

SB 716

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FILED

2005 MAY -3 A 8: 58

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2005



ENROLLED

Committee substitute for

SENATE BILL NO. 716

(By Senator Chafin, et al)



PASSED April 9, 2005

In Effect July 1, 2005 **Passage**

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OFFICE WEST VIRGINIA
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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 716

(SENATORS CHAFIN, BAILEY, PLYMALE, YODER,
JENKINS AND HELMICK, *original sponsors*)

[Passed April 9, 2005; to take effect July 1, 2005.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31-20-10b; to amend and reenact §50-3-1, §50-3-2 and §50-3-4a of said code; and to amend and reenact §59-1-11 and §59-1-28a of said code, all relating to creating the Regional Jail Operations Partial Reimbursement Fund; calculation of reimbursement to counties and municipalities; providing duties of the State Treasurer; requiring report from the Regional Jail and Correctional Facility Authority; setting date for first reimbursement; and increasing court costs for criminal and civil proceedings.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §31-20-10b; that §50-3-1, §50-3-2 and §50-3-4a of said code be amended

and reenacted; and that §59-1-11 and §59-1-28a of said code be amended and reenacted, all to read as follows:

CHAPTER 31. CORPORATIONS.

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-10b. Regional Jail Operations Partial Reimbursement Fund.

1 (a) There is created in the State Treasury a new fund
2 designated the Regional Jail Operations Partial Reim-
3 bursement Fund.

4 (b) Revenues deposited into this Fund shall be composed
5 of fees collected by magistrate courts pursuant to subsec-
6 tion (g), section one and subdivision (3), subsection (a),
7 section two, article three, chapter fifty of this code and by
8 circuit courts pursuant to section eleven, article one,
9 chapter fifty-nine of this code.

10 (c) Revenues deposited into this Fund shall be used to
11 reimburse those counties and municipalities participating
12 in the regional jail system for the cost of incarceration.

13 (d) The State Treasurer shall, in cooperation with the
14 Regional Jail and Correctional Facility Authority, admin-
15 ister the Fund. The State Treasurer shall determine the
16 amount of funds available for reimbursement and, upon
17 receiving a report from the Regional Jail and Correctional
18 Facility Authority which presents the total number of
19 inmate days in the fiscal year immediately concluded, the
20 State Treasurer shall calculate the reimbursement to each
21 participant based upon a pro rata share formula.

22 (e) A participant's share shall be comparable with its
23 total of inmate days, which shall consist of the number of
24 inmates it contributed to the regional jail system and the
25 number of days those inmates remained incarcerated.

26 (f) Within ninety days of the first day of July, two
27 thousand six, and annually thereafter, each participant
28 shall receive its reimbursement from this Fund.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 3. COSTS, FINES AND RECORDS.

§50-3-1. Costs in civil actions.

1 The following costs shall be charged in magistrate courts
2 in civil actions and shall be collected in advance:

3 (a) For filing and trying any civil action and for all
4 services connected therewith, but excluding services
5 regarding enforcement of judgment, the following amounts
6 dependent upon the amount of damages sought in the
7 complaint:

8 Where the action is for five hundred dollars
9 or less \$30.00

10 Where the action is for more than five hundred
11 dollars but not more than one thousand dollars . . . \$35.00

12 Where the action is for more than one thousand
13 dollars but not more than two thousand dollars . . . \$40.00

14 Where the action is for more than two thousand
15 dollars \$50.00

16 Where the action seeks relief other than money
17 damage \$30.00

18 Five dollars from each of the filing fees listed above shall
19 be deposited in the Court Security Fund created by the
20 provisions of section fourteen, article three, chapter fifty-
21 one of this code.

22 Five dollars from each of the filing fees listed above shall
23 be deposited in the Courthouse Facilities Improvement
24 Fund created by section six, article twenty-six, chapter
25 twenty-nine of this code.

