WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 621

By Senators Baldwin, Beach, Caputo, Geffert, Jeffries, Lindsay, Plymale, Romano, Stollings, and Woelfel

[Introduced February 11, 2022; referred   
to the Committee on Finance]

A BILL amend and reenact §15A-3-16 of the Code of West Virginia, 1931, as amended, relating generally to the funds for operations of jails; establishing a pro rata allotment of jail capacity by county; and creating an incentive-based model for counties which confine less than or equal to the amount of individuals.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. Division of Corrections and rehabilitation.

§15A-3-16. Funds for operations of jails under the jurisdiction of the commissioner.

(a) Any special revenue funds previously administered by the Regional Jail and Correctional Facility Authority, or its executive director are continued, and shall be administered by the commissioner.

(b) Funds that have been transferred by §15A-3-16(a) of this code shall be limited in use to operations of jail functions, and for payment to the Regional Jail and Correctional Facility Authority Board, for payment of indebtedness. In no case ~~shall~~ may a fund be utilized to offset or pay operations of nonjail parts of the facility: *Provided*, That funds may be utilized on a pro rata basis for shared staff and for operational expenses of facilities being used as both prisons and jails.

(c) Whenever the commissioner determines that the balance in these funds is more than the immediate requirements of this article, he or she may request that the excess be invested until needed. Any excess funds so requested shall be invested in a manner consistent with the investment of temporary state funds. Interest earned on any moneys invested pursuant to this section shall be credited to these funds.

(d) These funds consist of the following:

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

(2) Contributions, grants, and gifts from any source, both public and private, specifically directed to the operations of jails under the control of the commissioner;

(3) All sums paid pursuant to §15A-3-16(g) of this code; and

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

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

(1) Amounts deposited shall be pledged first to the debt service on any bonded indebtedness;

(2) After any requirements of debt service have been satisfied, the commissioner shall requisition from these funds the amounts that are necessary to provide for payment of the administrative expenses of this article, as limited by this section;

(3) The commissioner shall requisition from these funds, after any requirements of debt service have been satisfied, the amounts that are necessary for the maintenance and operation of jails under his or her control. These funds shall make an accounting of all amounts received from each county by virtue of any filing fees, court costs, or fines required by law to be deposited in these funds and amounts from the jail improvement funds of the various counties;

(4) Notwithstanding any other provisions of this article, sums paid into these funds by each county pursuant to §15A-3-16(g) of this code for each inmate shall be placed in a separate account and shall be requisitioned from these funds to pay for costs incurred; and

(5) Any amounts deposited in these funds from other sources permitted by this article shall be expended based on particular needs to be determined by the commissioner.

(f)(1) After a jail facility becomes available pursuant to this article for the ~~incarceration~~ confinement of inmates, each county within the region shall confine all persons whom the county would have confined in any jail prior to the availability of the jail facility in the jail facility, except those whose ~~incarceration~~ confinement in a local jail facility used as a local holding facility is specified as appropriate under the previously promulgated, and hereby transferred standards and procedures developed by the Jail Facilities Standards Commission, and whom the sheriff or the circuit court elects to ~~incarcerate~~ confine therein.

(2) Notwithstanding the provisions of §15A-3-16(f)(1) of this code, circuit and magistrate courts are authorized to:

(A) Detain persons who have been arrested or charged with a crime in a county or municipal jail specified as appropriate under the standards and procedures referenced in §15A-3-16(f)(1) of this code, for a period not to exceed 96 hours; or

(B) Commit persons convicted of a crime in a county or municipal jail, specified as appropriate under the standards and procedures referenced in §15A-3-16(f)(1) of this code, for a period not to exceed 14 days.

(g) (1) When inmates are placed in a jail facility under the jurisdiction of the commissioner pursuant to §15A-3-16(f) of this code, the county, and municipality if the ~~incarceration~~ confinement is a municipal violation, shall pay into this fund a cost per day for each ~~incarcerated~~ confined inmate, to be determined by the state Budget Office annually by examining the most recent three fiscal years of costs submitted by the commissioner for the cost of operating the jail facilities and units under his or her jurisdiction, and taking an average per day, per inmate cost of maintaining the operations of the jail facilities or units: *Provided*, That beginning July 1, 2018, and continuing through July 1, 2022, in no case shall any county or municipality be required to pay a rate that exceeds $48.25 per day, per inmate. Nothing in this section ~~shall~~ may be construed to mean that the per diem cannot be decreased or be less than $48.25 per day per inmate: *Provided, however,* That beginning July 1, 2022, and continuing in 30 day increments thereafter, any county which confines equal to or less than their *pro rata* allotment of inmates, as provided in the table below, during the 30-day period inclusive of the first and last day shall pay $5 less per day, per inmate than otherwise provided:

