

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 235
Committee Substitute Favorable 7/15/93

Short Title: Prison Bond Funds.

(Public)

Sponsors:

Referred to:

February 23, 1993

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE THE BALANCE OF THE FUNDS FROM THE PROCEEDS OF THE TWO HUNDRED MILLION DOLLARS IN GENERAL OBLIGATION BONDS AUTHORIZED FOR THE CONSTRUCTION OF STATE PRISON AND YOUTH SERVICES FACILITIES, AND TO PROVIDE FOR THE USE OF INMATES IN PRISON CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. **General Purposes.** The appropriations hereby made by the 1993 General Assembly for capital improvements from the proceeds of the two hundred million dollar (\$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 eighty-seven million five hundred thousand dollars (\$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.

Sec. 2. **Appropriation Procedures.** The appropriations hereby made by the 1993 General Assembly for the purposes under the Bond Act shall be disbursed for the particular projects authorized by this act. Expenditure of funds shall not be made by

1 any State department, institution, or agency, until an allotment has been approved by the
 2 Governor as Director of the Budget. The allotment shall be approved only after full
 3 compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General
 4 Statutes.

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

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

13 **Sec. 3. Descriptions, Custodial Levels, Beds, Projected Allocations.**
 14 Appropriations are made from bond proceeds for use by the Department of Correction
 15 to provide for capital improvement projects as herein provided.

16 The proceeds of bonds and notes shall be expended for paying the cost, as
 17 defined in the Bond Act, of prison facilities, to the extent and as provided in this act and
 18 subject to change as herein provided, for the following projects:

<u>Project Description</u>	<u>Custodial Level</u>	<u>Additional Beds/ Standard Operating Capacity</u>
NEW FACILITIES		
Hyde	Correctional	Center Medi um 520
Polk		Replacement Medi um 228
East	Work	Facility Mini mum 500
West	Work	Facility Mini mum 500
Boot	Camp	- West Mini mum 90

44 FACILITY EXPANSIONS

1	Marion	
2		Clos
3		e 192
4	Franklin	
5		Medi
6		um
7		104
8	Harnett	
9		Medi
10		um
11		104
12	Johnston	
13		Medi
14		um
15		104
16	Lumberton	
17		Medi
18		um
19		104
20	Morrison	
21		Medi
22		um
23		208
24	NCCIW	
25		Medi
26		um
27		50
28	Bladen	
29		Mini
30		mum
31		100
32	Caldwell	
33		Mini
34		mum
35		50
36	Carteret	
37		Mini
38		mum
39		100
40	Cherry	
41		Mini
42		mum
43		100

1	Davidson	
2		Mini
3		mum
4		50
5	Fountain	
6		Mini
7		mum
8		100
9	Greene	
10		Mini
11		mum
12		50
13	Robeson	
14		Mini
15		mum
16		50
17	Rowan	
18		Mini
19		mum
20		50
21	Rutherford	
22		Mini
23		mum
24		50
25	Sanford	
26		Mini
27		mum
28		50
29	Umstead	
30		Mini
31		mum
32		100
33	Wake	
34		Mini
35		mum
36		100
37	Wilkes	
38		Mini
39		mum
40		<u>50</u>
41		3,704
42	Subtotal	\$84,687,492
43		
44	Contingencies	<u>2,812,508</u>

1
2 TOTAL \$87,500,000

3

4 Sec. 4. **Increases in Allocations for Projects.** Allocations made for projects
5 may be increased to reflect the availability of other funds, including, without limitation,
6 contingency funds, income earned on the investment of bond and note proceeds, and the
7 proceeds of any grants.

8 Sec. 5. **Contingency Funds.** The amount allocated for contingencies set
9 forth above shall be placed by the State Treasurer in a special account in the State
10 Prison and Youth Services Facilities Bond Fund to be designated the "State Prison and
11 Youth Services Facilities Contingency Account". The funds in the State Prison and
12 Youth Services Facilities Contingency Account shall be disbursed in accordance with
13 the procedures herein established for disbursements from the State Prison and Youth
14 Services Facilities Bond Fund. The funds in the State Prison and Youth Services
15 Facilities Contingency Account shall be expended for paying the cost of projects,
16 including, without limitation, the costs of issuance of bonds and notes, increased project
17 costs resulting from construction costs exceeding projected costs, inflationary factors,
18 and changes in projects and allocations.

19 Any balance in the State Prison and Youth Services Facilities Contingency
20 Account may be used for particular prison construction or renovation projects as the
21 Governor as Director of the Budget may direct.

22 Sec. 6. **Administration.** With respect to facilities authorized for the
23 Department of Correction, the Office of State Construction of the Department of
24 Administration may contract for and supervise all aspects of administration, technical
25 assistance, design, construction, or demolition of prison facilities in order to implement
26 the providing of prison facilities under the provisions of this act.

27 The facilities authorized under this act shall be constructed in accordance
28 with the provisions of general law applicable to the construction of State facilities. If
29 the Secretary of Administration, after consultation with the Secretary of Correction,
30 finds that the delivery of prison facilities must be expedited for good cause, the Office
31 of State Construction of the Department of Administration may use alternative delivery
32 systems and shall be exempt from the following statutes and rules implementing those
33 statutes, to the extent necessary to expedite delivery: G.S. 143-135.26(1), 143-128, 143-
34 129, 143-131, 143-132, 143-134, 143-135.26, 113A-1 through 113A-10, 113A-50
35 through 113A-66, 133-1.1(g), and 143-408.1.

