WEST VIRGINIA CODE: §31-15-6B

§31-15-6b. Special power of authority to issue bonds or notes to repay and refinance capital investment of Investment Management Board in Regional Jail and Correctional Facility Authority; authorizing issuance of bonds to finance regional jail facilities, correctional facilities, juvenile facilities and state police facilities.

(a) The Legislature finds and declares that the Supreme Court of Appeals has determined and ordered that the Constitution of this state imposes a duty on behalf of the state to make significant improvements in the jail and correctional facility system, including the duty to make capital improvements to facilities and to pay for the cost of those improvements; that many of the existing facilities used by the West Virginia state police, including those facilities identified in section ten, article two, chapter fifteen of this code, are in need of significant capital improvement or replacement, and that in some cases the acquisition and construction of additional state police facilities is needed; that the acquisition and construction of the capital improvements identified in this subsection require that the cost of the facilities be financed over time; that section fifty-one, article six of the Constitution prohibits the Legislature amending the budget bill so as to create a deficit; that the enacting of new taxes, or the diversion of revenues from other essential departments and functions of government, in order to support capital improvements in regional jail facilities, correctional facilities, juvenile facilities and state police facilities is not in the interests of the people of the state represented in the Legislature, and is specifically rejected by the Legislature in its exercise of its legitimate Constitutional powers; that there have been previously funded certain regional jail facilities and correctional facilities through funds available for investment through the West Virginia Investment Management Board, the proceeds of which have and are being used by the Regional Jail and Correctional Facility Authority to finance the cost of capital improvements to regional jail facilities and correctional facilities, the repayment of such investment being made from transfers to the regional jail and correctional facility investment fund established under section twenty-one, article six, chapter twelve of this code, from funds on deposit in the insurance tax fund established under subsection (b), section fourteen, article three, chapter thirty-three of this code, such transfers undertaken in the manner set forth in subsection (c), section fourteen, article three, chapter thirty-three of this code; that the rate of return being paid under subsection (b), section twenty-one, article six, chapter twelve for the investment is subject to annual adjustment and theretofore subject to the volatility of the financial markets and it is anticipated that the rate of return paid on such investment will be in excess of the interest rate that would be payable with respect to bonds issued under this article to repay the investment, to make the capital improvements identified in this subsection, and to acquire or construct certain regional jail facilities, correctional facilities, juvenile facilities and state police facilities.

(b) To provide for (1) the repayment of all or a portion of the investment, (2) the financing of capital improvements to regional jail facilities, correctional facilities, juvenile facilities and

WVLegislature

state police facilities, (3) the financing of the acquisition of certain existing regional jail facilities, correctional facilities, juvenile facilities and state police facilities, (4) the financing of the acquisition and construction of new regional jail facilities, correctional facilities, juvenile facilities and state police facilities, and (5) the payment of the costs of issuance of the bonds, bonds of the authority may be issued in accordance with the provisions of this article. Any bonds issued pursuant to the provisions of this section shall mature at a time or times not exceeding twenty-five years from their respective dates. In no event may the outstanding principal amount of the bonds exceed a total amount that would require annual debt service payments in excess of $16 million.

(c) (1) The proceeds from the sale of the bonds shall be allocated and expended for the following purposes in the following order of priority:

(A) For the costs of issuance of the bonds;

(B) For payment of the return of the investment made pursuant to section twenty-one, article six, chapter twelve of this code;

(C) For the costs of the projects included in the letter submitted by the Regional Jail and Correctional Facility Authority to the Joint Committee on Government and Finance dated April 1, two thousand one, pursuant to the amendment and reenactment of section twenty-one, article six, chapter twelve of this code in chapter sixty-six, acts of the Legislature, regular session, two thousand one: Provided, That the letter shall not be construed to prioritize any project or projects which are included in the letter;

(D) For the costs of completion of any other capital improvement projects for regional jail facilities, correctional facilities or juvenile facilities that may be determined by the Regional Jail and Correctional Facility Authority, subject to the provisions of subdivision (2) of this subsection. Prior to the expenditure of any funds for these additional projects, the Regional Jail and Correctional Facility Authority shall certify to the Joint Committee on Government and Finance a separate list of the additional projects to be funded from the bond proceeds. This certified list may not thereafter be altered or amended other than by legislative enactment; and

(E) For the costs of capital improvements to or the acquisition or construction of state police facilities: Provided, That no proceeds of the bonds may be expended for a state police facility purpose unless and until the Legislature by concurrent resolution has approved the purpose and amount of each project for which proceeds from the issuance of the bonds have been allocated under this subsection.

(2) From the balance of the proceeds of the bonds remaining after meeting the requirements of paragraphs (A) and (B), subdivision (1) of this subsection, an amount not less than $80 million shall be allocated for expenditure for the purposes set forth in paragraphs (C) and (D), subdivision (1) of this subsection. In the event the Regional Jail and Correctional Facility Authority determines that an amount less than $80 million is necessary for those purposes,

WV Legislature

the difference may be allocated for expenditure for the purposes and subject to the conditions set forth in paragraph (E), subdivision (1) of this subsection.

(d) The economic development authority may lease facilities acquired or constructed pursuant to the provisions of this section to the Department of Administration.

(e) For purposes of this section, the terms "regional jail facilities", "correctional facilities" and "juvenile facilities" have the meanings set forth in section two, article twenty of this chapter.

WV Legislature