

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

2

SENATE BILL 886
Finance Committee Substitute Adopted 7/9/92

Short Title: Prison Bond Appropriations.

(Public)

Sponsors:

Referred to:

May 9, 1991

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE THE BALANCE OF THE TWO HUNDRED MILLION DOLLARS IN GENERAL OBLIGATION BONDS AUTHORIZED FOR THE CONSTRUCTION OF STATE PRISON AND YOUTH SERVICES FACILITIES AND TO MODIFY THE PRISON POPULATION CAP.

Whereas, the General Assembly appropriated funds and authorized issuance of bonds totaling \$324,641,363 from 1985 through 1991 for construction of 11,556 prison beds and ancillary facilities and for renovation and repair of existing facilities; and

Whereas, the funds appropriated and authorized for said prison construction include \$103,380,310 of the \$112,500,000 bonds approved for expenditure by the 1991 General Assembly; and

Whereas, these bonds were issued on March 1, 1992, and bear interest costs totaling \$73,582,200 to be paid from the 1992-93 fiscal year through the 2008-09 fiscal year; and

Whereas, the issuance of the remaining \$87,500,000 in bonds to construct 2,722 prison beds will bear interest costs estimated to be \$66,328,750 from the 1992-93 fiscal year through the 2007-08 fiscal year; and

Whereas, the General Fund expenditures for the Department of Correction totaled \$226,241,439 in the 1985-86 fiscal year as compared to \$463,830,128 in the 1991-92 fiscal year; and

Whereas, the General Fund appropriation for the Department of Correction for the 1992-93 fiscal year is \$508,383,981; and

1 Whereas, the additional General Fund appropriations needed to operate the
2 facilities constructed with the \$103,380,310 in bonds will total approximately
3 \$48,000,000; and

4 Whereas, the additional General Fund appropriations needed to operate the
5 facilities proposed to be constructed with the remaining \$87,500,000 in bonds will total
6 \$28,718,362; and

7 Whereas, the actions taken since 1985 by the General Assembly in regard to
8 the Department of Correction have enabled the State of North Carolina to maintain
9 control over the prison system and to avoid takeover of the prison system by the federal
10 government; and

11 Whereas, these continuing responsible actions have been made under severe
12 budgetary constraints since 1990; and

13 Whereas, it is expected that said budgetary constraints will continue into the
14 foreseeable future; and

15 Whereas, the 1990 General Assembly created the Sentencing and Policy
16 Advisory Commission to evaluate sentencing laws and policies and to make
17 recommendations for modification of these laws, which will affect the need for
18 additional prison beds and the types of beds; and

19 Whereas, the Sentencing and Policy Advisory Commission is to issue a final
20 report to the 1993 General Assembly and funds need to be available to construct
21 appropriate beds commensurate with these recommendations; and

22 Whereas, felony admissions increased by twenty-one percent (21%) in the
23 first three months of calendar year 1992 as compared to the same period of 1991; and

24 Whereas, the present management of the Department of Correction has
25 emphasized the need to construct more secure facilities for an increasingly assaultive
26 felon population and, accordingly, has modified the plan for the facilities proposed to be
27 constructed with the prison bond funds approved by the 1991 General Assembly; and

28 Whereas, no plan has been specifically formulated for the housing of
29 misdemeanants, who account for approximately forty-three percent (43%) of prison
30 admissions but only approximately eight percent (8%) of the prison population; and

31 Whereas, the issue of workcamps for misdemeanants needs to be examined
32 more thoroughly; Now, therefore,

33 The General Assembly of North Carolina enacts:

34 Section 1. **General Purposes.** The appropriations hereby made by the 1991
35 General Assembly for capital improvements from the proceeds of the \$200,000,000
36 State of North Carolina Prison and Youth Services Facilities Bonds authorized by
37 Chapter 935 of the 1989 Session Laws (the "bond act") and approved by the qualified
38 voters of the State who voted thereon on November 6, 1990, as said bonds may be
39 issued from time to time (the "bonds"), are for the purposes of financing the cost of
40 \$87,500,000 of State prison facilities and youth services facilities, including, without
41 limitation, the cost of constructing capital facilities, renovating or reconstructing
42 existing facilities, acquiring equipment related thereto, purchasing land, paying costs of
43 issuance of bonds and notes and paying contractual services necessary for the partial
44 implementation of the purposes of the bond act, all as defined in and authorized by the

1 bond act and as more particularly described in this act. The particular projects within
2 the purposes under the bond act to be financed by the \$87,500,000 balance of the
3 \$200,000,000 authorization shall, as authorized by the bond act, be determined by
4 legislative action by the General Assembly in a session subsequent to **sine die**
5 adjournment of the 1991 Regular Session.

