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**H. B. 2988**

(By Delegates Pino, Hartman, Lynch, Skaff,  
Swartzmiller, Boggs and Caputo)

[Introduced March 19, 2013; referred to the  
Committee on Finance.]

A BILL 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;

1 clarifying that bonds by the authority are not a pledge of  
2 faith and credit of the state, county, municipality or other  
3 subdivision of the state; declaring bonds issued as negotiable  
4 instruments under the Uniform Commercial Code; exempting all  
5 bonds by the authority, as well as interest and income  
6 thereon, from taxation by the state or any subdivision;  
7 declaring that certain individuals have no personal liability  
8 in relation to issuance of bonds; and granting cumulative  
9 authority for exercising certain powers, including if no bonds  
10 are issued by the authority.

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

12 That §29-26-2, §29-26-5 and §29-26-6 of the Code of West  
13 Virginia, 1931, as amended, be amended and reenacted; and that said  
14 code be amended by adding thereto eight new sections, designated  
15 §29-26-7, §29-26-8, §29-26-9, §29-26-10, §29-26-11, §29-26-12,  
16 §29-26-13 and §29-26-14, all to read as follows:

17 **ARTICLE 26. WEST VIRGINIA COURTHOUSE FACILITIES IMPROVEMENT**  
18 **AUTHORITY.**

19 **§29-26-2. Definitions.**

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

22 (a) "Approved modifications or construction of courthouse  
23 facilities" means any modification or construction of a courthouse

1 facility which has been recommended for assistance by the authority  
2 according to the requirements of section four of this article;

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

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

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

17 ~~(d)~~ (e) "Courthouse facility" means buildings or structures,  
18 or any portion thereof, which are owned by the county and occupied  
19 exclusively by offices of county and judicial officials or by  
20 courtrooms, county jails, or detention centers, day report centers  
21 or other offices in which activities related to the operations of  
22 county governments take place; and

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

1 issued by the authority pursuant to this article.

2 **§29-26-5. Powers of the authority.**

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

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

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

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

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

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

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

24 (g) Accept and expend any gift, grant, contribution, bequest

1 or endowment of money to, or for the benefit of, the authority,  
2 from the State of West Virginia or any other source;

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

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

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

11 **§29-26-6. The Courthouse Facilities Improvement Fund.**

12 (a) There is hereby created in the State Treasury a special  
13 revenue account to be known as the West Virginia Courthouse  
14 Facilities Improvement Fund. The West Virginia Courthouse  
15 Facilities Improvement Fund may receive any gifts, grants,  
16 contributions or other money from any source which is specifically  
17 designated for deposit in the fund.

18 (b) The authority shall undertake a study on the condition and  
19 state of need of every courthouse facility throughout the State of  
20 West Virginia, and shall determine the estimated cost of the  
21 improvements which are necessary to bring each facility into  
22 conformity with requirements outlined in this article. ~~The~~  
23 ~~authority shall submit to the Legislature, on or before the first~~  
24 ~~day of January, two thousand two, a report which shall contain the~~

1 ~~estimate of the cost, a plan for the financing of the cost, and an~~  
2 ~~estimated prioritized schedule for the implementation and financing~~  
3 ~~of the improvements to be made pursuant to the provisions of this~~  
4 ~~article.~~

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

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

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

20 **§29-26-7. West Virginia Courthouse Facilities Improvement**  
21 **Authority authorized to issue bonds and pay debt**  
22 **service on bonds with funds from West Virginia**  
23 **Courthouse Facilities Improvement Fund.**

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

5       (b) The bonds shall be authorized to be issued by the  
6 authority pursuant to the provisions of this article, and shall be  
7 secured, shall bear such date and shall mature at such time, not  
8 exceeding thirty years from the date of issue, shall bear interest  
9 at such rate or rates, including variable rates, be in such  
10 denominations, be in such form, carry such registration privileges,  
11 be payable in such medium of payment and at such place or places  
12 and such time or times and be subject to such terms of redemption  
13 as the authority may authorize. The bonds of the authority may be  
14 sold by the authority, at public or private sale, at or not less  
15 than the price the authority determines. The bonds shall be  
16 executed by manual or facsimile signature by the chair of the  
17 authority and attested, manually or by facsimile signature, by the  
18 secretary of the board. In case any officer whose signature, or a  
19 facsimile of whose signature, appears on any bonds ceases to be  
20 such officer before delivery of such bonds, such signature or  
21 facsimile is nevertheless sufficient for all purposes the same as  
22 if he or she had remained in office until such delivery.

