

770: 213

WEST VIRGINIA LEGISLATURE

SECOND EXTRAORDINARY SESSION, 1986

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ENROLLED

HOUSE BILL No. 213

(By ~~Mr~~ *Del Farley + Del Hutchinson*)

— ● —

Passed *Sept. 9,* 1986

In Effect *Ninety Days From* Passage

ENROLLED
H. B. 213

(By DELEGATE FARLEY AND DELEGATE HUTCHINSON)

[Passed September 9, 1986; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article twenty, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article twenty by adding thereto a new section, designated section five-b, relating to the borrowing of money by the West Virginia regional jail authority from the consolidated fund established under the provisions of subsection (b), section eight, article six, chapter twelve of the code.

Be it enacted by the Legislature of West Virginia:

That section five, article twenty, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article twenty be further amended by adding thereto a new section, designated section five-b, all to read as follows:

**ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND PRISON
AUTHORITY.**

**§31-20-5. Powers and duties of the authority; bidding
procedures.**

1 The regional jail and prison authority shall complete
2 a comprehensive study of all prison and jail facilities in
3 the state of West Virginia no later than the first day of
4 July, one thousand nine hundred eighty-six. This study
5 shall include an assessment of the physical conditions of
6 confinement within the institutions and the relative need
7 for the institutions when considering other available
8 institutions of confinement located within the state.

9 After completing this study, the authority shall
10 submit a plan to the governor on the establishment of
11 regional jails in this state and the acquisition, construc-
12 tion or renovation of facilities for prisons. The authority
13 shall specify groups of counties within the state to be
14 formed into regions for the establishment of such
15 regional jails. Within each region a local jail commission
16 shall be established and have the powers and duties as
17 set forth in section six of this article.

18 The authority shall consider, but not be limited to, the
19 following when creating the plan establishing regions:

20 (1) The relative physical condition of the prisons and
21 jail facilities located within the state;

22 (2) The transportation costs associated with the
23 establishment of centralized jail services including, but
24 not limited to, the costs of transporting persons incar-
25 cerated in regional jails to court appearances, to
26 interviews with their attorneys and to have visitation
27 with their families and friends, all in any county seat
28 of a county served by the regional facility;

29 (3) The availability of medical services and educa-
30 tional and recreational opportunities;

31 (4) Information received from public hearings;

32 (5) The relative efficiency in the cost of jail services
33 caused by establishment of regional jail facilities;

34 (6) Available facilities which may be used as regional
35 jails or prisons including, but not limited to, existing
36 county and state owned properties;

37 (7) The cost of acquiring, constructing, renovating,
38 operating and maintaining local jail facilities for use as
39 local holding facilities in each county and regional jail
40 facilities for each county and the financing provided by
41 this article;

42 (8) The leasing of any available portion of any
43 regional jail space and the leasing of available facilities
44 of any regional jail to the West Virginia department of
45 corrections for the keeping and detaining of prisoners
46 sentenced to serve terms of incarceration under the

47 custody of the West Virginia department of corrections
48 for nonviolent crimes and to contract with the depart-
49 ment of corrections for the providing of food, clothing,
50 shelter and any and all incidental costs in the care,
51 control and maintenance of such prisoners: *Provided,*
52 That such leasing does not restrict space or facilities
53 needed for the detention of county prisoners;

54 (9) The advisability and cost effectiveness of acquir-
55 ing, constructing, renovating, operating and maintain-
56 ing work farms serving one or more counties or regions;
57 and

58 (10) The proximity of possible sites for the regional
59 jail facilities to residential areas, schools, churches and
60 other public buildings and facilities.

61 Public hearings pursuant to this section shall be held
62 by the authority in convenient locations throughout the
63 state. No less than ten public hearings shall be held for
64 public comment on the establishment of regional jails.
65 The authority shall cause to be published at least two
66 weeks in advance of a hearing a Class II-0 legal
67 advertisement, as provided in section two, article three,
68 chapter fifty-nine of this code, setting forth the reason
69 for the hearing and the time, place and date thereof. The
70 publication area shall be each county which may be
71 included in a region for the purposes of a regional jail
72 with the county in which the public hearing is held.

73 In addition to the hearing requirements above, before
74 beginning construction of a new facility for use as a
75 regional jail or prison facility or before beginning
76 renovation or acquisition of an existing facility for use
77 as a regional jail facility, which existing facility is not
78 already a jail, prison or secure facility for the detention
79 of juveniles or persons otherwise involuntarily commit-
80 ted or confined, the authority shall hold a hearing for
81 comment by all members of the public on all aspects
82 relating to the advisability of the use of the site for that
83 regional jail facility. The authority shall promulgate
84 rules and regulations pursuant to chapter twenty-nine-
85 a of this code for the requirements for notice and other
86 procedures of said public hearings which requirements

87 shall be as similar as practicable to those hearings
88 conducted regarding the construction of bridges by the
89 West Virginia department of highways.