County Bed Allotment (2500) 30 Day Allotment Total

Barbour 22 660

Berkeley 171 5,130

Boone 31 930

Braxton 18 540

Brooke 32 960

Cabell 132 3,960

Calhoun 9 270

Clay 12 360

Doddridge 11 330

Fayette 57 1,710

Gilmer 11 330

Grant 16 480

Greenbrier 46 1,380

Hampshire 33 990

Hancock 41 1,230

Hardy 20 600

Harrison 92 2,760

Jackson 39 1,170

Jefferson 81 2,430

Kanawha 252 7,560

Lewis 24 720

Lincoln 29 870

Logan 46 1,380

Marion 79 2,370

Marshall 43 1,290

Mason 36 1,080

McDowell 27 810

Mercer 84 2,520

Mineral 38 1,140

Mingo 33 990

Monongalia 148 4,440

Monroe 18 540

Morgan 24 720

Nicholas 35 1,050

Ohio 60 1,800

Pendleton 9 270

Pleasants 11 330

Pocahontas 11 330

Preston 48 1,140

Putnam 81 2,430

Raleigh 104 3,120

Randolph 39 1,170

Ritchie 12 360

Roane 20 600

Summers 17 510

Taylor 24 720

Tucker 10 300

Tyler 12 360

Upshur 34 1,020

Wayne 55 1,650

Webster 12 360

Wetzel 21 630

Wirt 8 240

Wood 118 3,540

Wyoming 30 900;

(h) The per diem costs for incarcerating inmates may not include the cost of construction, acquisition, or renovation of the regional jail facilities: *Provided*, That each jail facility or unit operating in this state shall keep a record of the date and time that an inmate is ~~incarcerated~~ confined, and a county may not be charged for a second day of ~~incarceration~~ confinement for an individual inmate until that inmate has remained confined for more than 24 hours. After that, in cases of continuous ~~incarceration~~ confinement, subsequent per diem charges shall be made upon a county only as subsequent intervals of 24 hours pass from the original time of ~~incarceration~~ confinement.

(i) The county is responsible for costs incurred by the division for housing and maintaining inmates in its facilities who are pretrial inmates and convicted misdemeanants. The costs of housing shall be borne by the division on a felony conviction on which an inmate is ~~incarcerated~~ confined beginning the calendar day following the day of sentencing: *Provided*, That beginning July 1, 2019, the costs of housing shall be borne by the division on a felony conviction when an inmate is ~~incarcerated~~ confined beginning the calendar day following the day of conviction. In no case ~~shall~~ may the county be responsible for any costs of housing and maintaining felony convicted inmate populations.

(j) The county is responsible for the costs incurred by the authority for housing and maintaining an inmate who, prior to a felony conviction on which the inmate is ~~incarcerated~~ confined and is awaiting transportation to a state correctional facility for a 60-day evaluation period as provided in §62-12-7a of this code.

(k) On or before July 1, 2020, the commissioner shall prepare a report on the feasibility of phasing out the county and municipal per diem charges required by §15A-3-16(g) of this code. This report shall include information regarding savings realized because of the consolidation of the former Division of Corrections, Division of Juvenile Services, and the operations of the Regional Jail and Correctional Facility Authority, as well as any other recommendations that might ease the burden of paying the per diem inmate costs by the counties or municipalities. On or before January 1, 2019, January 1, 2020, and January 1, 2021, the commissioner shall report to the Joint Committee on Government and Finance and the co-chairmen of the Joint Standing Committee on Finance the actual per diem rate as calculated pursuant to §15A-3-16(g) of this code and any amount not assessed to counties if the actual per diem cost is larger than the amount charged to the counties or municipalities pursuant to §15A-3-16(g) between July 1, 2018, and July 1, 2021.

NOTE: The purpose of this bill is to establish a *pro rata* allotment of the regional jail capacity by county and create an incentive based model for a lower per diem rate for counties which comport to their allotment.

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