

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-26-80

Time 8:20 p.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980

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ENROLLED

SENATE BILL NO. 63

(By Mr. Gilligan)

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PASSED March 8, 1980

In Effect from Passage



No. 63

ENROLLED

Senate Bill No. 63

(By MR. GILLIGAN)

[Passed March 8, 1980; in effect from passage.]

AN ACT to amend and reenact sections two, five, seven, seven-a, eight and nine, article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to permitting counties to cooperate in the development of regional correctional centers for both adult and youth offenders.

Be it enacted by the Legislature of West Virginia:

That sections two, five, seven, seven-a, eight and nine, article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. COUNTY PROPERTY.

§7-3-2. Courthouse, jail and offices.

1 The county commission of every county, at the ex-
2 pense of the county, shall provide at the county seat
3 thereof a suitable courthouse and jail, together with
4 suitable offices for the judge of the circuit court and
5 judges of courts of limited jurisdiction, clerks of circuit
6 courts, courts of limited jurisdiction and of the county
7 commission, assessor, sheriff, prosecuting attorney, county
8 superintendent of schools, and surveyor, and all other
9 offices as are or may be required by law: *Provided, That*
10 the courthouse, including any annex or other facility
11 housing the courts and offices herein set out, (excepting
12 all facilities that are on a twenty-four-hour basis), shall
13 be open to the public Monday through Saturday during
14 the hours prescribed by the county commission by an
15 order duly recorded in the order book of the commission,

16 excluding Sundays and national or state holidays, and
17 may, with the consent of the county commission in
18 counties having a population in excess of one hundred
19 thousand be closed on Saturday: *Provided, however,*
20 That the county commission of every county having a
21 population in excess of two hundred thousand may pro-
22 vide at the county seat or elsewhere in the county, as
23 the county commission shall determine, a suitable jail
24 or jails: *Provided further,* That the county commission
25 of any county, regardless of population, may, as provided
26 in chapter eight, article twenty-three of the code of West
27 Virginia, contract with the county commissions of one or
28 more other counties within this state for the erection,
29 construction, equipment, leasing and renting of a regional
30 correctional center for either adult or youth offenders,
31 at a location mutually agreeable to the contracting parties
32 and not necessarily at the county seat, which will
33 serve each county entering into the contract. The county
34 commission shall keep the courthouse, jail and other
35 offices in constant and adequate repair, and supplied
36 with the necessary heat, light, furniture, record books,
37 and janitor service, and, except as to the office for the
38 judge of the circuit court, with the necessary stationery
39 and postage, and other things as shall be necessary; but
40 all of the public records, books and papers belonging or
41 appertaining to the county surveyor's office shall be
42 delivered to the clerk of the county commission and
43 retained by him in his official possession and under his
44 control and shall constitute a part of the public records,
45 books and papers of his office. All courthouses, jails and
46 offices hereafter erected shall be built of stone and brick,
47 or stone or brick, or other equally fireproof materials,
48 and the offices shall be fireproof or be furnished with
49 fireproof vaults or safes. The jails shall be well secured,
50 and sufficient for the convenient accommodation of those
51 who may be confined therein, and so that the convicts
52 may be in apartments separate from each other, and
53 from the other prisoners; every apartment shall be so
54 constructed that it can be kept comfortable. The county
55 commission may also provide other necessary offices and
56 buildings, and may, by purchase or otherwise, acquire

57 as much land as may be requisite or desirable for county
58 purposes, and may suitably inclose, improve and em-
59 bellish the lands so acquired.

60 Subject to the conditions hereinabove set forth with
61 respect to the site of the courthouse, jail, and other
62 offices, the commission may, from time to time, as may
63 seem to it proper, provide, at the expense of the county,
64 a new or other building or buildings to be used for the
65 courthouse and jail, or for either, together with suit-
66 able offices, as aforesaid, and for that purpose may
67 acquire, by purchase or otherwise, and hold any lands,
68 or lands and buildings, which may be necessary, and
69 may inclose, improve and embellish the same. When
70 any new or other building or buildings shall be ready
71 for occupancy, the county commission shall make an
72 order declaring that, on a day to be therein named,
73 the new or other building or buildings shall become
74 the courthouse, or jail, or both the courthouse and jail
75 of the county, and shall cause copies of the order to be
76 posted at the front door of the new as well as of the
77 old courthouse, at least twenty days before the day
78 named in the order; and on and after the day named
79 the new or other building or buildings shall become,
80 respectively, the courthouse, or jail, or both the court-
81 house and jail of the county in all respects and for all
82 purposes. After the change shall have been made the
83 county commission may sell or otherwise dispose of,
84 as may seem to it proper, the building or buildings pre-
85 viously used as a courthouse and jail, or either, and the
86 land on which they are, or either is, situated, and of
87 the interest of the county therein.

**§7-3-5. County commissions authorized to acquire and convey
real estate and contract for construction, etc., and
rental of courthouse, jail or other public building.**

1 The county commission of any county is hereby au-
2 thorized and empowered to acquire real estate and to
3 convey real estate and to enter into a contract, or lease,
4 or both, with the United States government, or any
5 federal agency authorized to make or enter into a con-
6 tract, or lease, or with any bank or financial institution,

7 or with any individual or persons for the erection, con-
8 struction, equipment, leasing and renting of a courthouse,
9 hospital, other public buildings, or jail, with an option
10 to purchase the building and to provide for the payment
11 of a yearly rental for the building by the commission:
12 *Provided*, That any county commission may, as provided
13 in chapter eight, article twenty-three of the code of West
14 Virginia, also contract with one or more other county
15 commissions within this state for the erection, construc-
16 tion, equipment, leasing and renting of a regional cor-
17 rectional center for either adult or youth offenders at a
18 location mutually agreeable to the contracting parties
19 and not necessarily at the county seat. The county com-
20 mission of any county is also authorized to contract with
21 the United States government, or any federal agency
22 authorized to make or enter into a contract, or any bank
23 or financial institution, or any individual or persons, to
24 the end that the United States government, or any of its
25 agencies, or agents thereunto duly authorized, or bank
26 or financial institution or individual or persons, may
27 for and on behalf of any county commission, build,
28 erect, construct, equip or furnish upon the property any
29 such building, or buildings, including a hospital; and to
30 contract with the United States government, or any
31 federal agency, or bank, or financial institution, or indi-
32 vidual, or persons, for the lease, or rental, of the build-
33 ing or buildings, with the privilege and authority of
34 renewing any lease from year to year, for any period of
35 years, not exceeding thirty, with the right to purchase
36 the building, or buildings, and real estate on which the
37 building or buildings are situated, and to apply toward
38 the purchase price thereof any and all rentals paid to
39 the United States government, or agency, or bank or
40 financial institution, or individual, or persons, under the
41 provisions of this act; and the county commission shall
42 pay to the United States government, or any federal
43 agency, or bank, or financial institution, or individual,
44 or persons, the yearly rental, or rentals, for the use and
45 occupancy of the building, or buildings, if and when
46 they are constructed, which yearly rental, or rentals,
47 in the aggregate, may not exceed the total amount, and

48 the interest thereon expended by the United States
49 government, or agency or bank or financial institution,
50 or individual, or persons, on the project, or projects,
51 and the said yearly rentals shall be paid out of levies
52 laid within the constitutional debts limitations; and to
53 do any and all other things lawfully required by the
54 United States government, or any federal agency, or
55 bank, or financial institution, or individual, or persons,
56 which are necessary and proper to effectuate the purpose
57 of this act.

§7-3-7. Bonds for cost of real estate and public buildings.

