

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]

1 A BILL amend and reenact §15A-3-16 of the Code of West Virginia, 1931, as amended, relating
 2 generally to the funds for operations of jails; establishing a pro rata allotment of jail
 3 capacity by county; and creating an incentive-based model for counties which confine less
 4 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.

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

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

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

15 (d) These funds consist of the following:

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

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

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

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

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

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

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

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

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

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

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

46 circuit court elects to ~~incarcerate~~ confine therein.

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

49 (A) Detain persons who have been arrested or charged with a crime in a county or
 50 municipal jail specified as appropriate under the standards and procedures referenced in §15A-
 51 3-16(f)(1) of this code, for a period not to exceed 96 hours; or

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

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

69 <u>County</u>	<u>Bed Allotment (2500)</u>	<u>30 Day Allotment Total</u>
70 <u>Barbour</u>	<u>22</u>	<u>660</u>
71 <u>Berkeley</u>	<u>171</u>	<u>5,130</u>

72	<u>Boone</u>	<u>31</u>	<u>930</u>
73	<u>Braxton</u>	<u>18</u>	<u>540</u>
74	<u>Brooke</u>	<u>32</u>	<u>960</u>
75	<u>Cabell</u>	<u>132</u>	<u>3,960</u>
76	<u>Calhoun</u>	<u>9</u>	<u>270</u>
77	<u>Clay</u>	<u>12</u>	<u>360</u>
78	<u>Doddridge</u>	<u>11</u>	<u>330</u>
79	<u>Fayette</u>	<u>57</u>	<u>1,710</u>
80	<u>Gilmer</u>	<u>11</u>	<u>330</u>
81	<u>Grant</u>	<u>16</u>	<u>480</u>
82	<u>Greenbrier</u>	<u>46</u>	<u>1,380</u>
83	<u>Hampshire</u>	<u>33</u>	<u>990</u>
84	<u>Hancock</u>	<u>41</u>	<u>1,230</u>
85	<u>Hardy</u>	<u>20</u>	<u>600</u>
86	<u>Harrison</u>	<u>92</u>	<u>2,760</u>
87	<u>Jackson</u>	<u>39</u>	<u>1,170</u>
88	<u>Jefferson</u>	<u>81</u>	<u>2,430</u>
89	<u>Kanawha</u>	<u>252</u>	<u>7,560</u>
90	<u>Lewis</u>	<u>24</u>	<u>720</u>
91	<u>Lincoln</u>	<u>29</u>	<u>870</u>
92	<u>Logan</u>	<u>46</u>	<u>1,380</u>
93	<u>Marion</u>	<u>79</u>	<u>2,370</u>
94	<u>Marshall</u>	<u>43</u>	<u>1,290</u>
95	<u>Mason</u>	<u>36</u>	<u>1,080</u>
96	<u>McDowell</u>	<u>27</u>	<u>810</u>
97	<u>Mercer</u>	<u>84</u>	<u>2,520</u>

98	<u>Mineral</u>	<u>38</u>	<u>1,140</u>
99	<u>Mingo</u>	<u>33</u>	<u>990</u>
100	<u>Monongalia</u>	<u>148</u>	<u>4,440</u>
101	<u>Monroe</u>	<u>18</u>	<u>540</u>
102	<u>Morgan</u>	<u>24</u>	<u>720</u>
103	<u>Nicholas</u>	<u>35</u>	<u>1,050</u>
104	<u>Ohio</u>	<u>60</u>	<u>1,800</u>
105	<u>Pendleton</u>	<u>9</u>	<u>270</u>
106	<u>Pleasants</u>	<u>11</u>	<u>330</u>
107	<u>Pocahontas</u>	<u>11</u>	<u>330</u>
108	<u>Preston</u>	<u>48</u>	<u>1,140</u>
109	<u>Putnam</u>	<u>81</u>	<u>2,430</u>
110	<u>Raleigh</u>	<u>104</u>	<u>3,120</u>
111	<u>Randolph</u>	<u>39</u>	<u>1,170</u>
112	<u>Ritchie</u>	<u>12</u>	<u>360</u>
113	<u>Roane</u>	<u>20</u>	<u>600</u>
114	<u>Summers</u>	<u>17</u>	<u>510</u>
115	<u>Taylor</u>	<u>24</u>	<u>720</u>
116	<u>Tucker</u>	<u>10</u>	<u>300</u>
117	<u>Tyler</u>	<u>12</u>	<u>360</u>
118	<u>Upshur</u>	<u>34</u>	<u>1,020</u>
119	<u>Wayne</u>	<u>55</u>	<u>1,650</u>
120	<u>Webster</u>	<u>12</u>	<u>360</u>
121	<u>Wetzel</u>	<u>21</u>	<u>630</u>
122	<u>Wirt</u>	<u>8</u>	<u>240</u>
123	<u>Wood</u>	<u>118</u>	<u>3,540</u>

124 Wyoming 30 900;

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

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

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

145 (k) On or before July 1, 2020, the commissioner shall prepare a report on the feasibility of
146 phasing out the county and municipal per diem charges required by §15A-3-16(g) of this code.
147 This report shall include information regarding savings realized because of the consolidation of
148 the former Division of Corrections, Division of Juvenile Services, and the operations of the
149 Regional Jail and Correctional Facility Authority, as well as any other recommendations that might

150 ease the burden of paying the per diem inmate costs by the counties or municipalities. On or
151 before January 1, 2019, January 1, 2020, and January 1, 2021, the commissioner shall report to
152 the Joint Committee on Government and Finance and the co-chairmen of the Joint Standing
153 Committee on Finance the actual per diem rate as calculated pursuant to §15A-3-16(g) of this
154 code and any amount not assessed to counties if the actual per diem cost is larger than the
155 amount charged to the counties or municipalities pursuant to §15A-3-16(g) between July 1, 2018,
156 and July 1, 2021.
157

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.