23       (c) After the authority has issued bonds authorized by this  
24 article and after the requirements of debt service and all

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

20 **§29-26-8. Trustee for bondholders; contents of trust agreement;**  
21 **pledge or assignment of revenues and funds.**

22 For bonds issued pursuant to the provisions of this article,  
23 in the discretion of the authority, any bonds, including refunding  
24 bonds issued by the authority, may be secured by a trust agreement

1 between the authority and a corporate trustee, which trustee may be  
2 any bank or trust company within or without the state. Any such  
3 trust agreement may contain such binding covenants with the holders  
4 of such bonds as to any matter or provisions as are deemed  
5 necessary or advisable to the authority to enhance the  
6 marketability and security of such bonds and may also contain such  
7 other provisions with respect thereto as the authority may  
8 authorize and approve. Any resolution adopted by the authority or  
9 any trust agreement may contain a pledge or assignment of revenues  
10 to be received in connection with the financing.

11 **§29-26-9. Refunding bonds.**

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

1 thereby. Such refunding bonds shall be issued in conformance with  
2 the provisions of this article related to issuance of bonds.

3 **§29-26-10. Obligations of authority undertaken pursuant to this**  
4 **article not debt of state, county, municipality or**  
5 **any political subdivision.**

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

21 (b) All such bonds, and all documents evidencing any other  
22 obligation, shall contain on the face thereof a statement to the  
23 effect that the bonds or such other obligation as to both principal  
24 and interest are not debts of the state or any county, municipality

1 or political subdivision thereof, but are payable solely from  
2 revenues and funds pledged for their payment as authorized by this  
3 article.

4 **§29-26-11. Negotiability of bonds issued pursuant to this article.**

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

11 **§29-26-12. Exemption from taxation.**

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

16 **§29-26-13. Personal liability; persons executing bonds issued**  
17 **pursuant to this article.**

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

23 **§29-26-14. Cumulative authority as to powers conferred;**

1                   applicability of other statutes and charters;  
2                   bonds issued pursuant to this article.

3           The provisions of this article relating to the issuance of  
4 bonds shall be construed as granting cumulative authority for the  
5 exercise of the various powers herein conferred, and neither the  
6 powers nor any bonds issued hereunder are affected or limited by  
7 any other statutory or charter provision now or hereafter in force,  
8 other than as may be provided in this article, it being the purpose  
9 and intention of this article to create full, separate and complete  
10 additional powers. The various powers conferred herein may be  
11 exercised independently and notwithstanding that no bonds are  
12 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; add bond-related activities to the powers of the authority; provide that moneys from the West Virginia Courthouse Facilities Improvement Fund may be disbursed for payment of debt service on bonds; authorize the authority to issue bonds; set circumstances for bond issuance and potential terms of bonds; authorize repayment of debt; permit bonds be secured by trust agreement and set certain parameters; permit refunding bonds; clarify that bonds by the authority are not a pledge of faith and credit of the state, county, municipality or other subdivision of the state; declare bonds issued as negotiable instruments under the Uniform Commercial Code; exempt all bonds by the authority, as well as interest and income thereon, from taxation by the state or any subdivision; declare that certain individuals have no personal liability in relation to issuance of bonds; and grant cumulative authority for exercising certain powers, including if no bonds are issued by the authority.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

Chapter 29, Article twenty-six, Sections 7 through 14 are new; therefore, they have been completely underscored.