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2001 DEC 12 P 4: 52

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SIXTH EXTRAORDINARY SESSION, 2001



ENROLLED

House Bill No. 608

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)

[By Request of the Executive]



Passed December 1, 2001

In Effect from Passage

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E N R O L L E D

H. B. 608

(BY MR. SPEAKER, MR. KISS, AND DELEGATE TRUMP)

[BY REQUEST OF THE EXECUTIVE]

[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 supplies; local headquarters; quarters for members; life insurance; medical and hospital fees for injuries and illnesses of members incurred in line of duty.

1 (a) The standard uniform to be used by the West Virginia
2 state police after the effective date of this article shall be as
3 follows: Forestry green blouse with West Virginia state police
4 emblem on sleeve; black shoulder strap, one-inch black stripe
5 around sleeve, four inches from end of sleeve; forestry green
6 breeches with one-inch black stripe down the side; trousers
7 (slacks) with one-inch black stripe down the side for officers
8 and clerks regularly enlisted in the state police; forestry green
9 shirts with West Virginia state police emblem on sleeve; black
10 shoulder straps; forestry green mackinaw with West Virginia
11 state police emblem on sleeve; black shoulder straps; one-inch

12 black stripe around sleeve four inches from end of sleeve;
13 campaign hat of olive drab color; black Sam Browne belt with
14 holster; black leggings and shoes; the officer's uniform will
15 have one and one-quarter inch black stripe around the sleeve of
16 blouse and mackinaw four inches from end of sleeve
17 circumposed with one-half inch gold braid, also black collars on
18 blouse, with two silver shoulder bars for captains, one silver
19 shoulder bar for first lieutenant, one gold shoulder bar for
20 second lieutenant. For noncommissioned officers the uniform
21 blouse and shirt will have thereon black chevrons of the
22 appropriate rank.

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

29 (c) The superintendent shall provide the members of the
30 state police with suitable arms and weapons, and, when he
31 deems it necessary, with suitably equipped automobiles,
32 motorcycles, watercraft, airplanes and other means of convey-
33 ance, to be used by the West Virginia state police, the governor,
34 and other officers and executives in the discretion of the
35 governor, in times of flood, disaster and other emergencies, for
36 traffic study and control, criminal and safety work, and in other
37 matters of official business. He shall also provide the standard
38 uniforms for all members of the state police, for officers,
39 noncommissioned officers and troopers herein provided for. All
40 uniforms and all arms, weapons and other property furnished
41 the members of the state police by the state of West Virginia
42 shall be and remain the property of the state.

43 (d) The superintendent is authorized to purchase and
44 maintain on behalf of members group life insurance not to

45 exceed the amount of five thousand dollars on behalf of each
46 member.

47 (e) The superintendent is authorized to contract and furnish
48 at state police expense medical and hospital services for
49 treatment of illness or injury of a member which shall be
50 determined by the superintendent to have been incurred by such
51 member while engaged in the performance of duty and from
52 causes beyond control of such members. Notwithstanding any
53 other provision of this code, the superintendent shall have the
54 right of subrogation in any civil action or settlement brought by
55 or on behalf of a member in relation to any act by another
56 which results in the illness, injury or death of a member. To this
57 end, the superintendent is hereby authorized to initiate such an
58 action on behalf of the state police in order to recover the costs
59 incurred in providing medical and hospital services for the
60 treatment of a member resulting from injury or illness originat-
61 ing in the performance of official duties. This subsection shall
62 not affect the power of a court to apply ordinary equitable
63 defenses to the right of subrogation.

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

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

77 injury or death resulting from the performance of official
78 duties.

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

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHOR- ITY.

§31-15-6b. Special power of authority to issue bonds or notes to repay and refinance capital investment of invest- ment management board in regional jail and correctional facility authority; authorizing issu- ance 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
2 court of appeals has determined and ordered that the constitu-
3 tion of this state imposes a duty on behalf of the state to make
4 significant improvements in the jail and correctional facility
5 system, including the duty to make capital improvements to
6 facilities and to pay for the cost of those improvements; that
7 many of the existing facilities used by the West Virginia state

8 police, including those facilities identified in section ten, article
9 two, chapter fifteen of this code, are in need of significant
10 capital improvement or replacement, and that in some cases the
11 acquisition and construction of additional state police facilities
12 is needed; that the acquisition and construction of the capital
13 improvements identified in this subsection require that the cost
14 of the facilities be financed over time; that section fifty-one,
15 article six of the constitution prohibits the Legislature amending
16 the budget bill so as to create a deficit; that the enacting of new
17 taxes, or the diversion of revenues from other essential depart-
18 ments and functions of government, in order to support capital
19 improvements in regional jail facilities, correctional facilities,
20 juvenile facilities and state police facilities is not in the interests
21 of the people of the state represented in the Legislature, and is
22 specifically rejected by the Legislature in its exercise of its
23 legitimate constitutional powers; that there have been previ-
24 ously funded certain regional jail facilities and correctional
25 facilities through funds available for investment through the
26 West Virginia investment management board, the proceeds of
27 which have and are being used by the regional jail and correc-
28 tional facility authority to finance the cost of capital improve-
29 ments to regional jail facilities and correctional facilities, the
30 repayment of such investment being made from transfers to the
31 regional jail and correctional facility investment fund estab-
32 lished under section twenty-one, article six, chapter twelve of
33 this code, from funds on deposit in the insurance tax fund
34 established under subsection (b), section fourteen, article three,
35 chapter thirty-three of this code, such transfers undertaken in
36 the manner set forth in subsection (c), section fourteen, article
37 three, chapter thirty-three of this code; that the rate of return
38 being paid under subsection (b), section twenty-one, article six,
39 chapter twelve for the investment is subject to annual adjust-
40 ment and theretofore subject to the volatility of the financial
41 markets and it is anticipated that the rate of return paid on such
42 investment will be in excess of the interest rate that would be

43 payable with respect to bonds issued under this article to repay
44 the investment, to make the capital improvements identified in
45 this subsection, and to acquire or construct certain regional jail
46 facilities, correctional facilities, juvenile facilities and state
47 police facilities.

48 (b) To provide for (1) the repayment of all or a portion of
49 the investment, (2) the financing of capital improvements to
50 regional jail facilities, correctional facilities, juvenile facilities
51 and state police facilities, (3) the financing of the acquisition of
52 certain existing regional jail facilities, correctional facilities,
53 juvenile facilities and state police facilities, (4) the financing of
54 the acquisition and construction of new regional jail facilities,
55 correctional facilities, juvenile facilities and state police
56 facilities, and (5) the payment of the costs of issuance of the
57 bonds, bonds of the authority may be issued in accordance with
58 the provisions of this article. Any bonds issued pursuant to the
59 provisions of this section shall mature at a time or times not
60 exceeding twenty-five years from their respective dates. In no
61 event may the outstanding principal amount of the bonds
62 exceed a total amount that would require annual debt service
63 payments in excess of sixteen million dollars. .

64 (c) (1) The proceeds from the sale of the bonds shall be
65 allocated and expended for the following purposes in the
66 following order of priority:

67 (A) for the costs of issuance of the bonds;

68 (B) for payment of the return of the investment made
69 pursuant to section twenty-one, article six, chapter twelve of
70 this code;

71 (C) for the costs of the projects included in the letter
72 submitted by the regional jail and correctional facility authority
73 to the joint committee on government and finance dated the
74 first day of April, two thousand one pursuant to the amendment

75 and reenactment of section twenty-one, article six, chapter
76 twelve of this code in chapter sixty-six, acts of the Legislature,
77 regular session, two thousand one: *Provided*, That the letter
78 shall not be construed to prioritize any project or projects which
79 are included in the letter;

80 (D) for the costs of completion of any other capital im-
81 provement projects for regional jail facilities, correctional
82 facilities or juvenile facilities that may be determined by the
83 regional jail and correctional facility authority, subject to the
84 provisions of subdivision (2) of this subsection. Prior to the
85 expenditure of any funds for these additional projects, the
86 regional jail and correctional facility authority shall certify to
87 the joint committee on government and finance a separate list
88 of the additional projects to be funded from the bond proceeds.
89 This certified list may not thereafter be altered or amended
90 other than by legislative enactment; and

91 (E) for the costs of capital improvements to or the acquisi-
92 tion or construction of state police facilities: *Provided*, That no
93 proceeds of the bonds may be expended for a state police
94 facility purpose unless and until the Legislature by concurrent
95 resolution has approved the purpose and amount of each project
96 for which proceeds from the issuance of the bonds have been
97 allocated under this subsection.

