

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2396

FISCAL
NOTE

2015 Carryover

(BY DELEGATES RODIGHIERO AND PERDUE)

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

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 that the costs of incarcerating inmates in regional jails is collected so
 3 that these are shared by the county, state and municipality where the alleged criminal act
 4 occurs; making the cost of incarceration for less than twenty-four hours one-half the per
 5 diem charge for a full day; and, providing a funding source for regional jail central office
 6 employees and operations.

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 temporary
14 state funds. Interest earned on any money invested pursuant to this section shall be credited to
15 these funds.

16 (d) If the authority determines that moneys held in these funds are in excess of the amount
17 needed to carry out the purposes of this article, it shall take any action that is necessary to release
18 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 by
21 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 be
25 used by the authority for any project or projects;

26 (4) All sums paid by the ~~counties~~ state, county and municipality pursuant to subsection (h)
27 of this section; and

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

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

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

36 (2) Amounts deposited from all other sources shall be pledged first to the debt service on

37 any bonded indebtedness, including lease-purchase obligations entered into by the authority with
38 another state entity or other obligation incurred by borrowing of the authority;

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

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

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

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

59 (g) (1) After a regional jail facility becomes available pursuant to this article for the
60 incarceration of inmates, each county within the region shall incarcerate all persons whom the

61 county would have incarcerated in ~~any a~~ jail prior to the availability of the regional jail facility, in
62 the regional jail ~~facility~~ except those whose incarceration in a local jail facility used as a local
63 holding facility is specified as appropriate under the standards and procedures developed
64 pursuant to section nine of this article and who the sheriff or the circuit court elects to incarcerate
65 therein.

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

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

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

74 ~~(h) When inmates are placed in a regional jail facility pursuant to subsection (g) of this~~
75 ~~section, the county shall pay into the Regional Jail and Correctional Facility Authority Fund a cost~~
76 ~~per day for each incarcerated inmate to be determined by the Regional Jail and Correctional~~
77 ~~Facility Authority according to criteria and by procedures established by legislative rules proposed~~
78 ~~for promulgation pursuant to article three, chapter twenty-nine-a of this code and as established~~
79 ~~in section ten-a of this article to cover the costs of operating the regional jail facilities of this state~~
80 ~~to maintain each inmate. (h) The Regional Jail and Correctional Facility Authority shall~~

81 determine a per day cost for each incarcerated inmate, according to procedures established by
82 legislative rules pursuant to article three, chapter twenty-nine-a of this code and as established in
83 section ten-a of this article, to cover the costs of operating the regional jail facilities of this state to
84 maintain each inmate. Such cost shall be paid in the following manner: Ten percent of the cost

85 to operate all regional jails shall be paid from the State Treasury beginning on July 1, 2015, eighty
86 five percent shall be paid by the county where the inmate allegedly committed the criminal act,
87 and five percent by the municipality, where applicable, where the inmate allegedly committed the
88 criminal act. In the event the alleged criminal act occurred outside of a municipality, the county
89 where the inmate allegedly committed the criminal act shall pay ninety percent of the cost of
90 incarceration. The percent of costs paid by the State Treasury shall increase by ten percent, for
91 five consecutive years, beginning on July 1, 2016, and continuing on July 1, 2017, 2018, 2019
92 and 2020, until the state has assumed fifty percent of the costs for operating the regional jails.

93 The per diem costs for incarcerating inmates may not include the cost of construction, acquisition
94 or renovation of the regional jail facilities. ~~Provided, That~~ Each regional jail facility operating in
95 ~~this state~~ shall keep a record of the date and time that an inmate is incarcerated. ~~and a~~ A county
96 may not be charged for a second day of incarceration for an individual inmate until that inmate
97 has remained incarcerated for more than twenty-four hours. After that, in cases of continuous
98 incarceration, subsequent per diem charges shall be made upon a county only as subsequent
99 intervals of twenty-four hours pass from the original time of incarceration. A county shall be
100 charged one-half the per diem rate for incarcerating a person for less than twenty-four hours.

101 (i) Considering that central office employees of the Regional Jail and Correctional Facility
102 Authority are not covered under the Civil Service System, the state shall pay one hundred percent
103 of the total budget to operate the central office, wherever so located, including, but not limited to,
104 employee salaries and related costs, lease payments, utilities, building and property insurance
105 coverage, building maintenance and other such costs of obligations necessary to fully operate
106 the central office facility in its entirety while maintaining staff.

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 is collected so that it is shared by the state and county and municipality where the alleged criminal act occurs; to reduce the cost of incarceration for less than twenty-four hours to one-half the daily per diem charge; and to obligate the state to pay for regional jail operations, including labor and associated expenses.

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