- 26 (b) For each service regarding enforcement of
- 27 a judgment including execution, suggestion,
- 28 garnishment and suggestee execution \$5.00

- 29 (c) For each bond filed in a case \$1.00

- 30 (d) For taking deposition of witness
- 31 for each hour or portion thereof \$1.00

- 32 (e) For taking and certifying acknowledgment
- 33 of a deed or other writing or taking oath
- 34 upon an affidavit \$.50

- 35 (f) For mailing any matter required or
- 36 provided by law to be mailed by certified or
- 37 registered mail with return receipt \$1.00

- 38 (g) For filing and trying any civil action \$20.00

- 39 Costs incurred in a civil action shall be reflected in any
- 40 judgment rendered thereon. The provisions of section one,
- 41 article two, chapter fifty-nine of this code, relating to the
- 42 payment of costs by poor persons, shall be applicable to all
- 43 costs in civil actions.

§50-3-2. Costs in criminal proceedings.

- 1 (a) In each criminal case before a magistrate court in
- 2 which the defendant is convicted, whether by plea or at
- 3 trial, there is imposed, in addition to other costs, fines,
- 4 forfeitures or penalties as may be allowed by law: (1) Costs
- 5 in the amount of sixty dollars, of which five dollars of that
- 6 amount shall be deposited in the Courthouse Facilities
- 7 Improvement Fund created by section six, article twenty-
- 8 six, chapter twenty-nine of this code; (2) an amount equal
- 9 to the one-day per diem provided for in subsection (h),
- 10 section ten, article twenty, chapter thirty-one of this code;
- 11 and (3) costs in the amount of thirty dollars to be deposited
- 12 in the Regional Jail Operations Partial Reimbursement
- 13 Fund created by section ten-b, article twenty, chapter
- 14 thirty-one of this code. A magistrate may not collect costs
- 15 in advance. Notwithstanding any other provision of this

16 code, a person liable for fines and court costs in a criminal
17 proceeding in which the defendant is confined in a jail or
18 prison and not participating in a work release program
19 shall not be held liable for the fines and court costs until
20 ninety days after completion of the term in jail or prison.
21 A magistrate court shall deposit five dollars from each of
22 the criminal proceedings fees collected pursuant to this
23 section in the Court Security Fund created in section
24 fourteen, article three, chapter fifty-one of this code. A
25 magistrate court shall, on or before the tenth day of the
26 month following the month in which the fees imposed in
27 this section were collected, remit an amount equal to the
28 one-day per diem provided for in subsection (h), section
29 ten, article twenty, chapter thirty-one of this code from
30 each of the criminal proceedings in which the fees speci-
31 fied in this section were collected to the magistrate court
32 clerk or, if there is no magistrate court clerk to the clerk of
33 the circuit, together with information as may be required
34 by the rules of the Supreme Court of Appeals and the rules
35 of the Office of Chief Inspector. These moneys are paid to
36 the sheriff who shall distribute the moneys solely in
37 accordance with the provisions of section fifteen, article
38 five, chapter seven of this code. Amendments made to this
39 section during the regular session of the Legislature, two
40 thousand one, are effective after the thirtieth day of June,
41 two thousand one.

42 (b) A magistrate shall assess costs in the amount of two
43 dollars and fifty cents for issuing a sheep warrant and the
44 appointment and swearing appraisers and docketing the
45 proceedings.

46 (c) In each criminal case which must be tried by the
47 circuit court but in which a magistrate renders some
48 service, costs in the amount of ten dollars shall be imposed
49 by the magistrate court and is certified to the clerk of the
50 circuit court in accordance with the provisions of section
51 six, article five, chapter sixty-two of this code.

§50-3-4a. Disposition of criminal costs and civil filing fees into State Treasury account for Regional Jail and Prison Development Fund.

1 (a) The clerk of each magistrate court shall, at the end of
2 each month, pay into the Regional Jail and Prison Devel-
3 opment Fund in the State Treasury an amount equal to
4 forty dollars of the costs collected in each criminal pro-
5 ceeding and all but ten dollars of the costs collected for the
6 filing of each civil action.

