

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 2137

FISCAL  
NOTE

2015 Carryover

(BY DELEGATE R. PHILLIPS, WALTERS, ELDRIDGE,  
MARCUM, SMITH, R., REYNOLDS, STORCH, MOFFATT, AND  
SPONAUGLE)

[Introduced January 13, 2016; referred to the  
Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §31-20-10 of the Code of West Virginia, 1931, as amended, relating  
 2 to changing the way counties pay for regional jail inmates from a per diem rate to an hourly  
 3 rate.

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

1 That §31-20-10 of the Code of West Virginia, 1931, as amended, be amended and  
 2 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  
 2 State Treasury to identify various revenue sources and payment of specific obligations. These  
 3 funds may be used for purposes that include, but are not limited to, the construction, renovation  
 4 or repair of specific facilities, cash control, facility maintenance and the individual operations  
 5 accounts of facilities operated by the authority. The authority may create other separate  
 6 accounts within these funds that it determines are necessary for the efficient operation of the  
 7 authority.

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

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

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

19 (e) These funds consist of the following:

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

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

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

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

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

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

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

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

38 (3) After any requirements of debt service have been satisfied, the authority shall  
39 requisition from these funds the amounts that are necessary to provide for payment of the

40 administrative expenses of this article;

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

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

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

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

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

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

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

72 (h) When inmates are placed in a regional jail facility pursuant to subsection (g) of this  
73 section, the county shall pay into the Regional Jail and Correctional Facility Authority Fund a  
74 cost per ~~day~~ hour for each incarcerated inmate to be determined by the Regional Jail and  
75 Correctional Facility Authority according to criteria and by procedures established by legislative  
76 rules proposed for promulgation pursuant to article three, chapter twenty-nine-a of this code and  
77 as established in section ten-a of this article to cover the costs of operating the regional jail  
78 facilities of this state to maintain each inmate. The per hour cost applies as soon as an inmate is  
79 incarcerated until the time he or she is released from incarceration. When an inmate's  
80 incarceration covers a fraction of an hour, the county shall pay the full per hour rate for that  
81 time. The per ~~diem~~ hour costs for incarcerating inmates may not include the cost of  
82 construction, acquisition or renovation of the regional jail facilities: *Provided*, That each regional  
83 jail facility operating in this state shall keep a record of the date and time that an inmate is  
84 incarcerated. ~~and a county may not be charged for a second day of incarceration for an~~  
85 ~~individual inmate until that inmate has remained incarcerated for more than twenty-four hours.~~  
86 ~~After that, in cases of continuous incarceration, subsequent per diem charges shall be made~~  
87 ~~upon a county only as subsequent intervals of twenty-four hours pass from the original time of~~

88 ~~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.