

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 550
HOUSE BILL 235

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 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. Descriptions, Custodial Levels, Beds, Projected Allocations.

Appropriations are made from bond proceeds for use by the Department of Correction to provide for capital improvement projects as herein provided.

The proceeds of bonds and notes shall be expended for paying the cost, as defined in the Bond Act, of prison facilities, to the extent and as provided in this act and 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		
Eastern Processing Center at Vanceboro - Planning and Design	Medium	-
Hyde Correctional Center	Medium	520
Polk Replacement	Medium	228
East Work Facility	Minimum	500
West Work Facility	Minimum	500
Boot Camp - West	Minimum	90
FACILITY EXPANSIONS		
Franklin	Medium	104
Harnett	Medium	104
Johnston	Medium	104
Lumberton	Medium	104
Morrison	Medium	208
NCCIW	Medium	50
Bladen	Minimum	100
Caldwell	Minimum	50
Carteret	Minimum	100
Cherry	Minimum	100
Davidson	Minimum	50
Fountain	Minimum	100
Greene	Minimum	50
Pasquotank	Minimum	200
Robeson	Minimum	50
Rowan	Minimum	50
Rutherford	Minimum	50
Sanford	Minimum	50
Umstead	Minimum	100
Wake	Minimum	100
Wilkes	Minimum	<u>50</u>
		3,712
Subtotal		\$85,059,948

Contingencies
TOTAL

2,440,052
\$87,500,000

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

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

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

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

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

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

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

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.

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

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

Sec. 8. **Quarterly Reports.** The Office of State Construction of the Department of Administration shall provide quarterly reports to the Chairs of the Appropriations Committee and the Base Budget Committee in the Senate, the Chairs of the Appropriations Committee in the House, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division as to any changes in projects and allocations made under this act. The report shall include any changes in the 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.

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

Sec. 9. **Unexpended Funds.** 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. 10. Sections 1 through 4 of Chapter 1036 of the 1991 Session Laws are repealed.

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

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

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

Sec. 13. The General Assembly shall fund the construction of Eastern Processing Center at Vanceboro and the 192-bed, close custody addition to Marion Correctional Institution as top priority items during the 1994 Regular Session of the 1993 General Assembly.

Sec. 14. This act becomes effective July 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

Marc Basnight
President Pro Tempore of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives