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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001

ENROLLED

House Bill No. 2844

(By Delegates Staton, Pino, Kominar,
Frederick, Stemple and Webb)

Passed April 14, 2001

In Effect Ninety Days from Passage

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H. B. 2844

(BY DELEGATES STATON, PINO, KOMINAR,
FREDERICK, STEMPLE AND WEBB)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-six, relating to the West Virginia courthouse facilities improvement authority; creating the West Virginia courthouse facilities improvement authority; requiring the authority to create guidelines and an application; providing requirements for the granting of assistance by the authority; providing for the review of applications for assistance by the authority; providing certain powers in the authority; and creating the West Virginia courthouse facilities improvement fund.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding a new article, designated article twenty-six, to read as follows:

ARTICLE 26. WEST VIRGINIA COURTHOUSE FACILITIES IMPROVEMENT AUTHORITY.

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§29-26-1. West Virginia courthouse facilities improvement authority created; membership.

1 (a) The West Virginia courthouse facilities improvement
2 authority is hereby created.

3 (b) The authority is to consist of twelve voting members
4 including:

5 (1) The president of the West Virginia sheriffs' association,
6 or another member of the association designated to attend in
7 lieu of the president;

8 (2) One sheriff to be appointed by the president of the West
9 Virginia sheriffs' association: *Provided*, That the sheriff who is
10 appointed may not be from the same congressional district as
11 the president;

12 (3) The president of the West Virginia prosecuting attor-
13 neys' association, or another member of the association
14 designated to attend in lieu of the president;

15 (4) One prosecuting attorney to be appointed by the
16 president of the West Virginia prosecuting attorneys' associa-
17 tion: *Provided*, That the prosecuting attorney who is appointed
18 may not be from the same congressional district as the presi-
19 dent;

20 (5) The president of the West Virginia county and circuit
21 clerks' association, or another member of the association
22 designated to attend in lieu of the president;

23 (6) The vice-president of the West Virginia county and
24 circuit clerks' association, or another member of the association
25 designated to attend in lieu of the vice-president;

26 (7) One county clerk to be appointed by the president of the
27 West Virginia county and circuit clerks' association: *Provided*,

28 That the county clerk who is appointed may not be from the
29 same congressional district as the president or vice-president;

30 (8) One circuit clerk to be appointed by the president of the
31 West Virginia county and circuit clerks' association: *Provided*,
32 That the circuit clerk who is appointed may not be from the
33 same congressional district as the president or vice-president;

34 (9) The president of the West Virginia county commission-
35 ers' association, or another member of the association desig-
36 nated to attend in lieu of the president;

37 (10) One county commissioner to be appointed by the
38 president of the West Virginia county commissioners' associa-
39 tion: *Provided*, That the county commissioner who is appointed
40 may not be from the same congressional district as the presi-
41 dent;

42 (11) The president of the West Virginia assessors' associa-
43 tion, or another member of the association designated to attend
44 in lieu of the president; and

45 (12) One assessor to be appointed by the president of the
46 West Virginia assessors' association: *Provided*, That the
47 assessor who is appointed may not be from the same congres-
48 sional district as the president.

49 (c) The authority is to consist of eight advisory members,
50 including:

51 (1) The president of the West Virginia judicial association,
52 or another member of the association designated to attend in
53 lieu of the president;

54 (2) One circuit judge to be appointed by the West Virginia
55 judicial association: *Provided*, That the circuit judge who is
56 appointed may not be from the same congressional district as
57 the president;

58 (3) The president of the West Virginia magistrates'
59 association, or another member of the association designated to
60 attend in lieu of the president;

61 (4) One magistrate to be appointed by the West Virginia
62 magistrates' association: *Provided*, That the magistrate who is
63 appointed may not be from the same congressional district as
64 the president;

65 (5) The president of the West Virginia family law masters'
66 association, or another member of the association designated to
67 attend in lieu of the president;

68 (6) One family law master to be appointed by the West
69 Virginia family law masters' association: *Provided*, That the
70 family law master who is appointed may not be from the same
71 congressional district as the president;

72 (7) One member of the West Virginia Senate, to be ap-
73 pointed by the President of the Senate; and

74 (8) One member of the West Virginia House of Delegates,
75 to be appointed by the Speaker of the House of Delegates.