7 (b) The clerk of each magistrate court shall, at the end of
8 each month, pay into the Regional Jail Operations Partial
9 Reimbursement Fund established in section ten-a, article
10 twenty, chapter thirty-one of this code the fees collected
11 pursuant to subsection (g), section one and subdivision (3),
12 subsection (a), section two of this article.

**CHAPTER 59. FEES, ALLOWANCES AND COSTS,
NEWSPAPERS; LEGAL ADVERTISEMENTS.**

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-11. Fees to be charged by clerk of circuit court.

1 (a) The clerk of a circuit court shall charge and collect
2 for services rendered as such clerk the following fees and
3 such fees shall be paid in advance by the parties for whom
4 such services are to be rendered:

5 (1) For instituting any civil action under the rules of civil
6 procedure, any statutory summary proceeding, any
7 extraordinary remedy, the docketing of civil appeals or
8 any other action, cause, suit or proceeding, one hundred
9 forty-five dollars, of which thirty dollars of that amount
10 shall be deposited in the Courthouse Facilities Improve-
11 ment Fund created by section six, article twenty-six,
12 chapter twenty-nine of this code and ten dollars shall be
13 deposited in the special revenue account created in section
14 six hundred three, article twenty-six, chapter forty-eight
15 of this code to provide legal services for domestic violence
16 victims;

17 (2) For instituting an action for medical professional
18 liability, two hundred sixty dollars, of which ten dollars of
19 that amount shall be deposited in the Courthouse Facilities
20 Improvement Fund created by section six, article twenty-
21 six, chapter twenty-nine of this code;

22 (3) Beginning on and after the first day of July, one
23 thousand nine hundred ninety-nine, for instituting an
24 action for divorce, separate maintenance or annulment,
25 one hundred thirty-five dollars;

26 (4) For petitioning for the modification of an order
27 involving child custody, child visitation, child support or
28 spousal support, eighty-five dollars; and

29 (5) For petitioning for an expedited modification of a
30 child support order, thirty-five dollars.

31 (b) In addition to the foregoing fees, the following fees
32 shall likewise be charged and collected:

33 (1) For preparing an abstract of judgment, five dollars;

34 (2) For any transcript, copy or paper made by the clerk
35 for use in any other court or otherwise to go out of the
36 office, for each page, fifty cents;

37 (3) For action on suggestion, ten dollars;

38 (4) For issuing an execution, ten dollars;

39 (5) For issuing or renewing a suggestee execution,
40 including copies, postage, registered or certified mail fees
41 and the fee provided by section four, article five-a, chapter
42 thirty-eight of this code, three dollars;

43 (6) For vacation or modification of a suggestee execu-
44 tion, one dollar;

45 (7) For docketing and issuing an execution on a tran-
46 script of judgment from magistrate's court, three dollars;

47 (8) For arranging the papers in a certified question, writ
48 of error, appeal or removal to any other court, ten dollars,
49 of which five dollars of that amount shall be deposited in
50 the Courthouse Facilities Improvement Fund created by
51 section six, article twenty-six, chapter twenty-nine of this
52 code;

53 (9) For postage and express and for sending or receiving
54 decrees, orders or records, by mail or express, three times
55 the amount of the postage or express charges;

56 (10) For each subpoena, on the part of either plaintiff or
57 defendant, to be paid by the party requesting the same,
58 fifty cents;

59 (11) For additional service (plaintiff or appellant) where
60 any case remains on the docket longer than three years, for
61 each additional year or part year, twenty dollars.

62 (c) The clerk shall tax the following fees for services in
63 any criminal case against any defendant convicted in such
64 court:

65 (1) In the case of any misdemeanor, eighty-five dollars;
66 and

67 (2) In the case of any felony, one hundred five dollars, of
68 which ten dollars of that amount shall be deposited in the
69 Courthouse Facilities Improvement Fund created by
70 section six, article twenty-six, chapter twenty-nine of this
71 code.

