

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 1036
SENATE BILL 886

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

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

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

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

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

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

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

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

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

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

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

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

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

The General Assembly of North Carolina enacts:

Section 1. **General Purposes.** The appropriations hereby made by the 1991 General Assembly for capital improvements from the proceeds of the \$200,000,000 State of North Carolina Prison and Youth Services Facilities Bonds authorized by Chapter 935 of the 1989 Session Laws (the "bond act") and approved by the qualified voters of the State who voted thereon on November 6, 1990, as said bonds may be issued from time to time (the "bonds"), are for the purposes of financing the cost of \$87,500,000 of State prison facilities and youth services facilities, including, without limitation, the cost of constructing capital facilities, renovating or reconstructing existing facilities, acquiring equipment related thereto, purchasing land, paying costs of issuance of bonds and notes and paying contractual services necessary for the partial implementation of the purposes of the bond act, all as defined in and authorized by the bond act and as more particularly described in this act. The particular projects within the purposes under the bond act to be financed by the \$87,500,000 balance of the \$200,000,000 authorization shall, as authorized by the bond act, be determined by legislative action by the General Assembly in a session subsequent to **sine die** adjournment of the 1991 Regular Session.

Sec. 2. **Appropriation Procedures.** The appropriations hereby made by the 1991 General Assembly for the purposes under the bond act shall be disbursed in accordance with a schedule to be enacted by the 1993 General Assembly within 30 days of the convening of the 1993 Regular Session. The Department of Correction shall develop a master plan for the allocation of the funds, and the Governor, after reviewing

the master plan, shall propose a schedule for allocation of the funds when he submits his proposed budget to the 1993 General Assembly. In enacting the schedule for allocation of the funds, the General Assembly shall consider the master plan, the Governor's proposed schedule, and the recommendations of the Sentencing and Policy Advisory Commission. Expenditure of funds shall not be made and contracts shall not be entered into regarding the expenditure of these funds until the schedule is enacted by the 1993 General Assembly. Expenditure of funds shall not be made by any State department, institution or agency, until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 24th day of July, 1992.

Henson P. Barnes
President Pro Tempore of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives