

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

H. B. 2456

**FISCAL
NOTE**

2015 Carryover

(BY DELEGATES SOBONYA, MILLER, FRICH, OVERINGTON,
HOUSEHOLDER AND WALTERS)

[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 relieving the burden imposed on counties of incarcerating inmates in regional jails by
 3 changing the way that the cost of incarcerating inmates in regional jails is collected so that
 4 it is shared by the county, state and municipality wherein the alleged criminal act occurred;
 5 and making the cost of incarcerating a person for less than twenty-four hours one-half the
 6 amount charged for incarcerating an inmate for a full day.

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 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 shall
32 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~~ as 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 with

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

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

55 (6) Any amounts deposited in these funds from other sources permitted by this article shall
56 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 article,
71 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 cost~~
74 ~~per day for each incarcerated inmate to be determined by the Regional Jail and Correctional~~
75 ~~Facility Authority according to criteria and by procedures established by legislative rules proposed~~
76 ~~for promulgation pursuant to article three, chapter twenty-nine-a of this code and as established~~
77 ~~in section ten-a of this article to cover the costs of operating the regional jail facilities of this state~~
78 ~~to maintain each inmate. The Regional Jail and Correctional Facility Authority shall determine a~~
79 ~~per day cost for each incarcerated inmate, according to procedures established by legislative~~
80 ~~rules pursuant to article three, chapter twenty-nine-a of this code, and as established in section~~
81 ~~ten-a of this article, to cover the costs of operating the regional jail facilities of this state to maintain~~
82 ~~each inmate. Such cost shall be paid in the following manner: Fifty percent shall be paid by~~
83 ~~the state, forty-five percent shall be paid by the county where the inmate allegedly committed the~~
84 ~~criminal act, and five percent by the municipality, if applicable, where the inmate allegedly~~

85 committed the criminal act. In the event the alleged criminal act occurred outside of a
86 municipality, the county where the inmate allegedly committed the criminal act shall pay fifty
87 percent of the cost of incarceration. If an inmate is incarcerated for more than one alleged
88 criminal act, then the applicable ratio for payment shall be determined regarding the alleged
89 criminal act which occurred first in time. The per diem costs for incarcerating inmates may not
90 include the cost of construction, acquisition or renovation of the regional jail facilities. *Provided,*
91 ~~That~~ Each regional jail facility operating in this state shall keep a record of the date and time that
92 an inmate is incarcerated and a county may not be charged for a second day of incarceration for
93 an individual inmate until that inmate has remained incarcerated for more than twenty-four hours.
94 After that, in cases of continuous incarceration, subsequent per diem charges shall be made upon
95 a county only as subsequent intervals of twenty-four hours pass from the original time of
96 incarceration. However, the per diem charge for an inmate who is incarcerated for less than
97 twenty-four hours 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.