WEST VIRGINIA LEGISLATURE
SIXTH EXTRAORDINARY SESSION, 2001

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ENROLLED

House Bill No. 608
(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]

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Passed December 1, 2001
In Effect from Passage
AN ACT to amend and reenact section ten, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section six-b, article fifteen, chapter thirty-one of said code; to amend and reenact section two, article twenty of said chapter; and to amend and reenact section fourteen, article three, chapter thirty-three of said code, all relating generally to the improvement, construction, acquisition, leasing and permanent financing of regional jail facilities, correctional facilities, juvenile facilities and state police facilities; authorizing the superintendent of state police to provide for facilities necessary or useful for the effective operation of the West Virginia state police; providing legislative findings and declarations; authorizing the economic development authority to issue certain bonds; providing purposes for expenditure of bond proceeds; providing limitations on maturity dates and total amount of bonds issued; providing for allocation, priority and conditions of expenditure of bond proceeds; authorizing the economic development authority to lease certain facilities;
providing definitions of certain juvenile facilities; removing
certain provisions relating to the establishment, funding and
administration of a debt service fund and the lien on its funding
source; and providing for the transfer of certain income tax fund
amounts as appropriated by the Legislature.

Be it enacted by the Legislature of West Virginia:

That section ten, article two, chapter fifteen of the code of West
Virginia, one thousand nine hundred thirty-one, as amended, be
amended and reenacted; that section six-b, article fifteen, chapter
thirty-one of said code be amended and reenacted; that section two,
article twenty of said chapter be amended and reenacted; and that
section fourteen, article three, chapter thirty-three of said code be
amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-10. Uniforms; authorized equipment, weapons and sup­
plies; local headquarters; quarters for members; life insurance; medical and hospital fees for
injuries and illnesses of members incurred in line
of duty.

(a) The standard uniform to be used by the West Virginia
state police after the effective date of this article shall be as
follows: Forestry green blouse with West Virginia state police
emblem on sleeve; black shoulder strap, one-inch black stripe
around sleeve, four inches from end of sleeve; forestry green
breeches with one-inch black stripe down the side; trousers
(slacks) with one-inch black stripe down the side for officers
and clerks regularly enlisted in the state police; forestry green
shirts with West Virginia state police emblem on sleeve; black
shoulder straps; forestry green mackinaw with West Virginia
state police emblem on sleeve; black shoulder straps; one-inch
black stripe around sleeve four inches from end of sleeve; campaign hat of olive drab color; black Sam Browne belt with holster; black leggings and shoes; the officer's uniform will have one and one-quarter inch black stripe around the sleeve of blouse and mackinaw four inches from end of sleeve circumposed with one-half inch gold braid, also black collars on blouse, with two silver shoulder bars for captains, one silver shoulder bar for first lieutenant, one gold shoulder bar for second lieutenant. For noncommissioned officers the uniform blouse and shirt will have thereon black chevrons of the appropriate rank.

(b) The superintendent shall establish the weapons and enforcement equipment which shall be authorized for use by members of the state police, and shall provide for periodic inspection of such weapons and equipment. He shall provide for the discipline of members using other than authorized weapons and enforcement equipment.

(c) The superintendent shall provide the members of the state police with suitable arms and weapons, and, when he deems it necessary, with suitably equipped automobiles, motorcycles, watercraft, airplanes and other means of conveyance, to be used by the West Virginia state police, the governor, and other officers and executives in the discretion of the governor, in times of flood, disaster and other emergencies, for traffic study and control, criminal and safety work, and in other matters of official business. He shall also provide the standard uniforms for all members of the state police, for officers, noncommissioned officers and troopers herein provided for. All uniforms and all arms, weapons and other property furnished the members of the state police by the state of West Virginia shall be and remain the property of the state.

(d) The superintendent is authorized to purchase and maintain on behalf of members group life insurance not to
(e) The superintendent is authorized to contract and furnish at state police expense medical and hospital services for treatment of illness or injury of a member which shall be determined by the superintendent to have been incurred by such member while engaged in the performance of duty and from causes beyond control of such members. Notwithstanding any other provision of this code, the superintendent shall have the right of subrogation in any civil action or settlement brought by or on behalf of a member in relation to any act by another which results in the illness, injury or death of a member. To this end, the superintendent is hereby authorized to initiate such an action on behalf of the state police in order to recover the costs incurred in providing medical and hospital services for the treatment of a member resulting from injury or illness originating in the performance of official duties. This subsection shall not affect the power of a court to apply ordinary equitable defenses to the right of subrogation.