6 Sec. 2. **Appropriation Procedures.** The appropriations hereby made by the
7 1991 General Assembly for the purposes under the bond act shall be disbursed in
8 accordance with a schedule to be enacted by the 1993 General Assembly within 30 days
9 of the convening of the 1993 Regular Session. The Department of Correction shall
10 develop a master plan for the allocation of the funds, and the Governor, after reviewing
11 the master plan, shall propose a schedule for allocation of the funds when he submits his
12 proposed budget to the 1993 General Assembly. In enacting the schedule for allocation
13 of the funds, the General Assembly shall consider the master plan, the Governor's
14 proposed schedule, and the recommendations of the Sentencing and Policy Advisory
15 Commission. Expenditure of funds shall not be made and contracts shall not be entered
16 into regarding the expenditure of these funds until the schedule is enacted by the 1993
17 General Assembly. Expenditure of funds shall not be made by any State department,
18 institution or agency, until an allotment has been approved by the Governor as Director
19 of the Budget. The allotment shall be approved only after full compliance with the
20 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

21 Where direct capital improvement appropriations include furnishing fixed and
22 movable equipment for any project, funds for equipment shall not be subject to transfer
23 into construction accounts except as authorized by the Director of the Budget. The
24 expenditure of funds for fixed and movable equipment and furnishings shall be
25 reviewed and approved by the Director of the Budget prior to commitment of funds.

26 Capital improvement projects authorized by this act shall be completed,
27 including fixed and movable equipment and furnishings, within the limits of the
28 amounts of the appropriations provided, except as otherwise provided in this act.

29 Sec. 3. **Administration.** The facilities authorized under this act shall be
30 constructed in accordance with the provisions of general law applicable to the
31 construction of State facilities. The Office of State Construction of the Department of
32 Administration shall have a verifiable ten percent (10%) goal for participation by
33 minority and women-owned businesses. All contracts for the design, construction, or
34 demolition of prison facilities shall include a penalty for failure to complete the work by
35 a specified date.

36 The Office of State Construction of the Department of Administration shall
37 consider alternative delivery systems that could expedite the delivery of prison facilities.
38 Such delivery systems as design-build, using modular or conventional building systems,
39 shall be considered. However, in order for such alternatives to be used, the Department
40 of Correction must approve the proposed design for operational programming and cost
41 of operations and maintenance.

42 Sec. 4. **Quarterly Reports.** Once the schedule has been enacted disbursing
43 the funds, the Office of State Construction of the Department of Administration shall
44 provide quarterly reports to the Chairman of the Appropriations Committee and the

1 Base Budget Committee in the Senate, the Chairman of the Appropriations Committee
2 in the House, the Joint Legislative Commission on Governmental Operations, and the
3 Fiscal Research Division on the funds appropriated in this act. The report shall include,
4 but not be limited to, any changes in projects and allocations made pursuant to this act,
5 information on which contractors have been selected, what contracts have been entered
6 into, the projected and actual occupancy dates of facilities contracted for, the number of
7 beds to be constructed on each project, the location of each project, and the projected
8 and actual cost of each project. To the extent that funds remain unexpended they shall
9 be subject to further reallocation or reappropriation by the General Assembly for
10 purposes permitted by the Bond Act.

11 Sec. 5. G.S. 148-4.1(d) reads as rewritten:

12 "(d) If the number of prisoners housed in facilities owned or operated by the State of
13 North Carolina for the Division of Prisons exceeds ninety-eight percent (98%) of ~~20,594~~
14 20,900 for 15 consecutive days, the Secretary of Correction shall notify the Governor
15 and the Chairman of the Parole Commission of this fact. Upon receipt of this
16 notification, the Parole Commission shall within 90 days release on parole a number of
17 inmates sufficient to reduce the prison population to ninety-seven percent (97%) of
18 ~~20,594~~ 20,900.

19 From the date of the notification until the prison population has been reduced to
20 ninety-seven percent (97%) of ~~20,594~~ 20,900, the Secretary may not accept any inmates
21 ordered transferred from local confinement facilities to the State prison system under
22 G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in the State
23 prison system under an order entered pursuant to G.S. 148-32.1(b) to the local
24 confinement facility from which the inmate was transferred."

25 Sec. 6. G.S. 148-4.1(e) reads as rewritten:

26 "(e) In addition to those persons otherwise eligible for parole, from the date of
27 notification in subsection (d) until the prison population has been reduced to ninety-
28 seven percent (97%) of ~~20,594~~ 20,900, any person imprisoned only for a misdemeanor
29 also shall be eligible for parole and immediate termination upon admission,
30 notwithstanding any other provision of law, except:

- 31 (1) Those persons convicted under G.S. 20-138.1 of driving while
32 impaired or any offense involving impaired driving, and
- 33 (2) Those persons convicted pursuant to G.S. 130A-25 of failing to obtain
34 the treatment required by Part 3 or Part 5 of Article 6 of Chapter 130A
35 or of violating G.S. 130A-144(f) or G.S. 130A-145."

36 Sec. 7. G.S. 148-4.1(f) reads as rewritten:

37 "(f) In complying with the mandate of subsection (d), the Parole Commission may
38 exercise the discretion granted to refuse parole by G.S. 15A-1371 in selecting felons to
39 be paroled under this section so long as the prison population does not exceed ~~20,594~~
40 20,900."

41 Sec. 8. Sections 1 through 4 of this act become effective upon ratification.
42 Sections 5 through 7 become effective October 1, 1992, or on the date that the Secretary
43 of Correction finds that the Brown Creek Correctional Institution is capable of housing
44 a minimum of 306 inmates, whichever is later.