

1 **ENROLLED**

2 **Senate Bill No. 331**

3 (BY SENATORS KESSLER (MR. PRESIDENT), UNGER, MILLER, LAIRD, D. HALL, BEACH,
4 WILLIAMS AND PLYMALE)

5 _____
6 [Passed April 12, 2013; in effect ninety days from passage.]
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11 AN ACT to amend and reenact §29-26-2, §29-26-5 and §29-26-6 of the
12 Code of West Virginia, 1931, as amended; and to amend said
13 code by adding thereto eight new sections, designated
14 §29-26-7, §29-26-8, §29-26-9, §29-26-10, §29-26-11, §29-26-12,
15 §29-26-13 and §29-26-14, all relating to providing the West
16 Virginia Courthouse Facilities Improvement Authority with the
17 ability to issue bonds to raise funds for paying the costs of
18 approved modifications or construction of courthouse
19 facilities; defining terms; adding bond-related activities to
20 the powers of the authority; providing that moneys from the
21 West Virginia Courthouse Facilities Improvement Fund may be
22 disbursed for payment of debt service on bonds; authorizing
23 the authority to issue bonds; setting circumstances for bond

1 issuance and potential terms of bonds; authorizing repayment
2 of debt; permitting bonds be secured by trust agreement and
3 setting certain parameters; permitting refunding bonds;
4 clarifying that bonds by the authority are not a pledge of
5 faith and credit of the state, county, municipality or other
6 subdivision of the state; declaring bonds issued as negotiable
7 instruments under the Uniform Commercial Code; exempting all
8 bonds by the authority, as well as interest and income
9 thereon, from taxation by the state or any subdivision;
10 declaring that certain individuals have no personal liability
11 in relation to issuance of bonds; and granting cumulative
12 authority for exercising certain powers, including if no bonds
13 are issued by the authority.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §29-26-2, §29-26-5 and §29-26-6 of the Code of West
16 Virginia, 1931, as amended, be amended and reenacted; and that said
17 code be amended by adding thereto eight new sections, designated
18 §29-26-7, §29-26-8, §29-26-9, §29-26-10, §29-26-11, §29-26-12,
19 §29-26-13 and §29-26-14, all to read as follows:

20 **ARTICLE 26. WEST VIRGINIA COURTHOUSE FACILITIES IMPROVEMENT**
21 **AUTHORITY.**

22 **§29-26-2. Definitions.**

1 The following terms, wherever used or referred to in this
2 article, have the following meaning:

3 (a) "Approved modifications or construction of courthouse
4 facilities" means any modification or construction of a courthouse
5 facility which has been recommended for assistance by the authority
6 according to the requirements of section four of this article;

7 (b) "Authority" means the West Virginia Courthouse Facilities
8 Improvement Authority;

9 (c) "Bonds" means bonds, revenue bonds, notes or other debt
10 instruments issued by the authority pursuant to this article,
11 whether the interest thereon is taxable or tax exempt for federal
12 income tax purposes;

13 (d) "Cost" means the cost of construction, renovation, repair
14 and safety upgrading of courthouse facilities; the cost of land,
15 equipment, machinery, furnishings, installation of utilities and
16 other similar items convenient in connection with placing a
17 courthouse facility in operation; and the cost of financing,
18 interest during construction, professional service fees and all
19 other charges or expenses necessary, appurtenant or incidental to
20 the modification or construction of a courthouse facility;

21 (e) "Courthouse facility" means buildings or structures, or
22 any portion thereof, which are owned by the county or another
23 governmental entity and occupied exclusively by offices of county

1 and judicial officials or by courtrooms, county jails, detention
2 centers, day report centers or other offices in which activities
3 related to the operations of county governments take place; and

4 (f) "Refunding bonds" means bonds issued by the authority
5 pursuant to this article to refund all, or any part of, bonds
6 issued by the authority pursuant to this article.

7 **§29-26-5. Powers of the authority.**

8 In addition to the powers set forth elsewhere in this article,
9 the authority may exercise the following powers when it considers
10 the exercise of these powers necessary and appropriate to carry out
11 and effectuate its responsibilities as defined by this article.

