

Senate Bill No. 445

(By Senators M. Hall, Stollings, Boley,
Boso, Snyder, Facemire and Plymale)

[Introduced February 10, 2015;
referred to the Committee on Finance.]

A BILL to amend and reenact §31-20-10 of the Code of West Virginia, 1931, as amended, relating to the use and investment of Regional Jail and Correctional Facility Authority funds.

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

7 (b) Revenues deposited into these funds shall be used to make payments of interest and shall
8 be pledged as security for bonds, security interests or notes issued or lease-purchase obligations

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1 entered into with another state entity by the authority pursuant to this article.

2 (c) Whenever the authority determines that the balance in these funds is in excess of the
3 immediate requirements of this article, it may request that the excess be invested in the West
4 Virginia Board of Treasury Investments or the West Virginia Investment Management Board until
5 needed. ~~In this case, the excess shall be invested in a manner consistent with the investment of~~
6 ~~temporary state funds. Interest earned~~ Earnings on any ~~money invested~~ investments pursuant to this
7 section shall be credited to these funds.

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

11 (e) These funds consist of the following:

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

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

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

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

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

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

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

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

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

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

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

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1 which each inmate was incarcerated; and

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

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

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

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

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

18 (h) When inmates are placed in a regional jail facility pursuant to subsection (g) of this
19 section, the county shall pay into the Regional Jail and Correctional Facility Authority Fund a cost
20 per day for each incarcerated inmate to be determined by the Regional Jail and Correctional Facility
21 Authority according to criteria and by procedures established by legislative rules proposed for
22 promulgation pursuant to article three, chapter twenty-nine-a of this code and as established in

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1 section ten-a of this article to cover the costs of operating the regional jail facilities of this state to
2 maintain each inmate. The per diem costs for incarcerating inmates may not include the cost of
3 construction, acquisition or renovation of the regional jail facilities: *Provided*, That each regional
4 jail facility operating in this state shall keep a record of the date and time that an inmate is
5 incarcerated and a county may not be charged for a second day of incarceration for an individual
6 inmate until that inmate has remained incarcerated for more than twenty-four hours. After that, in
7 cases of continuous incarceration, subsequent per diem charges shall be made upon a county only
8 as subsequent intervals of twenty-four hours pass from the original time of incarceration.

(NOTE: The purpose of this bill is to specify where the Regional Jail and Correctional Facility Authority may invest its excess funds.

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