

H. B. 2137

(By Delegate R. Phillips, H. White, Walters, Eldridge, Marcum, Smith, R., Reynolds, Storch,
Moffatt, Sponaugle and Ashley)

[Introduced January 20, 2015; 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 changing the way counties pay for regional jail inmates from a per diem rate to an hourly
rate.

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.

(a) The Regional Jail and Correctional Facility Authority may create special funds in the State
Treasury to identify various revenue sources and payment of specific obligations. These funds may
be used for purposes that include, but are not limited to, the construction, renovation or repair of

1 specific facilities, cash control, facility maintenance and the individual operations accounts of
2 facilities operated by the authority. The authority may create other separate accounts within these
3 funds that it determines are necessary for the efficient operation of the authority.

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

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

11 (d) If the authority determines that moneys held in these funds are in excess of the amount
12 needed to carry out the purposes of this article, it shall take any action that is necessary to release the
13 excess and transfer it to the General Revenue Fund of the State Treasury.

14 (e) These funds consist of the following:

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

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

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

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

22 (5) All interest earned on investments made by the state from moneys deposited in these

1 funds.

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

4 (1) Amounts raised by the sale of bonds or other borrowing authorized by this article shall
5 be deposited in a separate account within these funds and expended for the purpose of construction,
6 renovation and repair of correctional facilities, regional jails and juvenile detention and correctional
7 facilities for which need has been determined by the authority;

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

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

14 (4) The authority shall requisition from these funds, after any requirements of debt service
15 have been satisfied, the amounts that are necessary for the maintenance and operation of regional
16 jails that are constructed pursuant to the provisions of this article and shall expend those amounts
17 for that purpose. These funds shall make an accounting of all amounts received from each county
18 by virtue of any filing fees, court costs or fines required by law to be deposited in these funds and
19 amounts from the jail improvement funds of the various counties. After the expenses of
20 administration have been deducted, the amounts expended in the respective regions from those
21 sources shall be in proportion to the percentage the amount contributed to these funds by the counties
22 in each region bears to the total amount received by these funds from those sources;

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

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

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

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

15 (A) Detain persons who have been arrested or charged with a crime, in a county or municipal
16 jail, specified as appropriate under the standards and procedures developed pursuant to section nine
17 of this article, for a period not to exceed ninety-six hours; or

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

21 (h) When inmates are placed in a regional jail facility pursuant to subsection (g) of this
22 section, the county shall pay into the Regional Jail and Correctional Facility Authority Fund a cost

1 per ~~day~~ hour for each incarcerated inmate to be determined by the Regional Jail and Correctional
2 Facility Authority according to criteria and by procedures established by legislative rules proposed
3 for promulgation pursuant to article three, chapter twenty-nine-a of this code and as established in
4 section ten-a of this article to cover the costs of operating the regional jail facilities of this state to
5 maintain each inmate. The per hour cost applies as soon as an inmate is incarcerated until the time
6 he or she is released from incarceration. When an inmate's incarceration covers a fraction of an hour,
7 the county shall pay the full per hour rate for that time. The per ~~diem~~ hour costs for incarcerating
8 inmates may not include the cost of construction, acquisition or renovation of the regional jail
9 facilities: *Provided*, That each regional jail facility operating in this state shall keep a record of the
10 date and time that an inmate is incarcerated. ~~and a county may not be charged for a second day of~~
11 ~~incarceration for an individual inmate until that inmate has remained incarcerated for more than~~
12 ~~twenty-four hours. After that, in cases of continuous incarceration, subsequent per diem charges shall~~
13 ~~be made upon a county only as subsequent intervals of twenty-four hours pass from the original time~~
14 ~~of incarceration.~~

NOTE: The purpose of this bill is to provide to counties an hourly cost when paying for the incarceration of inmates in regional jails instead of an daily rate.

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