The superintendent is further empowered to consult with the commissioner of the bureau of employment programs in an effort to defray the cost of medical and hospital services. In no case will the compensation rendered to healthcare providers for medical and hospital services exceed the then current rate schedule in use by the bureau of employment programs, workers' compensation division.

Third-party reimbursements received by the superintendent after the expiration of the fiscal year in which the injury, illness or death occurred will be deposited to a nonexpiring special revenue account. Funds deposited to this account may be used solely for defraying the costs of medical or hospital services rendered to any sworn members as a direct result of an illness,
injury or death resulting from the performance of official duties.

(f) The superintendent shall establish and maintain local headquarters at such places in West Virginia as are in his judgment suitable and proper to render the West Virginia state police most efficient for the purpose of preserving the peace, protecting property, preventing crime, apprehending criminals and carrying into effect all other provisions of this article. The superintendent shall provide, by acquisition, lease or otherwise, for local headquarters, for housing and quarters for the accommodation of the members of the West Virginia state police, and for any other facilities necessary or useful for the effective operation of the West Virginia state police, and shall provide all equipment and supplies necessary for the members of the West Virginia state police to perform their duties.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§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.

1. (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 depart-
ments 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 previ-
ously 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 correc-
tional facility authority to finance the cost of capital improve-
ments 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 estab-
lished 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 adjust-
ment 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 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 sixteen million dollars.

(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 the first day of April, 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 eighty million dollars 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 eighty million dollars is necessary for those purposes, 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.

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-2. Definitions.

Unless the context indicates clearly otherwise, as used in this article:

(a) “Adjacent regional juvenile detention facility” means a facility constructed or maintained on property owned or controlled by the regional jail authority and designed (1) for the short term preadjudicatory detention of juveniles, for the confinement of juveniles who are awaiting transportation to or placement at another juvenile detention facility or juvenile correctional facility or who are awaiting trial as an adult pursuant to section ten, article five, chapter forty-nine of this code; or (2) for the court-ordered, short term placement of juveniles in a facility that is characterized by programmatic intervention and by staff restrictions of the movements and activities of juveniles placed there, that limits the juveniles’ access to the surrounding community and that is not characterized by construction fixtures designed to physically restrict the movements and activities of juveniles.
(b) "Authority" or "West Virginia Regional Jail Authority" means the West Virginia regional jail and correctional facility authority created by this article.

(c) "Board" means the governing body of the authority.

(d) "Bonds" means bonds of the authority issued under this article.

(e) "Cost of construction or renovation of a local jail facility, regional jail facility or juvenile facility" means the cost of all lands, water areas, property rights and easements, financing charges, interest prior to and during construction and for a period not exceeding six months following the completion of construction, equipment, engineering and legal services, plans, specifications and surveys, estimates of costs and other expenses necessary or incidental to determining the feasibility or practicability of any project, together with any other expenses necessary or incidental to the financing and the construction or renovation of the facilities and the placing of the facilities in operation.

(f) "County" means any county of this state.

(g) "Federal agency" means the United States of America and any department, corporation, agency or instrumentality created, designated or established by the United States of America.

(h) "Fund" or "funds" means a regional jail and correctional facility authority fund provided in section ten of this article, including those accounts that may be established by the authority for accurate accounting of the expenditure of public funds by that agency.
(i) "Government" means state and federal government, and any political subdivision, agency or instrumentality of the state or federal government, corporate or otherwise.

(j) "Inmate" means any adult person properly committed to a local or regional jail facility or a correctional facility.

(k) "Local jail facility" means any county facility for the confinement, custody, supervision or control of adult persons convicted of misdemeanors, awaiting trial or awaiting transportation to a state correctional facility.

(l) "Municipality" means any city, town or village in this state.

(m) "Notes" means any notes as defined in section one hundred four, article three, chapter forty-six of this code issued under this article by the authority.

(n) "Correctional facility" means any correctional facility, penitentiary or other correctional institution operated by the division of corrections for the incarceration of adults.

(o) "Regional jail facility" or "regional jail" means any facility operated by the authority and used jointly by two or more counties for the confinement, custody, supervision or control of adult persons convicted of misdemeanors or awaiting trial or awaiting transportation to a state correctional facility.

(p) "Revenues" means all fees, charges, moneys, profits, payments of principal of, or interest on, loans and other investments, grants, contributions and all other income received by the authority.

(q) "Security interest" means an interest in the loan portfolio of the authority which is secured by an underlying loan or loans and is evidenced by a note issued by the authority.
(r) "Work farm" has the same meaning as that term is used in section twelve, article eight, chapter seven of this code authorizing work farms for individual counties.

(s) "Juvenile detention facility" or "juvenile detention center" means a facility operated by the division of juvenile services (1) for the short term preadjudicatory detention of juveniles, for the confinement of juveniles who are awaiting transportation to or placement at another juvenile detention facility or juvenile correctional facility or who are awaiting trial as an adult pursuant to section ten, article five, chapter forty-nine of this code; or (2) for the court-ordered, short term placement of juveniles in a facility that is characterized by programmatic intervention and by staff restrictions of the movements and activities of juveniles placed there, that limits the juveniles' access to the surrounding community and that is not characterized by construction fixtures designed to physically restrict the movements and activities of juveniles.

(t) "Juvenile correctional facility" means a facility operated by the division of juvenile services (1) for the postdispositional confinement of juveniles adjudicated of offenses that would be criminal offenses if committed by an adult; or (2) for the court-ordered placement of juveniles in a facility that is characterized by programmatic intervention and by staff restrictions of the movements and activities of juveniles placed there, that limits the juveniles' access to the surrounding community and that is not characterized by construction fixtures designed to physically restrict the movements and activities of juveniles.

(u) "Juvenile facility" means an adjacent regional juvenile detention facility, a juvenile detention facility, a juvenile detention center or a juvenile correctional facility.

CHAPTER 33. INSURANCE.

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.
§33-3-14. Annual financial statement and premium tax return; remittance by insurer of premium tax, less certain deductions; special revenue fund created.

(a) Every insurer transacting insurance in West Virginia shall file with the commissioner, on or before the first day of March, each year, a financial statement made under oath of its president or secretary and on a form prescribed by the commissioner. The insurer shall also, on or before the first day of March of each year subject to the provisions of section fourteen-c of this article, under the oath of its president or secretary, make a premium tax return for the previous calendar year, on a form prescribed by the commissioner showing the gross amount of direct premiums, whether designated as a premium or by some other name, collected and received by it during the previous calendar year on policies covering risks resident, located or to be performed in this state and compute the amount of premium tax chargeable to it in accordance with the provisions of this article, deducting the amount of quarterly payments as required to be made pursuant to the provisions of section fourteen-c of this article, if any, less any adjustments to the gross amount of the direct premiums made during the calendar year, if any, and transmit with the return to the commissioner a remittance in full for the tax due. The tax is the sum equal to two percent of the taxable premium, and also includes any additional tax due under section fourteen-a of this article. All taxes received by the commissioner shall be paid into the insurance tax fund created in subsection (b) of this section.

(b) There is created in the state treasury a special revenue fund, administered by the treasurer, designated the "insurance tax fund." This fund is not part of the general revenue fund of the state. It consists of all amounts deposited in the fund pursuant to subsection (a) of this section, sections fifteen and seventeen of this article, any appropriations to the fund, all
interest earned from investment of the fund and any gifts, grants
or contributions received by the fund.

(c) The treasurer shall dedicate and transfer from the
insurance tax fund to the regional jail and correctional facility
investment fund created under the provisions of section twenty-
one, article six, chapter twelve of this code, on or before the
tenth day of each month, an amount equal to one twelfth of the
projected annual investment earnings to be paid and the capital
invested to be returned, as certified to the treasurer by the
investment management board: Provided, That the amount
dedicated and transferred may not exceed twenty million dollars
in any fiscal year. In the event there are insufficient funds
available in any month to transfer the amount required pursuant
to this subsection to the regional jail and correctional facility
investment fund, the deficiency shall be added to the amount
transferred in the next succeeding month in which revenues are
available to transfer the deficiency. Each month a lien on the
revenues generated from the insurance premium tax, the
annuity tax and the minimum tax, provided in this section and
sections fifteen and seventeen of this article, up to a maximum
amount equal to one twelfth of the projected annual principal
and return is granted to the investment management board to
secure the investment made with the regional jail and correc-
tional facility authority pursuant to section twenty, article six,
chapter twelve of this code. The treasurer shall, no later than the
last business day of each month, transfer amounts the treasurer
determines are not necessary for making refunds under this
article to meet the requirements of subsection (d), section
twenty-one, article six, chapter twelve of this code, to the credit
of the general revenue fund. Commencing on the first day of the
month following the month in which the investment created
under the provisions of section twenty-one, article six, chapter
twelve of this code, is returned to the investment management
board, the treasurer shall transfer all amounts deposited in the
insurance tax fund as appropriated by the Legislature.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 12th day of December, 2001.

Governor
PRESENTED TO THE
GOVERNOR
Date: 12/16/01
Time: 4:30 pm