90 The authority, as a public corporation and governmen-
91 tal instrumentality exercising public powers of the state,
92 may exercise all powers necessary or appropriate to
93 carry out the purposes of this article, including, but not
94 limited to, the power:

95 (a) To acquire, own, hold and dispose of property, real
96 and personal, tangible and intangible.

97 (b) To lease property, whether as lessee or lessor.

98 (c) To mortgage or otherwise grant security interests
99 in its property.

100 (d) To conduct examinations and investigations and to
101 hear testimony and take proof, under oath or affirma-
102 tion at public or private hearings, on any matter
103 relevant to this article and necessary for information on
104 the construction or renovation of any correctional
105 facility or the establishment of any prison industries
106 project.

107 (e) To issue subpoenas requiring the attendance of
108 witnesses and the production of books and papers
109 relevant to any hearing before such authority or one or
110 more members appointed by it to conduct any hearing.

111 (f) To apply to the circuit court having venue of such
112 offense to have punished for contempt any witness who
113 refuses to obey a subpoena to be sworn or affirmed, or
114 to testify or who commits any contempt after being
115 summoned to appear.

116 (g) To sue and be sued, implead and be impleaded,
117 and complain and defend in any court.

118 (h) To adopt, use and alter at will a corporate seal.

119 (i) To make bylaws for the management and regula-
120 tion of its affairs pursuant to article three, chapter
121 twenty-nine-a of this code.

122 (j) To appoint officers, agents and employees.

123 (k) To make contracts of every kind and nature and
124 to execute all instruments necessary or convenient for
125 carrying on its business.

126 (l) Without in any way limiting any other subdivision
127 of this section, to accept grants from and enter into
128 contracts and other transactions with any federal
129 agency.

130 (m) To borrow money and to issue its negotiable
131 bonds, security interests or notes and to provide for and
132 secure the payment thereof, and to provide for the rights
133 of the holders thereof, and to purchase, hold and dispose
134 of any of its bonds, security interests or notes: *Provided,*
135 That no bond or other obligation, except for loans for
136 the seven facilities provided for under the provisions of
137 section five-b of this article, may be issued or incurred
138 unless and until the Legislature by concurrent resolu-
139 tion has approved the purpose and amount of each
140 project for which proceeds from the issuance of such
141 bond or other obligation will be used: *Provided, however,*
142 That the authorization for loans under the provisions of
143 section five-b of this article is in lieu of the issuance of
144 bonds as authorized by this section, and any provision
145 of this code to the contrary notwithstanding, or any
146 authorizing language contained in any concurrent
147 resolution of the Legislature to the contrary notwith-
148 standing, the authority shall not issue bonds as herein
149 provided until and after the first day of July, one
150 thousand nine hundred eighty-seven.

151 (n) To sell at public or private sale any bond or other
152 negotiable instrument, security interest or obligation of
153 the authority in such manner and upon such terms as
154 the authority considers would best serve the purposes of
155 this article.

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

162 (1) The payment, funding or refunding of the princi-

163 pal of, interest on or redemption premiums on, any
164 bonds, security interests or notes issued by it whether
165 the bonds, security interests, notes or interest to be
166 funded or refunded have or have not become due.

167 (2) The establishment or increase of reserves to secure
168 or to pay bonds, security interests, notes or the interest
169 thereon and all other costs or expenses of the authority
170 incident to and necessary or convenient to carry out its
171 corporate purposes and powers. Any bonds, security
172 interests or notes may be additionally secured by a
173 pledge of any revenues, funds, assets or moneys of the
174 authority from any source whatsoever.

175 (p) To issue renewal notes or security interests, to
176 issue bonds to pay notes or security interests and,
177 whenever it considers refunding expedient, to refund
178 any bonds by the issuance of new bonds, whether the
179 bonds to be refunded have or have not matured except
180 that no such renewal notes shall be issued to mature
181 more than ten years from date of issuance of the notes
182 renewed and no such refunding bonds may be issued to
183 mature more than twenty-five years from the date of
184 issuance.

185 (q) To apply the proceeds from the sale of renewal
186 notes, security interests or refunding bonds to the
187 purchase, redemption or payment of the notes, security
188 interests or bonds to be refunded.

189 (r) To borrow money from the consolidated fund
190 established by the provisions of subsection (b), section
191 eight, article six, chapter twelve of this code, in
192 accordance with the provisions of section five-b of this
193 article.

194 (s) To accept gifts or grants of property, funds,
195 security interests, money, materials, labor, supplies or
196 services from the United States of America or from any
197 governmental unit or any person, firm or corporation,
198 and to carry out the terms or provisions of, or make
199 agreements with respect to, or pledge, any gifts or
200 grants, and to do any and all things necessary, useful,
201 desirable or convenient in connection with the procur-
202 ing, acceptance or disposition of gifts or grants.

203 (t) To the extent permitted under its contracts with
204 the holders of bonds, security interests or notes of the
205 authority, to consent to any modification of the rate of
206 interest, time of payment of any installment of principal
207 or interest, security or any other term of any bond,
208 security interest, note or contract or agreement of any
209 kind to which the authority is a party.