12 The authority may:

13 (a) Employ an executive director and an executive assistant as
14 may be necessary in the judgment of the authority and fix their
15 compensation;

16 (b) Acquire, hold and dispose of real and personal property
17 for its corporate purposes;

18 (c) Make bylaws for the management and rule of its affairs;

19 (d) Contract with and employ attorneys, bond counsel,
20 accountants, underwriters, financial advisors, trustees,
21 construction and financial experts, architects, engineers, managers
22 and such other employees and agents that are necessary in the
23 judgment of the authority and fix their compensation;

1 (e) Make contracts and execute all instruments necessary or
2 convenient to exercise the powers granted to it by this article;

3 (f) Renegotiate all contracts entered into by it whenever, due
4 to a change in situation, it appears to the authority that its
5 interests will be best served;

6 (g) Accept and expend any gift, grant, contribution, bequest
7 or endowment of money to, or for the benefit of, the authority,
8 from the State of West Virginia or any other source;

9 (h) Issue bonds from time to time, in accordance with the
10 provisions of this article, to fulfill the purposes set forth in
11 this article;

12 (i) Identify any alternative sources of funding, whether
13 privately or publicly administered, and assist county applicants in
14 the securing of alternative sources of funding; and

15 (j) Do all things necessary or convenient to carry out the
16 powers given in this article.

17 **§29-26-6. The Courthouse Facilities Improvement Fund.**

18 (a) There is hereby created in the State Treasury a special
19 revenue account to be known as the West Virginia Courthouse
20 Facilities Improvement Fund. The West Virginia Courthouse
21 Facilities Improvement Fund may receive any gifts, grants,
22 contributions or other money from any source which is specifically
23 designated for deposit in the fund.

1 (b) The authority shall undertake a study on the condition and
2 state of need of every courthouse facility throughout the State of
3 West Virginia, and shall determine the estimated cost of the
4 improvements which are necessary to bring each facility into
5 conformity with requirements outlined in this article.

6 (c) The moneys of the West Virginia Courthouse Facilities
7 Improvement Fund shall be disbursed by the authority for the
8 payment of debt service on bonds issued pursuant to the provisions
9 of this article, funding of approved modifications or construction
10 of courthouse facilities and to pay expenses of the authority in
11 administering the provisions of this article.

12 (d) Any disbursements from the West Virginia Courthouse
13 Facilities Improvement Fund allocated for approved modifications or
14 construction of courthouse facilities may be made contingent upon
15 local appropriations or gifts in money or in kind for the support
16 of the modifications or construction.

17 (e) Nothing in this article may be construed to mandate
18 funding for the West Virginia Courthouse Facilities Improvement
19 Fund or to require any appropriation by the Legislature.

20 **§29-26-7. West Virginia Courthouse Facilities Improvement**
21 **Authority authorized to issue bonds and pay debt service on**
22 **bonds with funds from West Virginia Courthouse Facilities**
23 **Improvement Fund.**

1 (a) The authority is expressly authorized to issue bonds and
2 pay debt service on bonds pursuant to the provisions of this
3 article with funds deposited into the West Virginia Courthouse
4 Facilities Improvement Fund.

5 (b) The bonds shall be authorized to be issued by the
6 authority pursuant to the provisions of this article, and shall be
7 secured, shall bear such date and shall mature at such time, not
8 exceeding thirty years from the date of issue, shall bear interest
9 at such rate or rates, including variable rates, be in such
10 denominations, be in such form, carry such registration privileges,
11 be payable in such medium of payment and at such place or places
12 and such time or times and be subject to such terms of redemption
13 as the authority may authorize. The bonds of the authority may be
14 sold by the authority, at public or private sale, at or not less
15 than the price the authority determines. The bonds shall be
16 executed by manual or facsimile signature by the chair of the
17 authority and attested, manually or by facsimile signature, by the
18 secretary of the board. In case any officer whose signature, or a
19 facsimile of whose signature, appears on any bonds ceases to be
20 such officer before delivery of such bonds, such signature or
21 facsimile is nevertheless sufficient for all purposes the same as
22 if he or she had remained in office until such delivery.

23 (c) After the authority has issued bonds authorized by this

1 article and after the requirements of debt service and all
2 associated funds have been satisfied for the fiscal year for which
3 moneys deposited in the West Virginia Courthouse Facilities
4 Improvement Fund have been pledged, including coverage and reserve
5 funds established in connection with the bonds issued pursuant to
6 this article, any remaining balance in the West Virginia Courthouse
7 Facilities Improvement Fund may be used by the authority in its
8 discretion to fund approved modification or construction of
9 courthouse facilities and to pay expenses of the authority in
10 administering the provisions of this article, all in accordance
11 with the provisions of this article, on a cash basis. All amounts
12 deposited in the West Virginia Courthouse Facilities Improvement
13 Fund shall be pledged to the repayment of the principal, interest
14 and redemption premium, if any, on any bonds or refunding bonds
15 authorized by the provisions of this article. The authority may
16 further provide in any trust agreement for priorities on the funds
17 deposited into the West Virginia Courthouse Facilities Improvement
18 Fund as may be necessary for the protection of the prior rights of
19 the holders of bonds issued at different times under the provisions
20 of this article.