72 (d) The clerk of a circuit court shall charge and collect a
73 fee of twenty-five dollars per bond for services rendered
74 by the clerk for processing of criminal bonds and the fee
75 shall be paid at the time of issuance by the person or entity
76 set forth below:

77 (1) For cash bonds, the fee shall be paid by the person
78 tendering cash as bond;

79 (2) For recognizance bonds secured by real estate, the fee
80 shall be paid by the owner of the real estate serving as
81 surety;

82 (3) For recognizance bonds secured by a surety company,
83 the fee shall be paid by the surety company;

84 (4) For ten percent recognizance bonds with surety, the
85 fee shall be paid by the person serving as surety; and

86 (5) For ten percent recognizance bonds without surety,
87 the fee shall be paid by the person tendering ten percent of
88 the bail amount.

89 In instances in which the total of the bond is posted by
90 more than one bond instrument, the above fee shall be
91 collected at the time of issuance of each bond instrument
92 processed by the clerk and all fees collected pursuant to
93 this subsection (d) shall be deposited in the Courthouse
94 Facilities Improvement Fund created by section six, article
95 twenty-six, chapter twenty-nine of this code. Nothing in
96 this subsection may be construed as authorizing the clerk
97 to collect the above fee from any person for the processing
98 of a personal recognizance bond; and

99 (e) The clerk of a circuit court shall charge and collect a
100 fee of ten dollars for services rendered by the clerk for
101 processing of bailpiece and the fee shall be paid by the
102 surety at the time of issuance. All fees collected pursuant
103 to this subsection (e) shall be deposited in the Courthouse
104 Facilities Improvement Fund created by section six, article
105 twenty-six, chapter twenty-nine of this code.

106 (f) No such clerk shall be required to handle or accept for
107 disbursement any fees, cost or amounts, of any other
108 officer or party not payable into the county treasury,
109 except it be on order of the court or in compliance with the
110 provisions of law governing such fees, costs or accounts.

§59-1-28a. Disposition of filing fees in civil actions and fees for services in criminal cases.

1 (a) Except for those payments to be made from amounts
2 equaling filing fees received for the institution of divorce
3 actions as prescribed in subsection (b) of this section, and
4 except for those payments to be made from amounts
5 equaling filing fees received for the institution of actions
6 for divorce, separate maintenance and annulment as
7 prescribed in said subsection, for each civil action insti-
8 tuted under the rules of civil procedure, any statutory
9 summary proceeding, any extraordinary remedy, the
10 docketing of civil appeals or any other action, cause, suit
11 or proceeding in the circuit court the clerk of the court
12 shall, at the end of each month, pay into the funds or
13 accounts described in this subsection an amount equal to
14 the amount set forth in this subsection of every filing fee
15 received for instituting the action as follows:

16 (1) Into the Regional Jail and Correctional Facility
17 Authority Fund in the State Treasury established pursuant
18 to the provisions of section ten, article twenty, chapter
19 thirty-one of this code the amount of sixty dollars;

20 (2) Into the Court Security Fund in the State Treasury
21 established pursuant to the provisions of section fourteen,
22 article three, chapter fifty-one of this code the amount of
23 five dollars; and

24 (3) Into the Regional Jail Operations Partial Reimburse-
25 ment Fund established pursuant to the provisions of
26 section ten-b, article twenty, chapter thirty-one of this
27 code the amount of twenty dollars.

