WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013

ENROLLED

Senate Bill No. 331

(By Senators Kessler (Mr. President), Unger, Miller, Laird, D. Hall, Beach, Williams and Plymale)

[Passed April 12, 2013; in effect ninety days from passage.]
AN ACT to amend and reenact §29-26-2, §29-26-5 and §29-26-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto eight new sections, designated §29-26-7, §29-26-8, §29-26-9, §29-26-10, §29-26-11, §29-26-12, §29-26-13 and §29-26-14, all relating to providing the West Virginia Courthouse Facilities Improvement Authority with the ability to issue bonds to raise funds for paying the costs of approved modifications or construction of courthouse facilities; defining terms; adding bond-related activities to the powers of the authority; providing that moneys from the West Virginia Courthouse Facilities Improvement Fund may be disbursed for payment of debt service on bonds; authorizing the authority to issue bonds; setting circumstances for bond issuance and potential terms of bonds; authorizing repayment of debt; permitting bonds be secured by trust agreement and setting certain parameters; permitting refunding bonds; clarifying that bonds by the authority are not a pledge of faith and credit of the state, county, municipality or other subdivision of the state; declaring bonds issued as negotiable instruments under the Uniform Commercial Code; exempting all bonds by the authority, as well as interest and income thereon, from taxation by the state or any subdivision; declaring that certain individuals have no personal liability in relation to issuance of bonds; and granting cumulative authority for exercising certain powers, including if no bonds are issued by the authority.
Be it enacted by the Legislature of West Virginia:

That §29-26-2, §29-26-5 and §29-26-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto eight new sections, designated §29-26-7, §29-26-8, §29-26-9, §29-26-10, §29-26-11, §29-26-12, §29-26-13 and §29-26-14, all to read as follows:

ARTICLE 26. WEST VIRGINIA COURTHOUSE FACILITIES IMPROVEMENT AUTHORITY.

§29-26-2. Definitions.

The following terms, wherever used or referred to in this article, have the following meaning:

(a) "Approved modifications or construction of courthouse facilities" means any modification or construction of a courthouse facility which has been recommended for assistance by the authority according to the requirements of section four of this article;

(b) "Authority" means the West Virginia Courthouse Facilities Improvement Authority;

(c) "Bonds" means bonds, revenue bonds, notes or other debt instruments issued by the authority pursuant to this article, whether the interest thereon is taxable or tax exempt for federal income tax purposes;

(d) "Cost" means the cost of construction, renovation, repair and safety upgrading of courthouse facilities; the cost of land, equipment, machinery, furnishings, installation of utilities and other similar items convenient in connection with placing a courthouse facility in operation; and the cost of financing, interest during construction, professional service fees and all other charges or expenses necessary, appurtenant
or incidental to the modification or construction of a courthouse facility;

(e) "Courthouse facility" means buildings or structures, or any portion thereof, which are owned by the county or another governmental entity and occupied exclusively by offices of county and judicial officials or by courtrooms, county jails, detention centers, day report centers or other offices in which activities related to the operations of county governments take place; and

(f) "Refunding bonds" means bonds issued by the authority pursuant to this article to refund all, or any part of, bonds issued by the authority pursuant to this article.

§29-26-5. Powers of the authority.

In addition to the powers set forth elsewhere in this article, the authority may exercise the following powers when it considers the exercise of these powers necessary and appropriate to carry out and effectuate its responsibilities as defined by this article. The authority may:

(a) Employ an executive director and an executive assistant as may be necessary in the judgment of the authority and fix their compensation;

(b) Acquire, hold and dispose of real and personal property for its corporate purposes;

(c) Make bylaws for the management and rule of its affairs;

(d) Contract with and employ attorneys, bond counsel, accountants, underwriters, financial advisors, trustees, construction and financial experts, architects, engineers, managers and such other employees and agents that are
necessary in the judgment of the authority and fix their compensation;

(e) Make contracts and execute all instruments necessary or convenient to exercise the powers granted to it by this article;

(f) Renegotiate all contracts entered into by it whenever, due to a change in situation, it appears to the authority that its interests will be best served;

(g) Accept and expend any gift, grant, contribution, bequest or endowment of money to, or for the benefit of, the authority, from the State of West Virginia or any other source;

(h) Issue bonds from time to time, in accordance with the provisions of this article, to fulfill the purposes set forth in this article;

(i) Identify any alternative sources of funding, whether privately or publicly administered, and assist county applicants in the securing of alternative sources of funding; and

(j) Do all things necessary or convenient to carry out the powers given in this article.

§29-26-6. The Courthouse Facilities Improvement Fund.

(a) There is hereby created in the State Treasury a special revenue account to be known as the West Virginia Courthouse Facilities Improvement Fund. The West Virginia Courthouse Facilities Improvement Fund may receive any gifts, grants, contributions or other money from any source which is specifically designated for deposit in the fund.
(b) The authority shall undertake a study on the condition and state of need of every courthouse facility throughout the State of West Virginia, and shall determine the estimated cost of the improvements which are necessary to bring each facility into conformity with requirements outlined in this article.

(c) The moneys of the West Virginia Courthouse Facilities Improvement Fund shall be disbursed by the authority for the payment of debt service on bonds issued pursuant to the provisions of this article, funding of approved modifications or construction of courthouse facilities and to pay expenses of the authority in administering the provisions of this article.

(d) Any disbursements from the West Virginia Courthouse Facilities Improvement Fund allocated for approved modifications or construction of courthouse facilities may be made contingent upon local appropriations or gifts in money or in kind for the support of the modifications or construction.

(e) Nothing in this article may be construed to mandate funding for the West Virginia Courthouse Facilities Improvement Fund or to require any appropriation by the Legislature.