76 (d) The advisory members of the authority are non-voting,
77 ex officio members.

78 (e) The appointments are to be made as soon as possible
79 after the effective date of this article. The terms of appoint-
80 ments are for four year terms.

81 (f) The authority shall annually elect one of its members as
82 chair, and shall appoint a secretary, who need not be a member
83 of the authority and who shall keep records of its proceedings.

84 (g) The authority shall meet at least once every ninety days
85 to review applications requesting funding assistance and

86 otherwise to conduct its business, and may meet more fre-
87 quently if necessary.

88 (h) Seven members of the authority constitute a quorum and
89 the affirmative vote of at least a majority of those members
90 present is necessary for any action taken by vote of the author-
91 ity. No vacancy in the membership of the authority impairs the
92 rights of a quorum by such vote to exercise all the rights and
93 perform all the duties of the authority.

94 (i) Members of the authority shall be reimbursed for
95 reasonable and necessary expenses actually incurred in the
96 performance of their official duties from funds appropriated or
97 otherwise made available to the authority for the purpose of
98 reimbursement upon submission of an itemized statement.

§29-26-2. Definitions.

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

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

8 (b) "Authority" means the West Virginia courthouse
9 facilities improvement authority;

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

16 other charges or expenses necessary, appurtenant or incidental
17 to the modification or construction of a courthouse facility; and

18 (d) "Courthouse facility" means buildings or structures
19 which are occupied exclusively by offices of county and
20 judicial officials or by courtrooms, county jails or detention
21 centers.

**§29-26-3. Development of guidelines and application for funding
assistance.**

1 (a) The authority shall propose legislative rules for promul-
2 gation in accordance with article three, chapter twenty-nine-a
3 of this code to develop comprehensive, uniform guidelines for
4 use by the authority in evaluating any request by a county for
5 funding assistance for the modification of an existing court-
6 house facility or the construction of a new county courthouse
7 facility.

8 (b) The guidelines shall include the following factors:

9 (1) The degree of increased security of records kept by the
10 offices of the county, circuit and magistrate court clerks in the
11 county;

12 (2) The degree of increased safety for personnel whose
13 offices are contained in the existing court facility or will be
14 contained in the proposed court facility;

15 (3) The degree to which the proposal of modification or
16 construction can correct deficiencies in compliance with
17 building codes and with the requirements of the Americans with
18 Disabilities Act, 42 U.S.C. §12101 et seq.;

19 (4) The degree of increased efficiency and modernization
20 in the preservation of records kept by the offices of the county
21 officers, circuit clerks and magistrate court clerks in the county;

22 (5) The increased efficiency and modernization of the
23 storage of records kept by the offices of the county officers,
24 circuit clerks and magistrate court clerks in the county;

25 (6) The availability of alternative sources of funding which
26 could finance all or a part of the modification or construction of
27 a courthouse facility;

28 (7) The need for the assistance of the authority to finance
29 the modification or construction of a courthouse facility or
30 attract other sources of funding;

31 (8) The applicant county's ability to operate and maintain
32 the courthouse facility if the modification or construction is
33 granted assistance by the authority;

34 (9) The degree to which the modification or construction of
35 a courthouse facility achieves other state or regional planning
36 goals;

37 (10) The estimated date upon which the modification or
38 construction of a courthouse facility could commence if funding
39 were available and the estimated completion date of the
40 modification or construction; and

41 (11) Other considerations the authority considers necessary
42 or appropriate to accomplish its duties as defined in this article.

43 (c) The authority shall create an application form which
44 shall be used by all counties requesting funding assistance from
45 the authority.

46 (d) The application shall require the county applicant to set
47 forth the following information:

48 (1) The type and proposed location of the proposed
49 modification or construction of a courthouse facility;

50 (2) The estimated total cost of the proposed modification or
51 construction of a courthouse facility;

52 (3) The amount of funding assistance required and the
53 specific uses of the funding;

54 (4) Other sources of funding available or potentially
55 available for the modification or construction;

56 (5) Information demonstrating the need for the modification
57 or construction and that the proposed funding of the modifica-
58 tion or construction is the most economically feasible to the
59 completion of the modification or construction; and

60 (6) Any other information the authority considers necessary
61 to enable it to recommend the type of financing, in terms of the
62 kind, amount and source of funding, which the applicant county
63 should pursue and which the authority should consider an
64 appropriate investment of public funds.