21 **§29-26-8. Trustee for bondholders; contents of trust agreement;**
22 **pledge or assignment of revenues and funds.**

23 For bonds issued pursuant to the provisions of this article,

1 in the discretion of the authority, any bonds, including refunding
2 bonds issued by the authority, may be secured by a trust agreement
3 between the authority and a corporate trustee, which trustee may be
4 any bank or trust company within or without the state. Any such
5 trust agreement may contain such binding covenants with the holders
6 of such bonds as to any matter or provisions as are deemed
7 necessary or advisable to the authority to enhance the
8 marketability and security of such bonds and may also contain such
9 other provisions with respect thereto as the authority may
10 authorize and approve. Any resolution adopted by the authority or
11 any trust agreement may contain a pledge or assignment of revenues
12 to be received in connection with the financing.

13 **§29-26-9. Refunding bonds.**

14 Any bonds issued by the authority pursuant to the provisions
15 of this article or any other provision of this code and at any time
16 outstanding may at any time and from time to time be refunded by
17 the authority by the issuance of its refunding bonds in such amount
18 as it may deem necessary to refund the principal of the bonds so to
19 be refunded, together with any unpaid interest thereon, to provide
20 additional funds for the purposes of the authority, and to pay any
21 premiums and commissions necessary to be paid in connection
22 therewith. Any such refunding may be effected by whether the bonds
23 to be refunded have then matured or thereafter mature, either by

1 sale of the refunding bonds and the application of the proceeds
2 thereof for the redemption of the bonds to be refunded thereby or
3 by exchange of the refunding bonds for the bonds to be refunded
4 thereby. Such refunding bonds shall be issued in conformance with
5 the provisions of this article related to issuance of bonds.

6 **§29-26-10. Obligations of authority undertaken pursuant to this**
7 **article not debt of state, county, municipality or any**
8 **political subdivision.**

9 (a) Bonds, including refunding bonds, issued under the
10 authority of this article and any other obligations undertaken by
11 the authority pursuant to this article, do not constitute a debt or
12 a pledge of the faith and credit or taxing power of this state or
13 of any county, municipality or any other political subdivision of
14 this state, and the holders and owners thereof have no right to
15 have taxes levied by the Legislature or the taxing authority of any
16 county, municipality or any other political subdivision of this
17 state for the payment of the principal thereof or interest thereon,
18 but such bonds and other obligations are payable solely from the
19 revenues and funds pledged for their payment as authorized by this
20 article unless the bonds are refunded by refunding bonds issued
21 under the authority of this article, which bonds or refunding bonds
22 shall be payable solely from revenues and funds pledged for their
23 payment as authorized by this article.

1 (b) All such bonds, and all documents evidencing any other
2 obligation, shall contain on the face thereof a statement to the
3 effect that the bonds or such other obligation as to both principal
4 and interest are not debts of the state or any county, municipality
5 or political subdivision thereof, but are payable solely from
6 revenues and funds pledged for their payment as authorized by this
7 article.

8 **§29-26-11. Negotiability of bonds issued pursuant to this article.**

9 Whether or not the bonds issued pursuant to this article are
10 of such form or character as to be negotiable instruments under the
11 Uniform Commercial Code, such bonds are negotiable instruments
12 within the meaning of and for all the purposes of the Uniform
13 Commercial Code, subject only to the provisions of the bonds for
14 registration.

15 **§29-26-12. Exemption from taxation.**

16 All bonds of the authority, and all interest and income
17 thereon, are exempt from all taxation by this state and any county,
18 municipality, political subdivision or agency thereof, except
19 inheritance taxes.

20 **§29-26-13. Personal liability; persons executing bonds issued**
21 **pursuant to this article.**

22 Neither the members or officers of the authority or of any

1 authority, agency or office, nor any person executing the bonds
2 issued pursuant to the provisions of this article, are liable
3 personally on such bonds or subject to any personal liability or
4 accountability by reason of the issuance thereof.

5 **§29-26-14. Cumulative authority as to powers conferred;**
6 **applicability of other statutes and charters; bonds issued**
7 **pursuant to this article.**

8 The provisions of this article relating to the issuance of
9 bonds shall be construed as granting cumulative authority for the
10 exercise of the various powers herein conferred, and neither the
11 powers nor any bonds issued hereunder are affected or limited by
12 any other statutory or charter provision now or hereafter in force,
13 other than as may be provided in this article, it being the purpose
14 and intention of this article to create full, separate and complete
15 additional powers. The various powers conferred herein may be
16 exercised independently and notwithstanding that no bonds are
17 issued hereunder.