WEST VIRGINIA CODE CHAPTER 29 ARTICLE 26

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§29-26-1. West Virginia Courthouse Facilities Improvement Authority created; membership.

(a) The West Virginia Courthouse Facilities Improvement Authority is hereby created.

(b) The authority is to consist of twelve voting members, including:

(1) The president of the West Virginia Sheriffs' Association or another member of the association designated to attend in lieu of the president;

(2) One sheriff to be appointed by the president of the West Virginia Sheriffs' Association: Provided, That the sheriff who is appointed may not be from the same congressional district as the president;

(3) The president of the West Virginia prosecuting attorneys' Association or another member of the association designated to attend in lieu of the president;

(4) One prosecuting attorney to be appointed by the president of the West Virginia prosecuting attorneys' Association: Provided, That the prosecuting attorney who is appointed may not be from the same congressional district as the president;

(5) The president of the West Virginia' County Clerks' Association or another member of the association designated to attend in lieu of the president;

(6) The president of the West Virginia' Association of Circuit Clerks or another member of the association designated to attend in lieu of the president;

(7) One county clerk to be appointed by the president of the West Virginia County Clerks' Association: Provided, That the county clerk who is appointed may not be from the same congressional district as the president;

(8) One circuit clerk to be appointed by the president of the West Virginia Association of Circuit Clerks: Provided, That the circuit clerk who is appointed may not be from the same congressional district as the president;

(9) The president of the West Virginia county commissioners' Association or another member of the association designated to attend in lieu of the president;

(10) One county commissioner to be appointed by the president of the West Virginia county commissioners' Association: Provided, That the county commissioner who is appointed may not be from the same congressional district as the president;

(11) The president of the West Virginia assessors' Association or another member of the association designated to attend in lieu of the president; and

(12) One assessor to be appointed by the president of the West Virginia assessors'

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Association: Provided, That the assessor who is appointed may not be from the same congressional district as the president.

(c) The authority is to consist of eight advisory members, including:

(1) The president of the West Virginia Judicial Association or another member of the association designated to attend in lieu of the president;

(2) One circuit judge to be appointed by the West Virginia Judicial Association: Provided, That the circuit judge who is appointed may not be from the same congressional district as the president;

(3) The president of the West Virginia Magistrates' Association or another member of the association designated to attend in lieu of the president;

(4) One magistrate to be appointed by the West Virginia Magistrates' Association: Provided, That the magistrate who is appointed may not be from the same congressional district as the president;

(5) The president of the West Virginia Family Judicial Association or another member of the association designated to attend in lieu of the president;

(6) One family court judge to be appointed by the West Virginia Family Judicial Association: Provided, That the family court judge who is appointed may not be from the same congressional district as the president;

(7) One member of the West Virginia Senate to be appointed by the President of the Senate; and

(8) One member of the West Virginia House of Delegates to be appointed by the Speaker of the House of Delegates.

(d) The advisory members of the authority are nonvoting, ex officio members.

(e) The appointments are to be made as soon as possible after the effective date of this article. The terms of appointments are for four-year terms.

(f) The authority shall annually elect one of its members as chair and shall appoint a secretary, who need not be a member of the authority and who shall keep records of its proceedings.

(g) The authority shall meet at least once every ninety days to review applications requesting funding assistance and otherwise to conduct its business and may meet more frequently if necessary.

(h) Seven members of the authority constitute a quorum and the affirmative vote of at least a

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majority of those members present is necessary for any action taken by vote of the authority. No vacancy in the membership of the authority impairs the rights of a quorum by such vote to exercise all the rights and perform all the duties of the authority.

(i) Members of the authority shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of their official duties from funds appropriated or otherwise made available to the authority for the purpose of reimbursement upon submission of an itemized statement.

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§29-26-2. Definitions.

The following terms, wherever used or referred to in this article, have the following meaning:

(a) "Approved modifications or construction of courthouse facilities" means any modification or construction of a courthouse facility which has been recommended for assistance by the authority according to the requirements of section four of this article;

(b) "Authority" means the West Virginia courthouse facilities improvement authority;

(c) "Cost" means the cost of construction, renovation, repair and safety upgrading of courthouse facilities; the cost of land, equipment, machinery, furnishings, installation of utilities and other similar items convenient in connection with placing a courthouse facility in operation; and the cost of financing, interest during construction, professional service fees and all other charges or expenses necessary, appurtenant or incidental to the modification or construction of a courthouse facility; and

(d) "Courthouse facility" means buildings or structures which are occupied exclusively by offices of county and judicial officials or by courtrooms, county jails or detention centers.

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§29-26-3. Development of guidelines and application for funding assistance.

(a) The authority shall propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code to develop comprehensive, uniform guidelines for use by the authority in evaluating any request by a county for funding assistance for the modification of an existing courthouse facility or the construction of a new county courthouse facility.