210 (u) To sell security interests in the loan portfolio of the
211 authority. Such security interests shall be evidenced by
212 instruments issued by the authority. Proceeds from the
213 sale of security interests may be issued in the same
214 manner and for the same purposes as bond and note
215 revenues.

216 (v) To promulgate rules and regulations, in accor-
217 dance with the provisions of chapter twenty-nine-a of
218 this code, to implement and make effective the powers,
219 duties and responsibilities invested in the authority by
220 the provisions of this article and otherwise by law.

221 (w) To assume the responsibility for operation and
222 management of regional jail facilities under the jurisdic-
223 tion of the state regional jail and prison authority
224 including the transportation of persons incarcerated
225 therein for all required purposes including, but not
226 limited to, court appearances and reasonable interviews
227 with their attorney or visitation with their family and
228 friends, all in the county seat of any county served by
229 the regional facility.

230 (x) To exercise all power and authority provided in
231 this article necessary and convenient to plan, finance,
232 construct, renovate, maintain and operate prisons after
233 first providing for regional jail facilities.

**§31-20-5b. Authority of the West Virginia board of
investments to make interest-bearing loans
to the West Virginia regional jail authority.**

1 (a) The West Virginia board of investments as
2 heretofore created and constituted under the provisions
3 of article six, chapter twelve of this code, shall be ex
4 officio a board of investments for state and local
5 government funds in the consolidated fund established

6 under the provisions of subsection (b), section eight,
7 article six, chapter twelve of this code as they are made
8 available for borrowing by the West Virginia regional
9 jail authority in accordance with the provisions of this
10 section, and as such, the board of investments may
11 exercise all of the powers and functions granted to it
12 pursuant to the provisions of said article six in carrying
13 out the duties assigned to it under the provisions of this
14 section.

15 (b) Subject to the provisions of this section, the board
16 of investments, on such terms and conditions as it deems
17 appropriate, may invest moneys, securities and other
18 assets of the consolidated fund in the form of interest-
19 bearing loans to the regional jail authority for the
20 purpose of constructing a new facility for use as a
21 regional jail or prison facility or for the renovation or
22 acquisition of an existing facility for use as a regional
23 jail or prison facility.

24 (c) The terms of a loan made pursuant to the provi-
25 sions of subsection (b) of this section shall provide that
26 the loan is made upon the following findings of the
27 board of investments:

28 (1) That the prospective payments and appropriations
29 to the regional jail authority, together with the charac-
30 ter and value of any security pledged, furnish reasona-
31 ble assurance of repayment of the loan in accordance
32 with its terms;

33 (2) That the loan will bear interest at a rate deter-
34 mined by the board of investments to be reasonable,
35 taking into account the current average yield on
36 outstanding investments of the board of investments of
37 the state and local funds in the consolidated fund
38 established under the provisions of subsection (b),
39 section eight, article six, chapter twelve of this code.

40 (d) The authority of the board of investments to make
41 loans under the provisions of this article shall not at any
42 time exceed thirty-five million dollars in the aggregate
43 principal amount outstanding, nor shall it be used to
44 finance the construction or renovation of more than
45 seven facilities.

46 (e) Loans made under the provisions of this article
47 shall be payable in full not later than twenty-five years
48 from the date the loans are made.

49 (f) The board of investments shall require security for
50 the loans to be made under this article at the time the
51 commitment is made. Any commitment to make a loan
52 under the provisions of this article shall contain all of
53 the affirmative and negative covenants and other
54 protective provisions that the board of investments
55 determines are appropriate.

56 (g) The board of investments shall submit to the
57 Legislature annually a full report of its activities under
58 this section which it engaged in during any fiscal year
59 when any loan made under the provisions of this section
60 was outstanding.

61 (h) At any time an application for a loan under this
62 section is pending or a loan under this section is
63 outstanding, the board of investments is authorized to
64 inspect and copy all accounts, books, records, memo-
65 randa, correspondence, and other documents and
66 transactions of the regional jail authority. The
67 legislative auditor shall make such audits as may be
68 deemed appropriate by the President of the Senate and
69 the Speaker of the House of Delegates of all accounts,
70 books, records, memoranda, correspondence, and other
71 documents and transactions of the regional jail author-
72 ity. The legislative auditor shall report the results of all
73 such audits to the Legislature.

74 (i) The authority of the board of investments to make
75 loans under the provisions of this section shall expire on
76 the first day of July, one thousand nine hundred eighty-
77 seven.

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

Bruce O. Williams
.....
Chairman Senate Committee

Floyd Fuller
.....
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Todd C. Wells
.....
Clerk of the Senate

Donald J. Kopp
.....
Clerk of the House of Delegates

Dan Tomlin
.....
President of the Senate

Joseph P. Allright
.....
Speaker of the House of Delegates

The within *approved* this the *25th*
day of *September* 1986.
Richard Rouseff
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 9/12/86

Time 3:06 p.m.

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