1 Any county commission is likewise authorized and em-
2 powered to acquire real estate for, construct, equip, fur-
3 nish and maintain a courthouse, hospital or other public
4 buildings or jail, including a regional correctional center
5 for either adult or youth offenders which is developed
6 jointly by one or more counties, and to borrow funds from
7 the United States government, the public works adminis-
8 tration, or other governmental agency authorized to make
9 loans, or any bank, or financial institution authorized by
10 law to make loans, or any individual, or persons for the
11 purpose of building, constructing, furnishing and equip-
12 ping a courthouse, hospital, other buildings or jail, and for
13 the purpose of acquiring real estate therefor, and shall
14 have the right to acquire by purchase, condemnation, gift
15 or otherwise, real estate on which to build the courthouse,
16 hospital, other buildings or jail, including a regional cor-
17 rectional center for either adult or youth offenders which
18 is developed jointly by one or more counties, within the
19 discretion of the commission. The commission is authorized
20 and empowered to issue bonds for the purpose of paying
21 the cost of any real estate, building, furnishing and equip-
22 ment and to pledge a sufficient amount of revenue within
23 the constitutional limitations and within the limitations as
24 provided by general law, to pay the principal of the bonds
25 and the interest thereon, within a period not to exceed
26 thirty years. Such court is further authorized and empow-
27 ered to do and perform any and all acts and make all con-
28 tracts necessary to effectuate the general purpose of
29 this act, including the acquisition, by original grant, gift,

30 condemnation, or other lawful means of real estate, and
31 of all necessary permits, easements and other rights in
32 real estate, and title to and possession thereof, or to make
33 any purchase and acquisition with the money borrowed,
34 as provided in this act.

35 The commission shall have authority, and is em-
36 powered, to make contracts, agreements and covenants
37 between it and the United States government, or the
38 public works administration, or other governmental
39 agency, or bank, or financial institution, or individual, or
40 persons for the loan of funds to the commission, and
41 securing payment thereof as they may be able to effectuate,
42 subject only to this limitation, that the bonds issued,
43 or given as security thereof, shall be payable out of the
44 levies now provided for by general law and by this act;
45 to be levied by the commission in and for the county;
46 to acquire needed real estate, to construct, equip, furnish
47 and maintain a courthouse, hospital, other public build-
48 ings or jail including a regional correctional center for
49 either adult or youth offenders which is developed jointly
50 by one or more counties, and to make and enter into
51 contracts, and to do and perform all acts as may be
52 necessary for the construction, equipment, operation and
53 maintenance of the courthouse, hospital, either buildings,
54 jail or correctional center, subject to any burdens, restric-
55 tions and encumbrances as it may be necessary to incur
56 and bear, in securing the bonds and the real estate con-
57 struction, equipment and maintenance.

58 Bonds issued hereunder shall be exempt from taxation
59 by the state of West Virginia, or any county therein, or
60 any district or municipality thereof.

**§7-3-7a. Bonds for construction or renovation of county jail
or regional correctional center.**

1 The county commissions of the several counties are
2 hereby authorized to issue revenue bonds for the purpose
3 of constructing, reconstructing and renovating any jail
4 facility used for county prisoners or a regional correc-
5 tional center for either adult or youth offenders which
6 is developed jointly by one or more counties; and for
7 the purpose of retiring the bonds, the county commission
8 may pledge for a period not to exceed twenty years, the

9 funds available to the county under the provisions of
10 section fifteen, article five of this chapter.

§7-3-8. Creation and enforcement of lien of bondholders.

1 There shall be and there is hereby created a statutory
2 mortgage lien upon the real estate, buildings and prop-
3 erty acquired, constructed or built from the proceeds of
4 bonds authorized to be issued under this act, which shall
5 exist in favor of the holder of the bonds, and each of
6 them, and to and in favor of the holder of the interest
7 coupons attached to the bonds, and the courthouse,
8 hospital, other public buildings, or jail or regional cor-
9 rectional center, and the real estate so acquired and used
10 for and in connection therewith, shall remain subject
11 to the statutory mortgage lien until payment in full of
12 the principal and interest of the bonds. Any holder of
13 bonds issued under the provisions of this act, or the
14 holder of any coupons representing interest accrued
15 thereon, may, either at law or in equity, enforce the
16 statutory mortgage lien hereby created and conferred,
17 and may, by proper suit, compel the performance of the
18 duties of the officials of the commission as set forth in
19 this act. If there be default in the payment of the prin-
20 cipal of or interest upon any of the bonds, any court
21 having jurisdiction in any proper action may appoint a
22 receiver to administer the property on behalf of the
23 court with power to charge and collect rents or income
24 sufficient to provide for the payment of the bonds and
25 interest thereon, and for the payment of the operating
26 expenses, and to apply the income, rents or other revenue
27 in conformity with this act and the order providing for
28 the issuance of the bonds.

