

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 440

BY SENATORS TRUMP AND BLAIR

[Originating in the Committee on Finance; reported on

March 10, 2017]

1 A BILL to amend and reenact §31-20-10 of the Code of West Virginia, 1931, as amended, relating
2 to mandating that investment of certain Regional Jail and Correctional Facility Authority
3 special funds be with the West Virginia Board of Treasury Investments or the West Virginia
4 Investment Management Board; and eliminating obsolete language.

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 accounts
6 within these 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
8 shall be pledged as security for bonds, security interests or notes issued or lease-purchase
9 obligations entered into with another state entity by the authority pursuant to this article.

10 (c) Whenever the authority determines that the balance in these funds is in excess of the
11 immediate requirements of this article, it may request that the excess be invested with the West
12 Virginia Board of Treasury Investments or the West Virginia Investment Management Board until
13 needed. ~~In this case, the excess shall be invested in a manner consistent with the investment of~~
14 ~~temporary state funds. Interest earned~~ Earnings on any money invested investments pursuant to
15 this section shall be credited to 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 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 from these funds, after any requirements of debt service
42 have been satisfied, the amounts that are necessary for the maintenance and operation of
43 regional jails that are constructed pursuant to the provisions of this article and shall expend those
44 amounts for that purpose. These funds shall make an accounting of all amounts received from
45 each county by virtue of any filing fees, court costs or fines required by law to be deposited in
46 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 regions
48 from those sources shall be in proportion to the percentage the amount contributed to these funds
49 by the counties in each region bears to the total amount received by these funds from those
50 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 per diem costs for incarcerating inmates may not include the cost
79 of construction, acquisition or renovation of the regional jail facilities: *Provided*, That each regional
80 jail facility operating in this state shall keep a record of the date and time that an inmate is
81 incarcerated and a county may not be charged for a second day of incarceration for an individual
82 inmate until that inmate has remained incarcerated for more than twenty-four hours. After that, in
83 cases of continuous incarceration, subsequent per diem charges shall be made upon a county
84 only 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 and eliminate obsolete language.

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