36 Prior to exercising the exemptions allowable under this section, the Secretary
37 of Administration shall give reasonable notice in writing of the Department's intent to
38 exercise the exemptions to the Speaker of the House, the President Pro Tempore of the
39 Senate, the Chairs of the House and Senate Appropriations Committees, the Chairs of
40 the House and Senate Appropriations Subcommittees on Justice and Public Safety, and
41 the Fiscal Research Division. The written notice shall contain at least the following
42 information: (i) the specific statutory requirement or requirements from which the
43 Department intends to exempt itself; (ii) the reason the exemption is necessary to
44 expedite delivery of prison facilities; (iii) the way in which the Department anticipates

1 the exemption will expedite the delivery of prison facilities; and (iv) a brief summary of
2 the proposed contract for the project which is to be exempted.

3 The Office of State Construction of the Department of Administration shall
4 have a verifiable ten percent (10%) goal for participation by minority and women-
5 owned businesses. All contracts for the design, construction, or demolition of prison
6 facilities shall include a penalty for failure to complete the work by a specified date.

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

13 The Office of State Construction of the Department of Administration shall
14 involve the Department of Correction in all aspects of the projects to the extent that
15 such involvement relates to the Department's program needs and to its responsibility for
16 the care of the prison population.

17 **Sec. 7. Changes.** To the extent that funds are not required to be expended
18 for the specific projects described in this act, appropriations authorized herein may be
19 used to complete project elements which could not be funded with the appropriations
20 made in Section 239 of Chapter 689 of the 1991 Session Laws. Funds may also be used
21 to construct, reconstruct, or renovate prison industrial and forestry enterprises facilities,
22 as mentioned in G.S. 148-2, at prison facilities statewide, as replacement projects, and
23 to make necessary prison facility repairs and renovations but no such funds may be used
24 for operating expenditures. Prior to taking any action under this section, the Governor
25 may consult with the Advisory Budget Commission.

26 **Sec. 8. Quarterly Reports.** The Office of State Construction of the
27 Department of Administration shall provide quarterly reports to the Chairs of the
28 Appropriations Committee and the Base Budget Committee in the Senate, the Chairs of
29 the Appropriations Committee in the House, the Joint Legislative Commission on
30 Governmental Operations, and the Fiscal Research Division as to any changes in
31 projects and allocations made under this act. The report shall include any changes in the
32 projects and allocations made pursuant to this act, information on which contractors
33 have been selected, what contracts have been entered into, the projected and actual
34 occupancy dates of facilities contracted for, the number of beds to be constructed on
35 each project, the location of each project, and the projected and actual cost of each
36 project.

37 The Department of Insurance and the Department of Correction shall report
38 quarterly to the Joint Legislative Commission on Governmental Operations on their
39 involvement in the prison construction program.

40 **Sec. 9. Unexpended Funds.** To the extent that funds remain unexpended,
41 they shall be subject to further reallocation or reappropriation by the General Assembly
42 for purposes permitted by the Bond Act.

43 **Sec. 10.** Sections 1 through 4 of Chapter 1036 of the 1991 Session Laws are
44 repealed.

1 Sec. 11. (a) The State may require contractors awarded bids for construction of
2 facilities funded by the remaining eighty-seven million five hundred thousand dollars
3 (\$87,500,000) of the two hundred million dollars (\$200,000,000) in bond proceeds,
4 authorized by Chapter 935 of the 1989 Session Laws and appropriated in this act, to use
5 a work force that includes inmates provided to the contractors by the Department of
6 Correction; the requirement may provide that such inmates may compose up to twenty
7 percent (20%) of the contractor's work force. The Office of State Construction and the
8 Department of Correction shall report quarterly to the Joint Legislative Commission on
9 Governmental Operations, the Chairs of the House and Senate Appropriations
10 Subcommittees on Justice and Public Safety, and the Fiscal Research Division on the
11 use of inmates by private contractors.

12 (b) The Department of Correction shall report quarterly to the Joint Legislative
13 Commission on Governmental Operations, the Chairs of the House and Senate
14 Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research
15 Division on the inmate construction program used to construct the East Work Facility
16 and the West Work Facility.

17 Sec. 12. If additional funds are needed beyond the six million six hundred
18 thirty thousand eight hundred sixty-six dollars (\$6,630,866) authorized and allocated
19 from the one hundred twelve million five hundred thousand dollars (\$112,500,000) in
20 bond proceeds by Section 239 of Chapter 689 of the 1991 Session Laws, as amended by
21 Section 41(a) of Chapter 1044 of the 1991 Session Laws, for projects at the North
22 Carolina Correctional Institution for Women, those projects, with the exception of the
23 demolition of dormitories A, B, and C, shall be completed with funds from the five
24 million dollars (\$5,000,000) authorized for use by the Department of Correction for
25 repair and renovation in the Current Operations Appropriations Act of 1993. The
26 projects include a 48-bed special housing facility, an operations center, and a gatehouse.
27 In no case shall any funds allocated for these projects at the North Carolina Correctional
28 Institution for Women be allocated or used for any other project.

29 Sec. 13. This act becomes effective July 1, 1993.