§29-26-7. West Virginia Courthouse Facilities Improvement Authority authorized to issue bonds and pay debt service on bonds with funds from West Virginia Courthouse Facilities Improvement Fund.

(a) The authority is expressly authorized to issue bonds and pay debt service on bonds pursuant to the provisions of this article with funds deposited into the West Virginia Courthouse Facilities Improvement Fund.
(b) The bonds shall be authorized to be issued by the authority pursuant to the provisions of this article, and shall be secured, shall bear such date and shall mature at such time, not exceeding thirty years from the date of issue, shall bear interest at such rate or rates, including variable rates, be in such denominations, be in such form, carry such registration privileges, be payable in such medium of payment and at such place or places and such time or times and be subject to such terms of redemption as the authority may authorize. The bonds of the authority may be sold by the authority, at public or private sale, at or not less than the price the authority determines. The bonds shall be executed by manual or facsimile signature by the chair of the authority and attested, manually or by facsimile signature, by the secretary of the board. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds ceases to be such officer before delivery of such bonds, such signature or facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office until such delivery.

(c) After the authority has issued bonds authorized by this article and after the requirements of debt service and all associated funds have been satisfied for the fiscal year for which moneys deposited in the West Virginia Courthouse Facilities Improvement Fund have been pledged, including coverage and reserve funds established in connection with the bonds issued pursuant to this article, any remaining balance in the West Virginia Courthouse Facilities Improvement Fund may be used by the authority in its discretion to fund approved modification or construction of courthouse facilities and to pay expenses of the authority in administering the provisions of this article, all in accordance with the provisions of this article, on a cash basis. All amounts deposited in the West Virginia Courthouse Facilities Improvement Fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any
bonds or refunding bonds authorized by the provisions of this article. The authority may further provide in any trust agreement for priorities on the funds deposited into the West Virginia Courthouse Facilities Improvement Fund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this article.

§29-26-8. Trustee for bondholders; contents of trust agreement; pledge or assignment of revenues and funds.

For bonds issued pursuant to the provisions of this article, in the discretion of the authority, any bonds, including refunding bonds issued by the authority, may be secured by a trust agreement between the authority and a corporate trustee, which trustee may be any bank or trust company within or without the state. Any such trust agreement may contain such binding covenants with the holders of such bonds as to any matter or provisions as are deemed necessary or advisable to the authority to enhance the marketability and security of such bonds and may also contain such other provisions with respect thereto as the authority may authorize and approve. Any resolution adopted by the authority or any trust agreement may contain a pledge or assignment of revenues to be received in connection with the financing.


Any bonds issued by the authority pursuant to the provisions of this article or any other provision of this code and at any time outstanding may at any time and from time to time be refunded by the authority by the issuance of its refunding bonds in such amount as it may deem necessary to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon, to provide additional funds for the purposes of the authority, and to pay any premiums and commissions necessary to be paid in connection
therewith. Any such refunding may be effected by whether
the bonds to be refunded have then matured or thereafter
mature, either by sale of the refunding bonds and the
application of the proceeds thereof for the redemption of the
bonds to be refunded thereby or by exchange of the refunding
bonds for the bonds to be refunded thereby. Such refunding
bonds shall be issued in conformance with the provisions of
this article related to issuance of bonds.

§29-26-10. Obligations of authority undertaken pursuant to this
article not debt of state, county, municipality or
any political subdivision.

(a) Bonds, including refunding bonds, issued under the
authority of this article and any other obligations undertaken
by the authority pursuant to this article, do not constitute a
debt or a pledge of the faith and credit or taxing power of this
state or of any county, municipality or any other political
subdivision of this state, and the holders and owners thereof
have no right to have taxes levied by the Legislature or the
taxing authority of any county, municipality or any other
political subdivision of this state for the payment of the
principal thereof or interest thereon, but such bonds and other
obligations are payable solely from the revenues and funds
pledged for their payment as authorized by this article unless
the bonds are refunded by refunding bonds issued under the
authority of this article, which bonds or refunding bonds shall
be payable solely from revenues and funds pledged for their
payment as authorized by this article.

(b) All such bonds, and all documents evidencing any
other obligation, shall contain on the face thereof a statement
to the effect that the bonds or such other obligation as to both
principal and interest are not debts of the state or any county,
municipality or political subdivision thereof, but are payable
solely from revenues and funds pledged for their payment as
authorized by this article.
§29-26-11. Negotiability of bonds issued pursuant to this article.

Whether or not the bonds issued pursuant to this article are of such form or character as to be negotiable instruments under the Uniform Commercial Code, such bonds are negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the bonds for registration.

§29-26-12. Exemption from taxation.

All bonds of the authority, and all interest and income thereon, are exempt from all taxation by this state and any county, municipality, political subdivision or agency thereof, except inheritance taxes.

§29-26-13. Personal liability; persons executing bonds issued pursuant to this article.

Neither the members or officers of the authority or of any authority, agency or office, nor any person executing the bonds issued pursuant to the provisions of this article, are liable personally on such bonds or subject to any personal liability or accountability by reason of the issuance thereof.

§29-26-14. Cumulative authority as to powers conferred; applicability of other statutes and charters; bonds issued pursuant to this article.

The provisions of this article relating to the issuance of bonds shall be construed as granting cumulative authority for the exercise of the various powers herein conferred, and neither the powers nor any bonds issued hereunder are affected or limited by any other statutory or charter provision now or hereafter in force, other than as may be provided in this article, it being the purpose and intention of this article to create full, separate and complete additional powers. The
9 various powers conferred herein may be exercised
10 independently and notwithstanding that no bonds are issued
11 hereunder.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days 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 disapproved this the 3rd Day of May, 2013.

Governor