§29-26-4. Requirements for assistance; review of application.

1 (a) No county applicant may receive any loan, loan guaran-
2 tee, grant or other funding assistance for the modification or
3 construction of a courthouse facility from the authority unless:

4 (1) The county applicant submits a completed application
5 to the authority on the form prepared by the authority pursuant
6 to section three of this article; and

7 (2) The authority, after having considered the application,
8 recommends the county applicant receive a loan, loan guaran-
9 tee, grant or other funding assistance for the proposed modifica-
10 tion or construction.

11 (b) The authority shall, within ninety days of receipt of each
12 completed application submitted to it, review the application
13 and either:

14 (1) Make a written recommendation as to the modification
15 or construction financing, in terms of the kind, amount and
16 source of funding, for which the applicant county submitting
17 the application is eligible; or

18 (2) If the authority determines that (A) the proposed
19 modification or construction of a courthouse facility is not
20 eligible for funding assistance from the authority, or (B) the
21 proposed modification or construction of a courthouse facility
22 is not otherwise an appropriate or prudent investment of state
23 funds, the authority shall state the reasoning for its findings in
24 a written rejection of the county applicant's application.

§29-26-5. Powers of the authority.

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

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

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

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

12 (d) Contract with and employ attorneys, accountants,
13 construction and financial experts, architects, engineers,
14 managers and such other employees and agents that are
15 necessary in the judgment of the authority and fix their compen-
16 sation;

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

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

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

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

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

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

1 (a) There is hereby created in the state treasury a special
2 revenue account to be known as the "West Virginia courthouse
3 facilities improvement fund". The West Virginia courthouse
4 facilities improvement fund may receive any gifts, grants,
5 contributions or other money from any source which is specifi-
6 cally designated for deposit in the fund.

7 (b) The authority shall undertake a study on the condition
8 and state of need of every courthouse facility throughout the
9 state of West Virginia, and shall determine the estimated cost
10 of the improvements which are necessary to bring each facility
11 into conformity with requirements outlined in this article. The
12 authority shall submit to the legislature, on or before the first
13 day of January, two thousand and two, a report which shall
14 contain the estimate of the cost, a plan for the financing of the
15 cost, and an estimated prioritized schedule for the implementa-

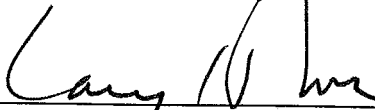
16 tion and financing of the improvements to be made pursuant to
17 the provisions of this article.

18 (c) The moneys of the West Virginia courthouse facilities
19 improvement fund shall be disbursed by the authority for the
20 funding of approved modifications or construction of court
21 facilities and to pay expenses of the authority in administering
22 the provisions of this article.

23 (d) Any disbursements from the West Virginia courthouse
24 facilities improvement fund allocated for approved modifica-
25 tions or construction of courthouse facilities may be made
26 contingent upon local appropriations or gifts in money or in
27 kind for the support of the modifications or construction.

28 (e) Nothing in this article may be construed to mandate
29 funding for the West Virginia court facilities improvement fund
30 or to require any appropriation by the Legislature.

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



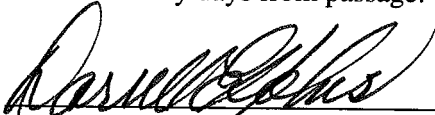
Chairman Senate Committee



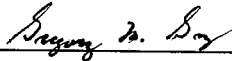
Chairman House Committee

Originating in the House.

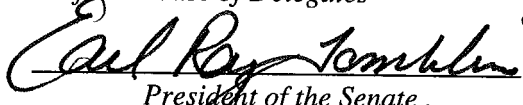
In effect ninety days from passage.



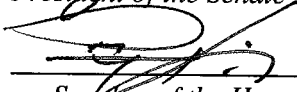
Clerk of the Senate



Clerk of the House of Delegates

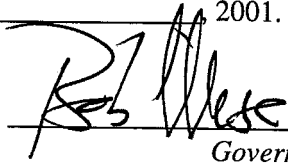


President of the Senate



Speaker of the House of Delegates

The within is approved this the 18th
day of May 2001.



Governor

PRESENTED TO THE

GOVERNOR

Date 4/24/01

Time 5:25 pm