28 (b) For each action for divorce, separate maintenance or
29 annulment instituted in the circuit court, the clerk of the
30 court shall, at the end of each month, report to the Su-
31 preme Court of Appeals the number of actions filed by
32 persons unable to pay and pay into the funds or accounts
33 in this subsection an amount equal to the amount set forth

34 in this subsection of every filing fee received for instituting
35 the divorce action as follows:

36 (1) Into the Regional Jail and Correctional Facility
37 Authority Fund in the State Treasury established pursuant
38 to the provisions of section ten, article twenty, chapter
39 thirty-one of this code the amount of ten dollars;

40 (2) Into the special revenue account of the State Trea-
41 sury, established pursuant to section six hundred four,
42 article two, chapter forty-eight of this code an amount of
43 thirty dollars;

44 (3) Into the Family Court Fund established under section
45 twenty-two, article two-a, chapter fifty-one of this code an
46 amount of seventy dollars; and

47 (4) Into the Court Security Fund in the State Treasury,
48 established pursuant to the provisions of section fourteen,
49 article three, chapter fifty-one of this code the amount of
50 five dollars.

51 (c) Notwithstanding any provision of subsection (a) or (b)
52 of this section to the contrary, the clerk of the court shall,
53 at the end of each month, pay into the Family Court Fund
54 established under section twenty-two, article two-a,
55 chapter fifty-one of this code an amount equal to the
56 amount of every fee received for petitioning for the
57 modification of an order involving child custody, child
58 visitation, child support or spousal support as determined
59 by subdivision (3), subsection (a), section eleven of this
60 article and for petitioning for an expedited modification of
61 a child support order as provided in subdivision (4) of said
62 subsection.

63 (d) The clerk of the court from which a protective order
64 is issued shall, at the end of each month, pay into the
65 Family Court Fund established under section twenty-two,
66 article two-a, chapter fifty-one of this code an amount
67 equal to every fee received pursuant to the provisions of

68 section five hundred eight, article twenty-seven, chapter
69 forty-eight of this code.

70 (e) The clerk of each circuit court shall, at the end of
71 each month, pay into the Regional Jail and Correctional
72 Facility Authority Fund in the State Treasury an amount
73 equal to forty dollars of every fee for service received in
74 any criminal case against any respondent convicted in
75 such court and shall pay an amount equal to five dollars of
76 every such fee into the Court Security Fund in the State
77 Treasury established pursuant to the provisions of section
78 fourteen, article three, chapter fifty-one of this code.

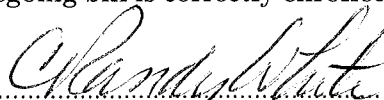
79 (f) The clerk of the circuit court shall, at the end of each
80 month, pay into the Medical Liability Fund established
81 under article twelve-b, chapter twenty-nine of this code,
82 an amount equal to one hundred sixty-five dollars of every
83 filing fee received for instituting a medical professional
84 liability action.

85 (g) The clerk of the circuit court shall, at the end of each
86 month, pay into the Courthouse Facilities Improvement
87 Fund created by section six, article twenty-six, chapter
88 twenty-nine of this code, those amounts received by the
89 clerk which are dedicated for deposit in the Fund.

90 (h) The clerk of each circuit court shall, at the end of
91 each month, pay into the Regional Jail Operations Partial
92 Reimbursement Fund established in the State Treasury
93 pursuant to the provisions of section ten-b, article twenty,
94 chapter thirty-one of this code, those amounts received by
95 the clerk which are dedicated for deposit in the fund.

13 [Enr. Com. Sub. for S. B. No. 716

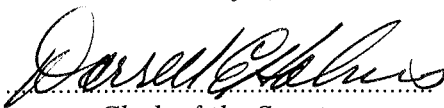
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

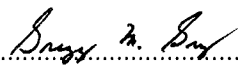

.....
Chairman Senate Committee

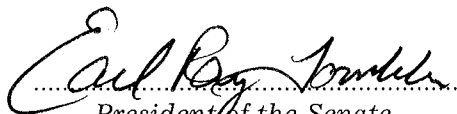

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Chairman House Committee


Originated in the Senate.

To take effect July 1, 2005.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


.....
Speaker House of Delegates

The within *is approved* this the *2nd*
Day of *May* 2005.


.....
Governor

PRESENTED TO THE
GOVERNOR

APR 27 2005

Time 2:15 pm