

1 **Senate Bill No. 468**

2 (By Senators Kessler (Mr. President), Unger, Browning, Laird,  
3 Miller, Palumbo, Beach, Yost, Williams, Plymale, Klempa and  
4 McCabe)

5 \_\_\_\_\_  
6 [Introduced January 31, 2012; referred to the Committee on the  
7 Judiciary; and then to the Committee on Finance.]

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11 A BILL to amend and reenact §29-26-2, §29-26-5 and §29-26-6 of the  
12 Code of West Virginia, 1931, as amended; and to amend said  
13 code by adding thereto eight new sections, designated  
14 §29-26-7, §29-26-8, §29-26-9, §29-26-10, §29-26-11, §29-26-12,  
15 §29-26-13 and §29-26-14, all relating to providing the West  
16 Virginia Courthouse Facilities Improvement Authority with the  
17 ability to issue bonds to raise funds for paying the costs of  
18 approved modifications or construction of courthouse  
19 facilities.

20 *Be it enacted by the Legislature of West Virginia:*

21 That §29-26-2, §29-26-5 and §29-26-6 of the Code of West  
22 Virginia, 1931, as amended, be amended and reenacted; and that said  
23 code be amended by adding thereto eight new sections, designated  
24 §29-26-7, §29-26-8, §29-26-9, §29-26-10, §29-26-11, §29-26-12, §29-

1 26-13 and §29-26-14, all to read as follows:

2 **ARTICLE 26. WEST VIRGINIA COURTHOUSE FACILITIES IMPROVEMENT**  
3 **AUTHORITY.**

4 **§29-26-2. Definitions.**

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

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

11 (b) "Authority" means the West Virginia courthouse facilities  
12 improvement authority;

13 (c) "Bonds" means bonds or other debt instruments of the  
14 authority issued pursuant to this article, whether the interest  
15 thereon is taxable or tax-exempt for federal income tax purposes;

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

24 ~~(d)~~ (e) "Courthouse facility" means buildings or structures,

1 or any portion thereof, which are owned by the county and occupied  
2 exclusively by offices of county and judicial officials or by  
3 courtrooms, county jails or detention centers, day report centers,  
4 or other offices in which activities related to the operations of  
5 county governments take place; and

6 (f) "Refunding bonds" means bonds or other debt instruments of  
7 the authority issued pursuant to this article to refund all or any  
8 part of bonds or other debt instruments issued by the authority  
9 pursuant to this article.

10 **§29-26-5. Powers of the authority.**

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

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

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

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

22 (d) Contract with and employ attorneys, bond counsel,  
23 accountants, underwriters, financial advisors, trustees,  
24 construction and financial experts, architects, engineers, managers

1 and such other employees and agents that are necessary in the  
2 judgment of the authority and fix their compensation;

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

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

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

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

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

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

19 **§29-26-6. The courthouse facilities improvement fund.**

20 (a) There is hereby created in the State Treasury a special  
21 revenue account to be known as the "West Virginia Courthouse  
22 Facilities Improvement Fund." The West Virginia Courthouse  
23 Facilities Improvement Fund may receive any gifts, grants,  
24 contributions or other money from any source which is specifically

1 designated for deposit in the fund.

2       (b) The authority shall undertake a study on the condition and  
3 state of need of every courthouse facility throughout the State of  
4 West Virginia, and shall determine the estimated cost of the  
5 improvements which are necessary to bring each facility into  
6 conformity with requirements outlined in this article. ~~The~~  
7 ~~authority shall submit to the Legislature, on or before the first~~  
8 ~~day of January, two thousand two, a report which shall contain the~~  
9 ~~estimate of the cost, a plan for the financing of the cost, and an~~  
10 ~~estimated prioritized schedule for the implementation and financing~~  
11 ~~of the improvements to be made pursuant to the provisions of this~~  
12 ~~article.~~

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

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

24       (e) Nothing in this article may be construed to mandate

1 funding for the West Virginia Court Facilities Improvement Fund or  
2 to require any appropriation by the Legislature.

3 **§29-26-7. West Virginia Courthouse Facilities Improvement**  
4 **Authority authorized to issue bonds and pay debt**  
5 **service on bonds with funds from West Virginia**  
6 **Courthouse Facilities Improvement Fund.**

7 (a) The authority is expressly authorized to issue bonds and  
8 pay debt service on bonds pursuant to the provisions of this  
9 article with funds deposited into the West Virginia Courthouse  
10 Facilities Improvement Fund.