(b) The guidelines shall include the following factors:

(1) The degree of increased security of records kept by the offices of the county, circuit and magistrate court clerks in the county;

(2) The degree of increased safety for personnel whose offices are contained in the existing court facility or will be contained in the proposed court facility;

(3) The degree to which the proposal of modification or construction can correct deficiencies in compliance with building codes and with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq.;

(4) The degree of increased efficiency and modernization in the preservation of records kept by the offices of the county officers, circuit clerks and magistrate court clerks in the county;

(5) The increased efficiency and modernization of the storage of records kept by the offices of the county officers, circuit clerks and magistrate court clerks in the county;

(6) The availability of alternative sources of funding which could finance all or a part of the modification or construction of a courthouse facility;

(7) The need for the assistance of the authority to finance the modification or construction of a courthouse facility or attract other sources of funding;

(8) The applicant county's ability to operate and maintain the courthouse facility if the modification or construction is granted assistance by the authority;

(9) The degree to which the modification or construction of a courthouse facility achieves other state or regional planning goals;

(10) The estimated date upon which the modification or construction of a courthouse facility could commence if funding were available and the estimated completion date of the modification or construction; and

(11) Other considerations the authority considers necessary or appropriate to accomplish its duties as defined in this article.

(c) The authority shall create an application form which shall be used by all counties

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requesting funding assistance from the authority.

(d) The application shall require the county applicant to set forth the following information:

(1) The type and proposed location of the proposed modification or construction of a courthouse facility;

(2) The estimated total cost of the proposed modification or construction of a courthouse facility;

(3) The amount of funding assistance required and the specific uses of the funding;

(4) Other sources of funding available or potentially available for the modification or construction;

(5) Information demonstrating the need for the modification or construction and that the proposed funding of the modification or construction is the most economically feasible to the completion of the modification or construction; and

(6) Any other information the authority considers necessary to enable it to recommend the type of financing, in terms of the kind, amount and source of funding, which the applicant county should pursue and which the authority should consider an appropriate investment of public funds.

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§29-26-4. Requirements for assistance; review of application.

(a) No county applicant may receive any loan, loan guarantee, grant or other funding assistance for the modification or construction of a courthouse facility from the authority unless:

(1) The county applicant submits a completed application to the authority on the form prepared by the authority pursuant to section three of this article; and

(2) The authority, after having considered the application, recommends the county applicant receive a loan, loan guarantee, grant or other funding assistance for the proposed modification or construction.

(b) The authority shall, within ninety days of receipt of each completed application submitted to it, review the application and either:

(1) Make a written recommendation as to the modification or construction financing, in terms of the kind, amount and source of funding, for which the applicant county submitting the application is eligible; or

(2) If the authority determines that (A) the proposed modification or construction of a courthouse facility is not eligible for funding assistance from the authority, or (B) the proposed modification or construction of a courthouse facility is not otherwise an appropriate or prudent investment of state funds, the authority shall state the reasoning for its findings in a written rejection of the county applicant's application.

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§29-26-5. Powers of the authority.

In addition to the powers set forth elsewhere in this article, the authority may exercise the following powers it considers the exercise of these powers necessary and appropriate to carry out and effectuate its responsibilities as defined by this article. The authority may:

(a) Employ an executive director and an executive assistant as may be necessary in the judgment of the authority and fix their compensation;

(b) Acquire, hold and dispose of real and personal property for its corporate purposes;

(c) Make bylaws for the management and rule of its affairs;

(d) Contract with and employ attorneys, accountants, construction and financial experts, architects, engineers, managers and such other employees and agents that are necessary in the judgment of the authority and fix their compensation;

(e) Make contracts and execute all instruments necessary or convenient to exercise the powers granted to it by this article;

(f) Renegotiate all contracts entered into by it whenever, due to a change in situation, it appears to the authority that its interests will be best served;

(g) Accept and expend any gift, grant, contribution, bequest or endowment of money to, or for the benefit of, the authority, from the State of West Virginia or any other source;

(h) Identify any alternative sources of funding, whether privately or publicly administered, and assist county applicants in the securing of alternative sources of funding; and

(i) Do all things necessary or convenient to carry out the powers given in this article.

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§29-26-6. The courthouse facilities improvement fund.

(a) There is hereby created in the State Treasury a special revenue account to be known as the "West Virginia courthouse facilities improvement fund." The West Virginia courthouse facilities improvement fund may receive any gifts, grants, contributions or other money from any source which is specifically designated for deposit in the fund.

(b) The authority shall undertake a study on the condition and state of need of every courthouse facility throughout the State of West Virginia, and shall determine the estimated cost of the improvements which are necessary to bring each facility into conformity with requirements outlined in this article. The authority shall submit to the Legislature, on or before January 1, 2002, a report which shall contain the estimate of the cost, a plan for the financing of the cost, and an estimated prioritized schedule for the implementation and financing of the improvements to be made pursuant to the provisions of this article.

(c) The moneys of the West Virginia courthouse facilities improvement fund shall be disbursed by the authority for the funding of approved modifications or construction of court facilities and to pay expenses of the authority in administering the provisions of this article.

(d) Any disbursements from the West Virginia courthouse facilities improvement fund allocated for approved modifications or construction of courthouse facilities may be made contingent upon local appropriations or gifts in money or in kind for the support of the modifications or construction.

(e) Nothing in this article may be construed to mandate funding for the West Virginia court facilities improvement fund or to require any appropriation by the Legislature.

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