding the investment priorities for the school building
16 authority capital fund;

17 (2) Recommend to the school building authority such legislation as it may deem desirable or
18 necessary related to school building authority capital fund;

19 (3) Recommend to the school building authority policies and procedures designed to reduce
20 borrowing for school construction programs at both state and local levels.

21 § 16-105-9. Severability. -- If any provision of this chapter or the application of this
22 chapter to any person or circumstances is held invalid, the invalidity shall not affect other
23 provisions or applications of the chapter, which can be given effect without the invalid provision or
24 application, and to this end the provisions of this chapter are declared to be severable.

25 SECTION 3. Section 45-38.1-4 of the General Laws in Chapter 45-38.1 entitled "Health and
26 Education Building Corporation" is hereby amended to read as follows:

1 § 45-38.1-4. Corporation established. – (a) There is hereby created a public body
2 corporate and corporation of the state to be known as the "Rhode Island health and educational building
3 corporation" as successor to the Rhode Island educational building corporation, previously created
4 as a nonbusiness corporation under and pursuant to chapter 6 of title 7, as amended by chapter 121 of
5 the Public Laws of 1966, and constituted and established as a public body corporate and corporation of
6 the state for the exercising of the powers conferred on the corporation under and pursuant to §§ 45-
7 38.1-1 – 45-38.1-24.

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

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

20 (d) The board of directors shall ~~select two (2) of its members as chairperson and vice~~
21 ~~chairperson, and also elect a secretary, assistant secretary, treasurer, and assistant treasurer, who need not~~
22 ~~be members of the board. Three (3) members of the board of directors of the corporation shall constitute a~~
23 ~~quorum, and the affirmative vote of the majority of the directors present and entitled to vote at any~~
24 ~~regular or special meeting at which a quorum is present, is necessary for any action to be taken by the~~
25 ~~corporation; except, however, that the affirmative vote of three (3) members of the board of directors is~~
26 ~~necessary for the election of officers of the corporation and to amend the bylaws of the corporation. No~~

1 ~~vacancy in the membership of the board of directors of the corporation impairs the right of a quorum to~~
2 ~~exercise all the powers of and perform the duties of the corporation.~~ consist of seven (7) members
3 appointed by the governor. Boardmembers appointed and qualified prior to July 1, 2015 may continue
4 to serve to the completion of their designated terms and until such time as their successors are appointed
5 and qualified. No member appointed or reappointed after July 1, 2015 shall serve more than two (2)
6 five (5)-year terms. The governor shall select a chairperson and vice chairperson from the appointed
7 members.

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

11 (f) The members of the board of directors shall receive compensation at the rate of fifty dollars
12 (\$50.00) per meeting attended; however, the compensation shall not exceed one thousand five hundred
13 dollars (\$1,500) per fiscal year per member until July 1, 2015. Effective July 1, 2015, the members of
14 the board shall not receive any compensation for their service on the board.

15 (g) Notwithstanding any other law to the contrary, it shall not be or constitute a conflict of
16 interest for a trustee, director, officer, or employee of an institution for higher education or a health care
17 provider to serve as a member of the board of directors of the corporation; provided, that the trustee,
18 director, officer, or employee abstains from deliberation, action and vote by the board under this chapter
19 in specific respect to the institution for higher education or the health care provider of which the
20 member is a trustee, director, officer, or employee.

21 (h) The board and corporation shall comply with provisions of chapter 42-155, the Quasi-Public
22 Corporations Accountability and Transparency Act.

23 SECTION 4. Title 45 of the General Laws entitled "Towns and cities" is hereby
24 amended by adding thereto the following chapter:

25 CHAPTER 45-38.2

26 SCHOOL BUILDING AUTHORITY CAPITAL FUND

1 § 45-38.2-1. Definitions. – As used in this chapter, the following terms, unless the context
2 requires a different interpretation, shall have the following meanings:

3 (a) “Application” means a project proposed by a city, town, or LEA that would make capital
4 improvements to a public school facilities consistent with project evaluation criteria and chapter 16-7-41.1;

5 (b) “Approved project” means any project approved for financial assistance;

6 (c) “Corporation” means the Rhode Island health and education building corporation as set forth
7 in chapter 45-38.1;

8 (d) “Department” means the department of elementary and secondary education as
9 established under Title 16;

10 (e) “Eligible project” means an application, or a portion of an application, that meets the project
11 evaluation criteria and approved by the council on elementary and secondary education or the
12 commissioner of education;

13 (f) “Financial assistance” means any form of financial assistance provided by the
14 corporation to a city, town, or LEA in accordance with this chapter for all or any part of the cost of an
15 approved project, including, without limitation, loans, guarantees, insurance, subsidies for the payment of
16 debt service on loans, lines of credit, and similar forms of financial assistance;

17 (g) “Fund” means the school building authority capital fund;

18 (h) “LEA” means a local education agency, a public board of education, school
19 committee or other public authority legally constituted within the State for administrative control or
20 direction of one or more Rhode Island public elementary or secondary schools;

21 (i) “Market rate” means the rate the city, town, or LEA would receive on the open market at
22 the time of the original loan agreement as determined by the corporation in accordance with its rules and
23 regulations

24 (j) “Project evaluation criteria” means the criteria used by the school building authority
25 to evaluate applications and rank eligible projects;

26 (k) “Project priority list” means the list of eligible projects approved by the council on

1 elementary and secondary education ranked in the order in which financial assistance shall be awarded
2 by the corporation;

3 (1) “Subsidy assistance” means the credit enhancements and other measures to reduce the
4 borrowing costs for a city, town, or LEA.

5 **§ 45-38.2-2. School building authority capital fund.** -- (a) There is hereby established a school
6 building authority capital fund. The corporation shall establish and set up on its books the fund, to be held
7 in trust and to be administered by the corporation as provided in this chapter. This fund shall be in
8 addition to the annual appropriation for committed expenses related to the repayment of
9 housing aid commitments. The corporation shall deposit the following monies into the fund:

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

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

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

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

19 (5) Administrative fees levied by the corporation with respect to financial assistance rendered
20 under this chapter and as specified in 42-38.2-3(a)(4);

21 (6) Other amounts required by provisions of this chapter or agreement, or any other law or any
22 trust agreement pertaining to bonds to be credited to the fund; and

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

25 (b) The corporation shall establish and maintain fiscal controls and accounting
26 procedures conforming to generally accepted government accounting standards sufficient to ensure

1 proper accounting for receipts in and disbursements from the school building authority capital fund.

2 (c) The Rhode Island department of education school building authority shall establish and
3 maintain internal controls to ensure that LEAs are providing adequate asset protection plans, all LEAs have
4 equal access and opportunity to address facility improvements on a priority basis, and to ensure that
5 funding from the School Building Authority Capital Fund has the greatest impact on facility gaps in state
6 priority areas. The Rhode Island Department of Education will also manage Necessity of School
7 Construction approvals in accordance with the funding levels set forth by the General Assembly.

8 **§ 45-38.2-3. Administration.** -- (a) The corporation shall have all the powers necessary and
9 convenient to carry out and effectuate the purposes and provisions of this chapter including, without
10 limitation:

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

13 (2) To make and enter into binding commitments to provide financial assistance to local cities
14 and towns from amounts on deposit in the fund;

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

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

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

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

22 (7) Such other authority as granted to the corporation under chapter 45-38.1.

23 (b) Subject to the provisions of this chapter, and to any agreements with the holders of any
24 bonds of the corporation or any trustee therefor, amounts held by the corporation for the account of
25 the fund shall be applied by the corporation, either by direct expenditure, disbursement, or
26 transfer to one or more other funds and accounts held by the corporation or a trustee under a trust

1 agreement or trust indenture entered into by the corporation with respect to bonds or notes issued by the
2 corporation under this chapter or by a holder of bonds or notes issued by the corporation under this
3 chapter, either alone or with other funds of the corporation, to the following purposes:

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

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

12 (3) To pay expenses of the corporation and the department in administering the fund. As part of
13 the annual appropriations bill, the department shall set forth the gross amount of expenses received from
14 the corporation and a complete, specific breakdown of the sums retained and/or expended for
15 administrative expenses;

16 (4) To pay or provide for subsidy assistance as determined by the corporation;

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

22 (6) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or
23 otherwise as provided in chapter 45-38.1, any bonds or notes of the corporation issued under this chapter.

24 (c) The repayment obligations of the a city, town, or LEA shall be in accordance with its
25 eligibility for state aid for school housing as set forth in regulations promulgated by the department.
26 Notwithstanding any provision of law to the contrary, any recipient of financial assistance under this

1 program shall be entitled to the percentage of state aid available to the community in which the school
2 is located.

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

8 (e) Within ninety (90) days after the end of each fiscal year, the corporation shall submit an
9 annual report to the governor, the speaker of the house of representatives, the president of the senate, and
10 the secretary of state of its activities during that fiscal year. The report shall provide: a summary of the
11 corporation's meetings including when the corporation met, subjects addressed, decisions rendered and
12 meeting minutes; a summary of the corporation's actions including a listing of rules, regulations, or
13 procedures adopted or amended, applications received for financial assistance for contracts or agreements
14 entered into, applications and intended use plans submitted to federal agencies for capitalization grants,
15 properties acquired or leased, and bonds issued; a synopsis of any complaints, suspensions, or other
16 legal matters related to the authority of the corporation; a consolidated financial statement of all
17 funds received and disbursed by the corporation including the source of and recipient of the funds
18 which shall be audited by an independent certified public accountant firm; copies of audits or reports
19 required under federal law, if any; a listing of the staff and/or consultants employed by the corporation; a
20 listing of findings and recommendation derived from corporation activities; and a summary of
21 performance during the previous fiscal year including accomplishments, shortcomings and remedies. The
22 report shall be posted as prescribed in § 42-20-8.2. The director of the department of administration
23 shall be responsible for the enforcement of this provision. The initial report shall be due no later than
24 January 1, 2016.

25 § 45-38.2-4. Payment of state funds.-- (a) Subject to the provisions of subsection (b), upon
26 the written request of the corporation, the general treasurer shall pay to the corporation, from time to

1 time, from the proceeds of any bonds or notes issued by the state for the purposes of this chapter or funds
2 otherwise lawfully payable to the corporation for the purposes of this chapter, such amounts as shall
3 have been appropriated or lawfully designated for the fund. All amounts so paid shall be credited to
4 the fund in addition to any other amounts credited or expected to be credited to the fund.

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

9 (c) Except in instances of city or town charter provisions to the contrary, up to five hundred
10 thousand dollars (\$500,000) may be loaned to a city or town without the requirement of voter approval.

11 (d) The corporation is authorized to grant a district or municipality its state share of an
12 approved project cost, pursuant to § 16-7-39. Construction pay-as-you-go grants received from the
13 school building authority capital fund shall not be considered a form of indebtedness subject to the
14 provisions of § 16-7-44.

15 SECTION 5. This article shall take effect upon passage.