WEST VIRGINIA LEGISLATURE
SECOND EXTRAORDINARY SESSION, 1986

ENROLLED

HOUSE BILL No. 213

(By Del. Farley and 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 a comprehensive study of all prison and jail facilities in the state of West Virginia no later than the first day of July, one thousand nine hundred eighty-six. This study shall include an assessment of the physical conditions of confinement within the institutions and the relative need for the institutions when considering other available institutions of confinement located within the state.
After completing this study, the authority shall submit a plan to the governor on the establishment of regional jails in this state and the acquisition, construction or renovation of facilities for prisons. The authority shall specify groups of counties within the state to be formed into regions for the establishment of such regional jails. Within each region a local jail commission shall be established and have the powers and duties as set forth in section six of this article.

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

1. The relative physical condition of the prisons and jail facilities located within the state;

2. The transportation costs associated with the establishment of centralized jail services including, but not limited to, the costs of transporting persons incarcerated in regional jails to court appearances, to interviews with their attorneys and to have visitation with their families and friends, all in any county seat of a county served by the regional facility;

3. The availability of medical services and educational and recreational opportunities;

4. Information received from public hearings;

5. The relative efficiency in the cost of jail services caused by establishment of regional jail facilities;

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

7. The cost of acquiring, constructing, renovating, operating and maintaining local jail facilities for use as local holding facilities in each county and regional jail facilities for each county and the financing provided by this article;

8. The leasing of any available portion of any regional jail space and the leasing of available facilities of any regional jail to the West Virginia department of corrections for the keeping and detaining of prisoners sentenced to serve terms of incarceration under the
custody of the West Virginia department of corrections
for nonviolent crimes and to contract with the depart-
ment of corrections for the providing of food, clothing,
shelter and any and all incidental costs in the care,
control and maintenance of such prisoners: Provided,
That such leasing does not restrict space or facilities
needed for the detention of county prisoners;

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

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

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

In addition to the hearing requirements above, before
beginning construction of a new facility for use as a
regional jail or prison facility or before beginning
renovation or acquisition of an existing facility for use
as a regional jail facility, which existing facility is not
already a jail, prison or secure facility for the detention
of juveniles or persons otherwise involuntarily commit-
ted or confined, the authority shall hold a hearing for
comment by all members of the public on all aspects
relating to the advisability of the use of the site for that
regional jail facility. The authority shall promulgate
rules and regulations pursuant to chapter twenty-nine-
a of this code for the requirements for notice and other
procedures of said public hearings which requirements
shall be as similar as practicable to those hearings conducted regarding the construction of bridges by the West Virginia department of highways.

The authority, as a public corporation and governmental instrumentality exercising public powers of the state, may exercise all powers necessary or appropriate to carry out the purposes of this article, including, but not limited to, the power:

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

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

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

(d) To conduct examinations and investigations and to hear testimony and take proof, under oath or affirmation at public or private hearings, on any matter relevant to this article and necessary for information on the construction or renovation of any correctional facility or the establishment of any prison industries project.

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

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

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

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

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

(j) To appoint officers, agents and employees.
(k) To make contracts of every kind and nature and
to execute all instruments necessary or convenient for
carrying on its business.

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

(m) 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: Provided,
That no bond or other obligation, except for loans for
the seven facilities provided for under the provisions of
section five-b of this article, may be issued or incurred
unless and until the Legislature by concurrent resolu-
tion has approved the purpose and amount of each
project for which proceeds from the issuance of such
bond or other obligation will be used: Provided, however,
That the authorization for loans under the provisions of
section five-b of this article is in lieu of the issuance of
bonds as authorized by this section, and any provision
of this code to the contrary notwithstanding, or any
authorizing language contained in any concurrent
resolution of the Legislature to the contrary notwith-
standing, the authority shall not issue bonds as herein
provided until and after the first day of July, one
thousand nine hundred eighty-seven.

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

(o) 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 such
principal amounts as it considers necessary to provide
funds for any purposes under this article, including:

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

(2) 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 authority
incident to and necessary or convenient to carry out its
corporate 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.

(p) 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
that no such renewal notes shall be issued to mature
more than ten years from date of issuance of the notes
renewed and no such refunding bonds may be issued to
mature more than twenty-five years from the date of
issuance.

(q) 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.

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

(s) To accept gifts or grants of property, funds,
security interests, money, materials, labor, supplies or
services from the United States of America or from any
governmental unit or any person, firm or corporation,
and to carry out the terms or provisions of, or make
agreements with respect to, or pledge, any gifts or
grants, and to do any and all things necessary, useful,
desirable or convenient in connection with the procur-
ing, acceptance or disposition of gifts or grants.
(t) To the extent permitted under its contracts with the holders of bonds, security interests or notes of the authority, to 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.

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

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

(w) To assume the responsibility for operation and management of regional jail facilities under the jurisdiction of the state regional jail and prison authority including the transportation of persons incarcerated therein for all required purposes including, but not limited to, court appearances and reasonable interviews with their attorney or visitation with their family and friends, all in the county seat of any county served by the regional facility.

(x) To exercise all power and authority provided in this article necessary and convenient to plan, finance, construct, renovate, maintain and operate prisons after 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.

(a) The West Virginia board of investments as heretofore created and constituted under the provisions of article six, chapter twelve of this code, shall be ex officio a board of investments for state and local government funds in the consolidated fund established
under the provisions of subsection (b), section eight, article six, chapter twelve of this code as they are made available for borrowing by the West Virginia regional jail authority in accordance with the provisions of this section, and as such, the board of investments may exercise all of the powers and functions granted to it pursuant to the provisions of said article six in carrying out the duties assigned to it under the provisions of this section.

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

(c) The terms of a loan made pursuant to the provisions of subsection (b) of this section shall provide that the loan is made upon the following findings of the board of investments:

(1) That the prospective payments and appropriations to the regional jail authority, together with the character and value of any security pledged, furnish reasonable assurance of repayment of the loan in accordance with its terms;

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

(d) The authority of the board of investments to make loans under the provisions of this article shall not at any time exceed thirty-five million dollars in the aggregate principal amount outstanding, nor shall it be used to finance the construction or renovation of more than seven facilities.
(e) Loans made under the provisions of this article shall be payable in full not later than twenty-five years from the date the loans are made.

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

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

(h) At any time an application for a loan under this section is pending or a loan under this section is outstanding, the board of investments is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents and transactions of the regional jail authority. The legislative auditor shall make such audits as may be deemed appropriate by the President of the Senate and the Speaker of the House of Delegates of all accounts, books, records, memoranda, correspondence, and other documents and transactions of the regional jail authority. The legislative auditor shall report the results of all such audits to the Legislature.

(i) The authority of the board of investments to make loans under the provisions of this section shall expire on the first day of July, one thousand nine hundred eighty-seven.
Enr. H. B. 213]

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

Bruce C. Wilkinson
Chairman Senate Committee

Floyd Fuller
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Todd C. Wilcher
Clerk of the Senate

Donald J. Kepp
Clerk of the House of Delegates

Dan Tomlin
President of the Senate

Joseph P. Allegher
Speaker of the House of Delegates

The within is approved this the 25th day of September, 1986.

Arch A. Shane, Jr.
Governor