§7-3-9. Form and payment of bonds; use of proceeds of bonds.

1 Any county commission issuing revenue bonds under
2 the provisions of this article shall thereafter, so long
3 as any such bonds remain outstanding, operate and main-
4 tain said courthouse, hospital, other public buildings, jail
5 or regional correctional center, to provide revenues suf-
6 ficient to pay all operating costs, provide a sinking fund
7 for, and to retire such bonds and pay the interest thereon
8 as the same may become due. The amounts, as and when

9 so set apart by said county commission, shall be remitted
10 to the West Virginia municipal bond commission at least
11 thirty days previous to the time interest or principal pay-
12 ments become due, to be retained and paid out by
13 said commission consistent with the provisions of this
14 article and with the order pursuant to which the bonds
15 have been issued. The West Virginia municipal bond
16 commission is hereby authorized to act as fiscal agent
17 for the administration of such sinking fund under any
18 order passed pursuant to the provisions of this article,
19 and shall invest all sinking funds, as provided by general
20 law. Revenue bonds issued under the provisions of this
21 article are hereby declared to be and to have all the
22 qualities of negotiable instruments. Such bonds shall bear
23 interest at the rate set by the county commission, pay-
24 able semiannually, and shall mature at any time fixed
25 by the county commission, in not more than thirty years
26 from their date. Such bonds shall be sold at a price not
27 lower than a price which, when computed upon standard
28 tables of bond values, will show a net return of not
29 more than the interest rate set by the county commission
30 to the purchaser upon the amount paid therefor. Such
31 bonds may be made redeemable at the option of the
32 county commission at such price and under terms and
33 conditions as said county commission may fix, by its order,
34 prior to the issuance of such bonds. Revenue bonds is-
35 sued hereunder shall be payable at the office of the state
36 treasurer, or a designated bank located either in New
37 York City or in the state of West Virginia.

38 In case any of the officers whose signatures appear
39 on such bonds or coupons shall cease to be such officers
40 before the delivery of such bonds, such signatures shall,
41 nevertheless, be valid and sufficient for all purposes the
42 same as if they had remained in office until such delivery.
43 The county commission shall by order entered prior to
44 the issuance of said bonds, fix the denominations, times
45 and places of payment of such bonds, the principal and
46 interest of which shall be payable in lawful money of
47 the United States of America. The proceeds of such
48 bonds shall be used solely for the payment of the cost
49 of land, buildings, furniture and equipment thereon, and

50 shall be checked out by the county commission under such
51 restrictions as are contained in the order providing for the
52 issuance of said bonds. If the proceeds of such bonds
53 issued for any courthouse, hospital, other public build-
54 ings, jail or regional correctional center, shall exceed
55 the cost thereof, the surplus shall be paid into the fund
56 herein provided for the payment of principal and inter-
57 est upon such bonds. Such fund may be used for the pur-
58 chase or redemption of any of the outstanding bonds pay-
59 able from such fund at the market price, but at not ex-
60 ceeding the price at which any of such bonds shall in the
61 same year be redeemable, as fixed by the commission in its
62 said order, and all bonds redeemed or purchased shall
63 forthwith be canceled, and shall not again be issued.

64 Prior to the preparation of definitive bonds, the county
65 commission may, under like restrictions, issue temporary
66 bonds, or interim certificates, with or without coupons,
67 exchangeable for definitive bonds upon the issuance of
68 the latter. Such bonds may be issued without any other
69 proceedings or the happening of any other conditions or
70 things than those proceedings, conditions and things
71 which are specified and required by this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Charles C. Johnston Jr.
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Joel C. Willis
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

H. G. Bolden Jr.
President of the Senate

Clayton N. Lee Jr.
Speaker House of Delegates

The within is approved this the 26
day of March, 1980.

John R. Roper
Governor



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OFFICE OF THE GOVERNOR

WILLIAM A. WELLS

GOVERNOR

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OFFICE OF THE GOVERNOR

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