

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 886
Finance Committee Substitute Adopted 7/9/92
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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 FUNDS FROM THE PROCEEDS OF THE ALREADY AUTHORIZED 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

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

3 Whereas, the additional General Fund appropriations needed to operate the
4 facilities constructed with the \$103,380,310 in bonds will total approximately
5 \$48,000,000; and

6 Whereas, the additional General Fund appropriations needed to operate the
7 facilities proposed to be constructed with the remaining \$87,500,000 in bonds will total
8 \$28,718,362; and

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

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

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

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

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

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

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

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

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

35 The General Assembly of North Carolina enacts:

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

1 issuance of bonds and notes and paying contractual services necessary for the partial
2 implementation of the purposes of the bond act, all as defined in and authorized by the
3 bond act and as more particularly described in this act. The particular projects within
4 the purposes under the bond act to be financed by the \$87,500,000 balance of the
5 \$200,000,000 authorization shall, as authorized by the bond act, be determined by
6 legislative action by the General Assembly in a session subsequent to **sine die**
7 adjournment of the 1991 Regular Session.

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

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

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

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

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

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

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

15 "(d) If the number of prisoners housed in facilities owned or operated by the State of
16 North Carolina for the Division of Prisons exceeds ninety-eight percent (98%) of ~~20,594~~
17 20,900 for 15 consecutive days, the Secretary of Correction shall notify the Governor
18 and the Chairman of the Parole Commission of this fact. Upon receipt of this
19 notification, the Parole Commission shall within 90 days release on parole a number of
20 inmates sufficient to reduce the prison population to ninety-seven percent (97%) of
21 ~~20,594-20,900~~.

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

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

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

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

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

40 "(f) In complying with the mandate of subsection (d), the Parole Commission may
41 exercise the discretion granted to refuse parole by G.S. 15A-1371 in selecting felons to
42 be paroled under this section so long as the prison population does not exceed ~~20,594-~~
43 20,900."

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