11 (b) The bonds shall be authorized by the authority pursuant to  
12 the provisions of this article, and shall be secured, shall bear  
13 such date and shall mature at such time, not exceeding thirty years  
14 from the date of issue, shall bear interest at such rate or rates,  
15 including variable rates, be in such denominations, be in such  
16 form, carry such registration privileges, be payable in such medium  
17 of payment and at such place or places and such time or times and  
18 be subject to such terms of redemption as the authority may  
19 authorize. The bonds of the authority may be sold by the  
20 authority, at public or private sale, at or not less than the price  
21 the authority determines. The bonds shall be executed by manual or  
22 facsimile signature by the chair of the authority and attested,  
23 manually or by facsimile signature, by the secretary of the board.

1 In case any officer whose signature, or a facsimile of whose  
2 signature, appears on any bonds, notes or coupons ceases to be such  
3 officer before delivery of such bonds or notes, such signature or  
4 facsimile is nevertheless sufficient for all purposes the same as  
5 if he or she had remained in office until such delivery.

6 (c) After the authority has issued bonds authorized by this  
7 article and after the requirements of debt service and all  
8 associated funds have been satisfied for the fiscal year for which  
9 moneys deposited in the West Virginia Courthouse Facilities  
10 Improvement Fund have been pledged, including coverage and reserve  
11 funds established in connection with the bonds issued pursuant to  
12 this article, any remaining balance in the West Virginia Courthouse  
13 Facilities Improvement Fund may be used by the authority in its  
14 discretion to fund approved modification or construction of  
15 courthouse facilities and to pay expenses of the authority in  
16 administering the provisions of this article, all in accordance  
17 with the provisions of this article, on a cash basis. All amounts  
18 deposited in the West Virginia Courthouse Facilities Improvement  
19 Fund shall be pledged to the repayment of the principal, interest  
20 and redemption premium, if any, on any bonds or refunding bonds  
21 authorized by the provisions of this article. The authority may  
22 further provide in any trust agreement for priorities on the funds  
23 deposited into the West Virginia Courthouse Facilities Improvement  
24 Fund as may be necessary for the protection of the prior rights of

1 the holders of bonds issued at different times under the provisions  
2 of this article.

3 **§29-26-8. Trustee for bondholders; contents of trust agreement;**  
4 **pledge or assignment of revenues and funds.**

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

18 **§29-26-9. Refunding bonds.**

19 Any bonds issued by the authority pursuant to the provisions  
20 of this article or any other provision of this code and at any time  
21 outstanding may at any time and from time to time be refunded by  
22 the authority by the issuance of its refunding bonds or notes in  
23 such amount as it may deem necessary to refund the principal of the  
24 bonds or notes so to be refunded, together with any unpaid interest



1 thereon; to provide additional funds for the purposes of the  
2 authority; and to pay any premiums and commissions necessary to be  
3 paid in connection therewith. Any such refunding may be effected  
4 whether the bonds to be refunded shall have then matured or shall  
5 thereafter mature, either by sale of the refunding bonds and the  
6 application of the proceeds thereof for the redemption of the bonds  
7 to be refunded thereby or by exchange of the refunding bonds for  
8 the bonds to be refunded thereby. Such refunding bonds shall be  
9 issued in conformance with the provisions of this article.

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

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

1 by refunding bonds issued under the authority of this article,  
2 which bonds or refunding bonds shall be payable solely from  
3 revenues and funds pledged for their payment as authorized by this  
4 article.

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

12 **§29-26-11. Negotiability of bonds issued pursuant to this article.**

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

19 **§29-26-12. Exemption from taxation.**

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

24 **§29-26-13. Personal liability; persons executing bonds issued**

1                   **pursuant to this article.**

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

7 **§29-26-14.       Cumulative authority as to powers conferred;**  
8                   **applicability of other statutes and charters;**  
9                   **bonds issued pursuant to this article.**

10          The provisions of this article relating to the issuance of  
11 bonds shall be construed as granting cumulative authority for the  
12 exercise of the various powers herein conferred, and neither the  
13 powers nor any bonds issued hereunder shall be affected or limited  
14 by any other statutory or charter provision now or hereafter in  
15 force, other than as may be provided in this article, it being the  
16 purpose and intention of this article to create full, separate and  
17 complete additional powers. The various powers conferred herein  
18 may be exercised independently and notwithstanding that no bonds  
19 are issued hereunder.

Note: The purpose of this bill is to provide 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.

Strike-throughs indicate language that would be stricken from

the present law, and underscoring indicates new language that would be added.

§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 are new; therefore, strike-throughs and underscoring have been omitted.