

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 235

Short Title: Prison Bonds/Raise Cap.

(Public)

Sponsors: Representatives Barnes; Bowman, Ives, Nichols, J. Preston, Russell, and Wood.

Referred to: Appropriations.

February 23, 1993

A BILL TO BE ENTITLED

1 AN ACT TO APPROPRIATE THE BALANCE OF THE FUNDS FROM THE
2 PROCEEDS OF THE TWO HUNDRED MILLION DOLLARS IN GENERAL
3 OBLIGATION BONDS AUTHORIZED FOR THE CONSTRUCTION OF STATE
4 PRISON AND YOUTH SERVICES FACILITIES AND TO RAISE THE PRISON
5 POPULATION CAP.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. General Purposes. The appropriations hereby made by the 1993
9 General Assembly for capital improvements from the proceeds of the \$200,000,000
10 State of North Carolina Prison and Youth Services Facilities Bonds authorized by
11 Chapter 935 of the 1989 Session Laws (the "bond act") and approved by the qualified
12 voters of the State who voted thereon on November 6, 1990, as said bonds may be
13 issued from time to time (the "bonds"), are for the purposes of financing the cost of
14 \$87,500,000 of State prison facilities and youth services facilities, including, without
15 limitation, the cost of constructing capital facilities, renovating or reconstructing
16 existing facilities, acquiring equipment related thereto, purchasing land, paying costs of
17 issuance of bonds and notes, and paying contractual services necessary for the partial
18 implementation of the purposes of the bond act, all as defined in and authorized by the
19 bond act and as more particularly described in this act.

20 Sec. 2. Appropriation Procedures. The appropriations hereby made by the
21 1993 General Assembly for the purposes under the bond act shall be disbursed for the
22 particular projects authorized by this act. Expenditure of funds shall not be made by
23 any State department, institution, or agency, until an allotment has been approved by the

1 Governor as Director of the Budget. The allotment shall be approved only after full
2 compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General
3 Statutes.

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

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

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

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

| 19 Project Description | 20 Custodial 21 Level | 22 Beds |
|------------------------|--------------------------|---------------|
| 23 | | |
| 24 | | |
| 25 | | |
| 26 | | |
| 27 | | |
| 28 | | |
| 29 | | |
| 30 | | |
| 31 | | |
| 32 | | |
| 33 | Subtotal | |
| 34 | | |
| 35 | Contingencies | |
| 36 | | |
| 37 | TOTAL | \$87,500,000. |

38 Sec. 4. Increases in Projected Allocations. Projected allocations set forth
39 above may be increased to reflect the availability of other funds, including, without
40 limitation, contingency funds, income earned on the investment of bond and note
41 proceeds, and the proceeds of any grants.

42 Sec. 5. Contingency Funds. The amount allocated for contingencies set forth
43 above shall be placed by the State Treasurer in a special account in the State Prison and
44 Youth Services Facilities Bond Fund to be designated the "State Prison and Youth

1 Services Facilities Contingency Account." The funds in the State Prison and Youth
2 Services Facilities Contingency Account shall be disbursed in accordance with the
3 procedures herein established for disbursements from the State Prison and Youth
4 Services Facilities Bond Fund. The funds in the State Prison and Youth Services
5 Facilities Contingency Account shall be expended for paying the cost of projects,
6 including, without limitation, the costs of issuance of bonds and notes, increased project
7 costs resulting from construction costs exceeding projected costs, inflationary factors
8 and changes in projects and allocations.

9 Sec. 6. Administration. The facilities authorized under this act shall be
10 constructed in accordance with the provisions of general law applicable to the
11 construction of State facilities. The Office of State Construction of the Department of
12 Administration shall have a verifiable ten percent (10%) goal for participation by
13 minority and women-owned businesses. All contracts for the design, construction, or
14 demolition of prison facilities shall include a penalty for failure to complete the work by
15 a specified date.

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

22 Sec. 7. Changes. To the extent that funds are not required to be expended for
23 the specific projects described in this act, appropriations authorized herein may be used
24 to construct, reconstruct, or renovate prison industrial and forestry enterprises, facilities,
25 as mentioned in G.S. 148-2, at prison facilities statewide, as replacement projects, and
26 to make necessary prison facility repairs and renovations, but no such funds may be
27 used for operating expenditures. Prior to taking any action under this section, the
28 Governor may consult with the Advisory Budget Commission.

29 Sec. 8. Quarterly Reports. The Office of State Construction of the
30 Department of Administration shall provide quarterly reports to the Chairman of the
31 Appropriations Committee and the Base Budget Committee in the Senate, the Chairmen
32 of the Appropriations Committee in the House, the Joint Legislative Commission on
33 Governmental Operations, and the Fiscal Research Division as to any changes in
34 projects and allocations made under this act. The report shall include any changes in the
35 projects and allocations made pursuant to this act, information on which contractors
36 have been selected, what contracts have been entered into, the projected and actual
37 occupancy dates of facilities contracted for, the number of beds to be constructed on
38 each project, the location of each project, and the projected and actual cost of each
39 project. To the extent that funds remain unexpended, they shall be subject to further
40 reallocation or reappropriation by the General Assembly for purposes permitted by the
41 Bond Act.

42 Sec. 9. G.S. 148-4.1(d) reads as rewritten:

43 "(d) If the number of prisoners housed in facilities owned or operated by the State of
44 North Carolina for the Division of Prisons exceeds ninety-eight percent (98%) of 20,900

1 for 15 consecutive days, the Secretary of Correction shall notify the Governor and the
2 Chairman of the Parole Commission of this fact. Upon receipt of this notification, the
3 Parole Commission shall within 90 days release on parole a number of inmates
4 sufficient to reduce the prison population to ninety-seven percent (97%) of ~~20,900.~~

5
6 From the date of the notification until the prison population has been reduced to
7 ninety-seven percent (97%) of ~~20,900,~~ _____, the Secretary may not accept any
8 inmates ordered transferred from local confinement facilities to the State prison system
9 under G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in the
10 State prison system under an order entered pursuant to G.S. 148-32.1(b) to the local
11 confinement facility from which the inmate was transferred."

12 Sec. 10. G.S. 148-4.1(e) reads as rewritten:

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

18 (1) Those persons convicted under G.S. 20-138.1 of driving while
19 impaired or any offense involving impaired driving, and

20 (2) Those persons convicted pursuant to G.S. 130A-25 of failing to obtain
21 the treatment required by Part 3 or Part 5 of Article 6 of Chapter 130A
22 or of violating G.S. 130A-144(f) or G.S. 130A-145."

23 Sec. 11. G.S. 148-4.1(f) reads as rewritten:

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

27 "

28 Sec. 12. This act is effective upon ratification.