WEST VIRGINIA CODE CHAPTER 15A ARTICLE 8

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§15A-8-1. Powers and authority of the Regional Jail and Correctional Facility Authority Board; continuation of the Regional Jail and Correctional Facility Authority Board; payment of bonds; appeal of per diem rate.

(a) The Regional Jail and Correctional Facility Authority Board is continued, as follows:

(1) The powers and authority of the Regional Jail and Correctional Facility Authority Board, in relation to all functions of correctional operations, are hereby abolished, and these powers and authority are transferred to the Division of Corrections and Rehabilitation as of July 1, 2018. The Regional Jail and Correctional Facility Authority Board shall only retain the powers as now outlined in this chapter. Where reference in this code is made to the Regional Jail and Correctional Facility Authority, in relation to operations of any of the regional jails, it shall be construed to mean the Division of Corrections and Rehabilitation.

(2) The following powers and authority of the Regional Jail and Correctional Facility Board are hereby specifically abolished:

(A) To mortgage or otherwise grant security interests in its property;

(B) To borrow money and to issue its negotiable bonds, security interests, or notes and to provide for and secure the payment thereof, and to provide for the rights of the holders thereof, and to purchase, hold, and dispose of any of its bonds, security interests, or notes;

(C) To sell, at public or private sale, any bond or other negotiable instrument, security interest or obligation of the authority in a manner and upon terms that the authority considers would best serve the purposes of this article;

(D) To issue its bonds, security interests, and notes payable solely from the revenues or other funds available to the authority therefor; and the authority may issue its bonds, security interests, or notes in those principal amounts as it considers necessary to provide funds for any purposes under this article, including:

(i) The payment, funding, or refunding of the principal of, interest on, or redemption premiums on, any bonds, security interests, or notes issued by it whether the bonds, security interests, notes, or interest to be funded or refunded have or have not become due; and

(ii) The establishment or increase of reserves to secure or to pay bonds, security interests, notes, or the interest thereon and all other costs or expenses of the Division of Corrections and Rehabilitation incident to and necessary or convenient to carry out its purposes and powers. Any bonds, security interests, or notes may be additionally secured by a pledge of any revenues, funds, assets, or moneys of the authority from any source whatsoever;

(E) To issue renewal notes or security interests, to issue bonds to pay notes or security interests and, whenever it considers refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured except

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that no renewal notes shall be issued to mature more than 10 years from date of issuance of the notes renewed and no refunding bonds may be issued to mature more than 25 years from the date of issuance;

(F) To apply the proceeds from the sale of renewal notes, security interests, or refunding bonds to the purchase, redemption, or payment of the notes, security interests, or bonds to be refunded; and

(G) To sell security interests in the loan portfolio of the authority. The security interests shall be evidenced by instruments issued by the authority.

(3) The powers and duties of the board in relation to paying the current bond series, designated as The State Building Commission of West Virginia Lease Revenue Refunding Bonds (West Virginia Regional Jail and Correctional Facility Authority) Series 1998A, Series 1998B, and Series 1998C are specifically continued. The board, however, may not reissue these bonds, renegotiate the terms of the current bonds, or refinance these bonds. There is hereby created in the State Treasury a Regional Jail and Correctional Facility Board Fund. The fund shall be controlled by the board, and shall be utilized for the sole purpose of payment of the outstanding bond series as provided above. The Commissioner of the Division of Corrections and Rehabilitation shall, on or before the fifth day of every month, transfer to this fund the amount necessary for the monthly payment of the bond, as set forth by the yearly communication from the creditor of the bonds. Further, on the effective date of this section, the commissioner shall transfer to this fund the reserve amount required by the bonds. On the date that the bonds are satisfied in full, these obligations shall cease, and any funds left in the board fund shall be transferred to the Commissioner of the Division of Corrections and Rehabilitation: Provided, That the funds can only be used in the manner directed or established by the board. Further, the board retains the authority to be able, and with consent of the Secretary of the Department of Military Affairs and Public Safety, to the extent permitted under its contracts with the holders of bonds, security interests, or notes of the authority, consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any bond, security interest, note, or contract or agreement of any kind to which the authority is a party.

(4) The Regional Jail Authority shall review the per diem cost set by the state Budget Office, pursuant to §15A-3-16 of this code. If the authority believes that the amount set by the state Budget Office is incorrect, or that the amounts submitted by the Division of Corrections and Rehabilitation include more than what should be attributed to the efficient operation of jail facilities and units, the authority may institute an action in regard to this pursuant to §29A-5-1 et seq. of this code.

(5) The Regional Jail Authority retains the ability to sue, as defined in this article, and to be sued.

(b) Where reference in this article is made to the “division”, it shall mean the Division of Corrections and Rehabilitation.

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§15A-8-2. West Virginia Regional Jail and Correctional Facility Authority Board; composition; appointment; terms; compensation and expenses.

The West Virginia Regional Jail and Correctional Facility Authority Board is continued. The members of the board in office on the date this section takes effect shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.

The authority shall be governed by a board of nine members, seven of whom are entitled to vote on matters coming before the authority. The complete governing board shall consist of the Commissioner of the Division of Corrections; the Assistant Commissioner for the Bureau of Juvenile Services; the Secretary of the Department of Military Affairs and Public Safety; the Secretary of the Department of Administration, or his or her designated representative; two county commissioners and one sheriff appointed by the Governor, no more than two of which may be of the same political party; and two citizens appointed by the Governor to represent the areas of law and medicine. The Commissioner of the Division of Corrections and Rehabilitation and the Assistant Commissioner for the Bureau of Juvenile Services shall serve in an advisory capacity and are not entitled to vote on matters coming before the authority. Members of the Legislature are not eligible to serve on the board.

The Governor shall nominate and, by and with the advice and consent of the Senate, appoint the five appointed members of the authority for staggered terms of four years.

Any appointed member whose term has expired shall serve until his or her successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member is eligible for reappointment. Members of the board are not entitled to compensation for services performed as members, but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties.

All members of the board shall execute an official bond in a penalty of $10,000, conditioned as required by law. Premiums on the bond shall be paid from funds accruing to the Division of Corrections and Rehabilitation. The bond shall be approved as to form by the Attorney General and as to sufficiency by the Governor and, when fully executed and approved, shall be filed in the office of the Secretary of State.

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§15A-8-3. Governing body; organization and meetings; quorum; administrative expenses.

(a) The board shall consist of the voting members of the board as provided for in §15A-8-2 of this code and shall exercise all the powers given to the authority in this article. On the second Monday of July of each odd-numbered year, the board shall meet to elect a chairman and a secretary from among its own members. The Secretary of the Department of Administration or his or her designated representative shall serve as treasurer of the board. The board shall otherwise meet two times a year, unless a special meeting is called by its chairman.

(b) A majority of the members of the board constitute a quorum, and a quorum must be present for the board to conduct business. Unless the bylaws require a larger number, action may be taken by majority vote of the members present.

(c) The board shall prescribe, amend, and repeal bylaws and rules governing the manner in which the business of the authority is conducted and shall review and approve the budget prepared by the executive director annually.

(d) All costs incidental to the administration of the board shall be paid from the jail operation fund by the Commissioner of Corrections and Rehabilitation.

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