98 (2) From the balance of the proceeds of the bonds remain-
99 ing after meeting the requirements of paragraphs (A) and (B),
100 subdivision (1) of this subsection, an amount not less than
101 eighty million dollars shall be allocated for expenditure for the
102 purposes set forth in paragraphs (C) and (D), subdivision (1) of
103 this subsection. In the event the regional jail and correctional
104 facility authority determines that an amount less than eighty
105 million dollars is necessary for those purposes, the difference
106 may be allocated for expenditure for the purposes and subject

107 to the conditions set forth in paragraph (E), subdivision (1) of
108 this subsection.

109 (d) The economic development authority may lease
110 facilities acquired or constructed pursuant to the provisions of
111 this section to the department of administration.

112 (e) For purposes of this section, the terms “regional jail
113 facilities”, “correctional facilities” and “juvenile facilities” have
114 the meanings set forth in section two, article twenty of this
115 chapter.

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

§31-20-2. Definitions.

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

3 (a) “Adjacent regional juvenile detention facility” means a
4 facility constructed or maintained on property owned or
5 controlled by the regional jail authority and designed (1) for the
6 short term preadjudicatory detention of juveniles, for the
7 confinement of juveniles who are awaiting transportation to or
8 placement at another juvenile detention facility or juvenile
9 correctional facility or who are awaiting trial as an adult
10 pursuant to section ten, article five, chapter forty-nine of this
11 code; or (2) for the court-ordered, short term placement of
12 juveniles in a facility that is characterized by programmatic
13 intervention and by staff restrictions of the movements and
14 activities of juveniles placed there, that limits the juveniles’
15 access to the surrounding community and that is not character-
16 ized by construction fixtures designed to physically restrict the
17 movements and activities of juveniles.

18 (b) “Authority” or “West Virginia Regional Jail Authority”
19 means the West Virginia regional jail and correctional facility
20 authority created by this article.

21 (c) “Board” means the governing body of the authority.

22 (d) “Bonds” means bonds of the authority issued under this
23 article.

24 (e) “Cost of construction or renovation of a local jail
25 facility, regional jail facility or juvenile facility” means the cost
26 of all lands, water areas, property rights and easements,
27 financing charges, interest prior to and during construction and
28 for a period not exceeding six months following the completion
29 of construction, equipment, engineering and legal services,
30 plans, specifications and surveys, estimates of costs and other
31 expenses necessary or incidental to determining the feasibility
32 or practicability of any project, together with any other ex-
33 penses necessary or incidental to the financing and the con-
34 struction or renovation of the facilities and the placing of the
35 facilities in operation.

36 (f) “County” means any county of this state.

37 (g) “Federal agency” means the United States of America
38 and any department, corporation, agency or instrumentality
39 created, designated or established by the United States of
40 America.

41 (h) “Fund” or “funds” means a regional jail and correctional
42 facility authority fund provided in section ten of this article,
43 including those accounts that may be established by the
44 authority for accurate accounting of the expenditure of public
45 funds by that agency.

46 (i) "Government" means state and federal government, and
47 any political subdivision, agency or instrumentality of the state
48 or federal government, corporate or otherwise.

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

51 (k) "Local jail facility" means any county facility for the
52 confinement, custody, supervision or control of adult persons
53 convicted of misdemeanors, awaiting trial or awaiting transpor-
54 tation to a state correctional facility.

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

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

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

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

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

72 (q) "Security interest" means an interest in the loan
73 portfolio of the authority which is secured by an underlying
74 loan or loans and is evidenced by a note issued by the authority.

75 (r) "Work farm" has the same meaning as that term is used
76 in section twelve, article eight, chapter seven of this code
77 authorizing work farms for individual counties.

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

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

102 (u) "Juvenile facility" means an adjacent regional juvenile
103 detention facility, a juvenile detention facility, a juvenile
104 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.

