

H. B. 2677

(By Delegates Sobonya, Moore, Rowan, C. Miller,
Reynolds and Ellem)

[Introduced January 20, 2011; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §31-20-10 of the Code of West Virginia, 1931, as amended, relating to relieving the burden imposed on counties of incarcerating inmates in regional jails by changing the way that the cost of incarcerating inmates in regional jails is collected so that it is shared by the county, state and municipality wherein the alleged criminal act occurred; and making the cost of incarcerating a person for less than twenty-four hours one-half the amount charged for incarcerating an inmate for a full day.

Be it enacted by the Legislature of West Virginia:

That §31-20-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.
§31-20-10. Regional jail and correctional facility authority funds.

1 (a) The Regional Jail and Correctional Facility Authority may
2 create special funds in the State Treasury to identify various
3 revenue sources and payment of specific obligations. These funds
4 may be used for purposes that include, but are not limited to, the
5 construction, renovation or repair of specific facilities, cash
6 control, facility maintenance and the individual operations
7 accounts of facilities operated by the authority. The authority
8 may create other separate accounts within these funds that it
9 determines are necessary for the efficient operation of the
10 authority.

11 (b) Revenues deposited into these funds shall be used to make
12 payments of interest and shall be pledged as security for bonds,
13 security interests or notes issued or lease-purchase obligations
14 entered into with another state entity by the authority pursuant to
15 this article.

16 (c) Whenever the authority determines that the balance in
17 these funds is in excess of the immediate requirements of this
18 article, it may request that the excess be invested until needed.
19 In this case, the excess shall be invested in a manner consistent
20 with the investment of temporary state funds. Interest earned on
21 any money invested pursuant to this section shall be credited to
22 these funds.

23 (d) If the authority determines that moneys held in these
24 funds are in excess of the amount needed to carry out the purposes

1 of this article, it shall take any action ~~that is~~ necessary to
2 release the excess and transfer it to the General Revenue Fund of
3 the State Treasury.

4 (e) These funds consist of the following:

5 (1) Amounts raised by the authority by the sale of bonds or
6 other borrowing authorized by this article;

7 (2) Moneys collected and deposited in the State Treasury which
8 are specifically designated by Acts of the Legislature for
9 inclusion in these funds;

10 (3) Contributions, grants and gifts from any source, both
11 public and private, which may be used by the authority for any
12 project or projects;

13 (4) All sums paid by the counties pursuant to subsection (h)
14 of this section; and

15 (5) All interest earned on investments made by the state from
16 moneys deposited in these funds.

17 (f) The amounts deposited in these funds shall be accounted
18 for and expended in the following manner:

19 (1) Amounts raised by the sale of bonds or other borrowing
20 authorized by this article shall be deposited in a separate account
21 within these funds and expended for the purpose of construction,
22 renovation and repair of correctional facilities, regional jails
23 and juvenile detention and correctional facilities ~~for which need~~
24 ~~has been~~ as determined by the authority;

1 (2) Amounts deposited from all other sources shall be pledged
2 first to the debt service on any bonded indebtedness, including
3 lease-purchase obligations entered into by the authority with
4 another state entity or other obligation incurred by borrowing of
5 the authority;

6 (3) After any requirements of debt service have been
7 satisfied, the authority shall requisition from these funds the
8 amounts that are necessary to provide for payment of the
9 administrative expenses of this article;

10 (4) The authority shall requisition and expend from these
11 funds, after any requirements of debt service have been satisfied,
12 the amounts ~~that are~~ necessary for the maintenance and operation of
13 regional jails ~~that are~~ constructed pursuant to the provisions of
14 this article ~~and shall expend those amounts for that purpose.~~

15 These funds shall make an accounting of all amounts received from
16 each county by virtue of any filing fees, court costs or fines
17 required by law to be deposited in these funds and amounts from the
18 jail improvement funds of the various counties. After the expenses
19 of administration have been deducted, the amounts expended in the
20 respective regions from those sources shall be in proportion to the
21 percentage the amount contributed to these funds by the counties in
22 each region bears to the total amount received by these funds from
23 those sources;

24 (5) Notwithstanding any other provisions of this article, sums

1 paid into these funds by each county pursuant to subsection (h) of
2 this section for each inmate shall be placed in a separate account
3 and ~~shall be~~ requisitioned from these funds to pay for costs
4 incurred at the regional jail facility at which each inmate was
5 incarcerated; and

6 (6) Any amounts deposited in these funds from other sources
7 permitted by this article shall be expended in the respective
8 regions based on particular needs ~~to be~~ determined by the
9 authority.

10 (g) (1) After a regional jail facility becomes available
11 pursuant to this article for the incarceration of inmates, each
12 county within the region shall incarcerate all persons whom the
13 county would have incarcerated in any jail prior to the
14 availability of the regional jail facility in the regional jail
15 facility except those whose incarceration in a local jail facility
16 used as a local holding facility is specified as appropriate under
17 the standards and procedures developed pursuant to section nine of
18 this article and who the sheriff or the circuit court elects to
19 incarcerate therein.

20 (2) Notwithstanding the provisions of subdivision (1) of this
21 subsection, circuit and magistrate courts are authorized to:

22 (A) Detain persons who have been arrested or charged with a
23 crime, in a county or municipal jail, specified as appropriate
24 under the standards and procedures developed pursuant to section

1 nine of this article, for a period not to exceed ninety-six hours;
2 or

3 (B) Commit persons convicted of a crime in a county or
4 municipal jail, specified as appropriate under the standards and
5 procedures developed pursuant to section nine of this article, for
6 a period not to exceed fourteen days.

7 (h) ~~When inmates are placed in a regional jail facility~~
8 ~~pursuant to subsection (g) of this section, the county shall pay~~
9 ~~into the Regional Jail and Correctional Facility Authority Fund a~~
10 ~~cost per day for each incarcerated inmate to be determined by the~~
11 ~~Regional Jail and Correctional Facility Authority according to~~
12 ~~criteria and by procedures established by legislative rules~~
13 ~~proposed for promulgation pursuant to article three, chapter~~
14 ~~twenty-nine-a of this code and as established in section ten-a of~~
15 ~~this article to cover the costs of operating the regional jail~~
16 ~~facilities of this state to maintain each inmate. The Regional~~
17 Jail and Correctional Facility Authority shall determine a per day
18 cost for each incarcerated inmate, according to procedures
19 established by legislative rules pursuant to article three, chapter
20 twenty-nine-a of this code, and as established in section ten-a of
21 this article, to cover the costs of operating the regional jail
22 facilities of this state to maintain each inmate. Such cost shall
23 be paid in the following manner: Fifty percent shall be paid by
24 the state, forty-five percent shall be paid by the county where the

1 inmate allegedly committed the criminal act, and five percent by
2 the municipality, if applicable, where the inmate allegedly
3 committed the criminal act. In the event the alleged criminal act
4 occurred outside of a municipality, the county where the inmate
5 allegedly committed the criminal act shall pay fifty percent of the
6 cost of incarceration. If an inmate is incarcerated for more than
7 one alleged criminal act, then the applicable ratio for payment
8 shall be determined regarding the alleged criminal act which
9 occurred first in time. The per diem costs for incarcerating
10 inmates may not include the cost of construction, acquisition or
11 renovation of the regional jail facilities. ~~Provided, That~~ In each
12 regional jail facility operating in this state shall keep a record
13 of the date and time that an inmate is incarcerated and a county
14 may not be charged for a second day of incarceration for an
15 individual inmate until that inmate has remained incarcerated for
16 more than twenty-four hours. After that, in cases of continuous
17 incarceration, subsequent per diem charges shall be made upon a
18 county only as subsequent intervals of twenty-four hours pass from
19 the original time of incarceration. However, the per diem charge
20 for an inmate who is incarcerated for less than twenty-four hours
21 shall be one-half the normal per diem rate charged.

NOTE: The purpose of this bill is to relieve the burden imposed on counties of incarcerating inmates in regional jails by changing the way that the cost of incarcerating inmates in regional

jails is collected so that it is shared by the county, state and municipality where the alleged criminal act occurred; and making the cost of incarcerating a person for less than twenty-four hours one-half the amount charged for incarcerating an inmate for a full day.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.