

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 235
Committee Substitute Favorable 7/15/93
Senate Appropriations Committee Substitute Adopted 7/16/93

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

1 particular projects authorized by this act. Expenditure of funds shall not be made by
 2 any State department, institution, or agency, until an allotment has been approved by the
 3 Governor as Director of the Budget. The allotment shall be approved only after full
 4 compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General
 5 Statutes.

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

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

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

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

<u>Project Description</u>	<u>Custodial Level</u>	<u>Beds</u>
23 NEW FACILITIES		
24 Eastern Processing Center		
25 at Vanceboro	Medium	544
26 Hyde Correctional Center	Medium	520
27 East Work Facility	Minimum	500
28 West Work Facility	Minimum	500
29 Boot Camp - West	Minimum	90
30		
31 FACILITY EXPANSIONS		
32 Marion Close		192
33 Franklin	Medium	104
34 Harnett	Medium	104
35 Johnston	Medium	104
36 Lumberton	Medium	104
37 Morrison	Medium	208
38 NCCIW	Medium	50
39 Bladen	Minimum	100
40 Caldwell	Minimum	50
41 Carteret	Minimum	100
42 Cherry	Minimum	100
43 Davidson	Minimum	50
44 Fountain	Minimum	100

1	Greene	Minimum	50		
2	Pasquotank			Minimum	200
3	Robeson	Minimum	50		
4	Rowan	Minimum	50		
5	Rutherford			Minimum	50
6	Sanford	Minimum	50		
7	Umstead	Minimum	100		
8	Wake	Minimum	100		
9	Wilkes	Minimum	<u>50</u>		
10					4,220
11	Subtotal	\$84,984,490			
12					
13	Contingencies				<u>2,515,510</u>
14					
15	TOTAL				\$87,500,000
16					

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

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

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

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

40 The facilities authorized under this act shall be constructed in accordance
41 with the provisions of general law applicable to the construction of State facilities. If
42 the Secretary of Administration, after consultation with the Secretary of Correction,
43 finds that the delivery of prison facilities must be expedited for good cause, the Office
44 of State Construction of the Department of Administration may use alternative delivery

1 systems and shall be exempt from the following statutes and rules implementing those
2 statutes, to the extent necessary to expedite delivery: G.S. 143-135.26(1), 143-128, 143-
3 129, 143-131, 143-132, 143-134, 143-135.26, 113A-1 through 113A-10, 113A-50
4 through 113A-66, 133-1.1(g), and 143-408.1.

5 Prior to exercising the exemptions allowable under this section, the Secretary
6 of Administration shall give reasonable notice in writing of the Department's intent to
7 exercise the exemptions to the Speaker of the House, the President Pro Tempore of the
8 Senate, the Chairs of the House and Senate Appropriations Committees, the Chairs of
9 the House and Senate Appropriations Subcommittees on Justice and Public Safety, and
10 the Fiscal Research Division. The written notice shall contain at least the following
11 information: (i) the specific statutory requirement or requirements from which the
12 Department intends to exempt itself; (ii) the reason the exemption is necessary to
13 expedite delivery of prison facilities; (iii) the way in which the Department anticipates
14 the exemption will expedite the delivery of prison facilities; and (iv) a brief summary of
15 the proposed contract for the project which is to be exempted.

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

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

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

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

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

1 projects and allocations made pursuant to this act, information on which contractors
2 have been selected, what contracts have been entered into, the projected and actual
3 occupancy dates of facilities contracted for, the number of beds to be constructed on
4 each project, the location of each project, and the projected and actual cost of each
5 project.

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

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

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

14 **Sec. 11. (a)** The State may require contractors awarded bids for construction of
15 facilities funded by the remaining eighty-seven million five hundred thousand dollars
16 (\$87,500,000) of the two hundred million dollars (\$200,000,000) in bond proceeds,
17 authorized by Chapter 935 of the 1989 Session Laws and appropriated in this act, to use
18 a work force that includes inmates provided to the contractors by the Department of
19 Correction; the requirement may provide that such inmates may compose up to twenty
20 percent (20%) of the contractor's work force. The Office of State Construction and the
21 Department of Correction shall report quarterly to the Joint Legislative Commission on
22 Governmental Operations, the Chairs of the House and Senate Appropriations
23 Subcommittees on Justice and Public Safety, and the Fiscal Research Division on the
24 use of inmates by private contractors.

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

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

42 **Sec. 13.** This act becomes effective July 1, 1993.