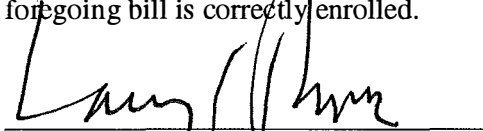
1 (a) Every insurer transacting insurance in West Virginia
2 shall file with the commissioner, on or before the first day of
3 March, each year, a financial statement made under oath of its
4 president or secretary and on a form prescribed by the commis-
5 sioner. The insurer shall also, on or before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

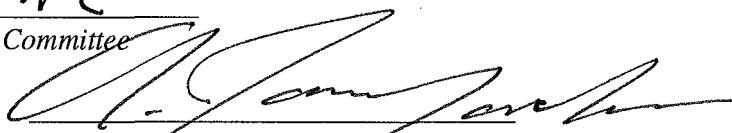
26 (b) There is created in the state treasury a special revenue
27 fund, administered by the treasurer, designated the "insurance
28 tax fund." This fund is not part of the general revenue fund of
29 the state. It consists of all amounts deposited in the fund
30 pursuant to subsection (a) of this section, sections fifteen and
31 seventeen of this article, any appropriations to the fund, all

32 interest earned from investment of the fund and any gifts, grants
33 or contributions received by the fund.

34 (c) The treasurer shall dedicate and transfer from the
35 insurance tax fund to the regional jail and correctional facility
36 investment fund created under the provisions of section twenty-
37 one, article six, chapter twelve of this code, on or before the
38 tenth day of each month, an amount equal to one twelfth of the
39 projected annual investment earnings to be paid and the capital
40 invested to be returned, as certified to the treasurer by the
41 investment management board: *Provided*, That the amount
42 dedicated and transferred may not exceed twenty million dollars
43 in any fiscal year. In the event there are insufficient funds
44 available in any month to transfer the amount required pursuant
45 to this subsection to the regional jail and correctional facility
46 investment fund, the deficiency shall be added to the amount
47 transferred in the next succeeding month in which revenues are
48 available to transfer the deficiency. Each month a lien on the
49 revenues generated from the insurance premium tax, the
50 annuity tax and the minimum tax, provided in this section and
51 sections fifteen and seventeen of this article, up to a maximum
52 amount equal to one twelfth of the projected annual principal
53 and return is granted to the investment management board to
54 secure the investment made with the regional jail and correc-
55 tional facility authority pursuant to section twenty, article six,
56 chapter twelve of this code. The treasurer shall, no later than the
57 last business day of each month, transfer amounts the treasurer
58 determines are not necessary for making refunds under this
59 article to meet the requirements of subsection (d), section
60 twenty-one, article six, chapter twelve of this code, to the credit
61 of the general revenue fund. Commencing on the first day of the
62 month following the month in which the investment created
63 under the provisions of section twenty-one, article six, chapter
64 twelve of this code, is returned to the investment management
65 board, the treasurer shall transfer all amounts deposited in the
66 insurance tax fund as appropriated by the Legislature.

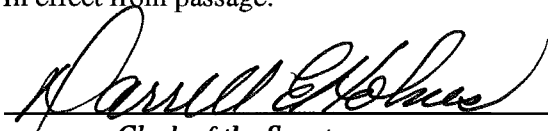
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

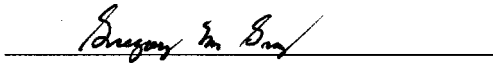

Chairman Senate Committee

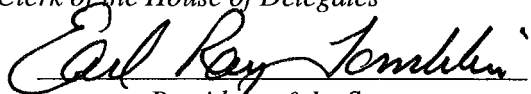

Chairman House Committee

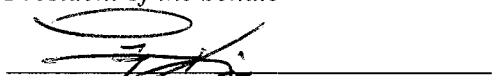
Originating in the House.

In effect from passage.

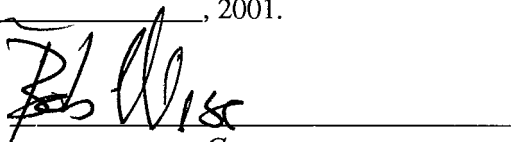

Clerk of the Senate


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 12/6/01

Time 4:30 pm