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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993

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ENROLLED
Com. Sub. for Com. Sub. for
SENATE BILL NO. 122

(By Senator Plymale, et al.)

—●—
PASSED April 10, 1993
In Effect 90 days from Passage

E N R O L L E D

COMMITTEE SUBSTITUTE
FOR
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 122

(SENATORS PLYMALE, JONES, HELMICK, BRACKENRICH,
YODER, WALKER, WAGNER AND BOLEY, *original sponsors*)

[Passed April 10, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact sections nine and ten, article twenty, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the purpose, power and duties of the jail and correctional facility standards commission and to the collection of revenues by the regional jail and correctional facilities development fund; requiring the commission to prescribe standards for the maintenance and operation of correctional facilities, county and regional jails; providing that the standards serve as guidelines only for certain jail facilities; requiring the commission to promulgate implementing rules; requiring the commission to develop a review process for facility standards; requiring periodic reports; requiring the commission to maintain county jails after a regional becomes available; setting guidelines for the charge

and collection of revenues by the regional jail and correctional facilities development fund; directing the commission to permit and implement double bunking of inmates; and limiting charges assessed a county to one day per each twenty-four hour period of inmate incarceration.

Be it enacted by the Legislature of West Virginia:

That sections nine and ten, article twenty, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-9. Purpose, powers and duties.

1 (a) The purpose of the commission is to assure that
2 proper minimum standards and procedures are devel-
3 oped for jail, work farm and correctional facility
4 operation, maintenance and management of inmates
5 for correctional facilities, regional jails and local jail
6 facilities used as temporary holding facilities. In order
7 to accomplish this purpose, the commission shall:

8 (1) Prescribe standards for the maintenance and
9 operation of correctional facilities and county and
10 regional jails. The standards shall include, but not be
11 limited to, requirements assuring adequate space,
12 lighting and ventilation; fire protection equipment and
13 procedures; provision of specific personal hygiene
14 articles; bedding, furnishings and clothing; food servi-
15 ces; appropriate staffing and training; sanitation, safety
16 and hygiene; isolation and suicide prevention; appro-
17 priate medical, dental and other health services;
18 indoor and outdoor exercise; appropriate vocational
19 and educational opportunities; classification; inmate
20 rules and discipline; inmate money and property;
21 religious services; inmate work programs; library
22 services; visitation, mail and telephone privileges; and
23 other standards necessary to assure proper operation:
24 *Provided*, That the standards as developed for the
25 construction, operation and maintenance of jails shall

26 only apply to facilities completed after the fifth day of
27 April, one thousand nine hundred eighty-eight, and
28 that the standards shall serve only as guidelines for
29 any jail facility in operation prior to that date:
30 *Provided, however,* That the commission shall estab-
31 lish standards and procedures permitting and imple-
32 menting in such facilities the double bunking of
33 inmates in all appropriate cases to the extent that such
34 a practice does not violate federal law.

35 (2) Promulgate the rules pursuant to the provisions
36 of chapter twenty-nine-a of this code as are necessary
37 to implement the provisions of this article, including,
38 without limitation, minimum jail, work farm and
39 correctional facility standards which shall be promul-
40 gated on or before the first day of July, one thousand
41 nine hundred eighty-six.

42 (3) Develop a process for reviewing and updating the
43 jail, work farm and correctional facility standards
44 pursuant to the provisions of chapter twenty-nine-a of
45 this code as may be necessary to assure that they
46 conform to current law.

47 (4) Report periodically to the authority to advise and
48 recommend actions to be taken by the authority to
49 implement proper minimum jail, work farm and
50 correctional facility standards.

51 (b) Notwithstanding any other provision of this code
52 to the contrary, any county commission providing and
53 maintaining a jail on the effective date of this article
54 shall not be required to provide and maintain a jail
55 after a regional jail becomes available pursuant to the
56 provisions of article twenty, chapter thirty-one of this
57 code, unless the county commission determines that
58 such a facility is necessary: *Provided,* That the county
59 commission may provide and maintain a holding
60 facility which complies with the standards set forth for
61 such holding facilities in legislative rules promulgated
62 by the jail and correctional facility standards commis-
63 sion or its predecessor, the jail and prison standards
64 commission.

**§31-20-10. Regional jail and correctional facility develop-
ment fund.**

1 (a) The regional jail and correctional facility devel-
2 opment fund is hereby created and shall be a special
3 account in the state treasury. The fund shall operate
4 as a revolving fund whereby all appropriations and
5 payments thereto may be applied and reapplied by the
6 authority for the purposes of this article. Separate
7 accounts may be established within the special account
8 for the purpose of identification of various revenue
9 resources and payment of specific obligations.

10 (b) Revenues deposited into the fund may be used to
11 make payments of interest and may be pledged as
12 security for bonds, security interests or notes issued by
13 the authority pursuant to this article.

14 (c) Whenever the authority determines that the
15 balance in the fund is in excess of the immediate
16 requirements of this article, it may request that such
17 excess be invested until needed. In such case such
18 excess shall be invested in a manner consistent with
19 the investment of the temporary state funds. Interest
20 earned on any money invested pursuant to this section
21 shall be credited to the fund.

22 (d) If the authority determines that funds held in
23 the fund are in excess of the amount needed to carry
24 out the purposes of this article, it shall take such
25 action as is necessary to release such excess and
26 transfer it to the general fund of the state treasury.

27 (e) The fund shall consist of the following:

28 (1) Amounts raised by the authority by the sale of
29 bonds or other borrowing authorized by this article;

30 (2) Moneys collected and deposited in the state
31 treasury which are specifically designated by acts of
32 the Legislature for inclusion into the fund;

33 (3) Contributions, grants and gifts from any source,
34 both public and private, which may be used by the
35 authority for any project or projects;

36 (4) All sums paid by the counties pursuant to
37 subsection (h) of this section; and

38 (5) All interest earned on investments made by the

39 state from moneys deposited in this fund.

40 (f) The amounts deposited in the fund shall be
41 accounted for and expended in the following manner:

42 (1) Amounts raised by the sale of bonds or other
43 borrowing authorized by this article shall be deposited
44 in a separate account within the fund and expended
45 for the purpose of construction and renovation of
46 correctional facilities and regional jails for which need
47 has been determined by the authority;

48 (2) Amounts deposited from all other sources shall
49 be pledged first to the debt service on any bonded
50 indebtedness or other obligation incurred by borrow-
51 ing of the authority;

52 (3) After any requirements of debt service have
53 been satisfied, the authority shall requisition from the
54 fund such amounts as are necessary to provide for
55 payment of the administrative expenses of this article;

56 (4) The authority shall requisition from the fund
57 after any requirements of debt service have been
58 satisfied such amounts as are necessary for the main-
59 tenance and operation of the correctional facilities or
60 regional jails or both that are constructed pursuant to
61 the plan required by this article and shall expend such
62 amounts for such purpose. The fund shall make an
63 accounting of all amounts received from each county
64 by virtue of any filing fees, court costs or fines
65 required by law to be deposited in the fund and
66 amounts from the jail improvement funds of the
67 various counties. After the expenses of administration
68 have been deducted the amounts expended in the
69 respective regions from such sources shall be in
70 proportion to the percentage the amount contributed
71 to the fund by the counties in each region bears to the
72 total amount received by the fund from such sources;

73 (5) Notwithstanding any other provisions of this
74 article, sums paid into the fund by each county
75 pursuant to subsection (h) of this section for each
76 inmate shall be placed in a separate account and shall
77 be requisitioned from the fund to pay for the costs

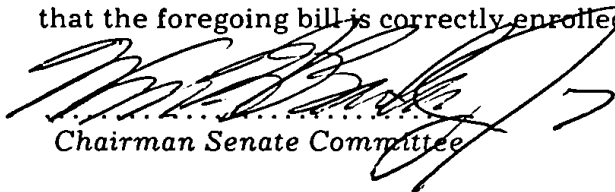
78 specified in that subsection incurred at the regional
79 jail facility at which each such inmate was incarcerated;
80 ed; and

81 (6) Any amounts deposited in the fund from other
82 sources permitted by this article shall be expended in
83 the respective regions based on particular needs to be
84 determined by the authority.

85 (g) After a regional jail facility becomes available
86 pursuant to this article for the incarceration of
87 inmates, each county within the region shall incarcer-
88 ate all persons whom the county would have incarcer-
89 ated in any jail prior to the availability of the regional
90 jail facility in the regional jail facility except those
91 whose incarceration in a local jail facility used as a
92 local holding facility is specified as appropriate under
93 the standards and procedures developed pursuant to
94 section nine of this article and who the sheriff or the
95 circuit court elects to incarcerate therein.

96 (h) When inmates are placed in a regional jail
97 facility pursuant to subsection (g) of this section the
98 county shall pay into the regional jail and correctional
99 facility development fund a cost per day for each
100 inmate so incarcerated to be determined by the
101 regional jail and correctional facility authority accord-
102 ing to criteria and by procedures established by
103 regulations pursuant to article three, chapter twenty-
104 nine-a of this code to cover the costs of operating the
105 regional jail facilities of this state to maintain each
106 such inmate which costs shall not include the cost of
107 construction, acquisition or renovation of said regional
108 jail facilities: *Provided*, That each regional jail facility
109 operating in this state shall keep a record of the date
110 and time of the incarceration of an inmate, and a
111 county may not be charged for a second day of
112 incarceration for an individual inmate until that
113 inmate has remained incarcerated for more than
114 twenty-four hours. Thereafter, in cases of continuous
115 incarceration, subsequent per diem charges shall be
116 made upon a county only as subsequent intervals of
117 twenty-four hours pass from the original time of
118 incarceration.

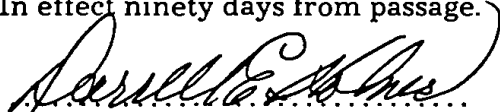
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

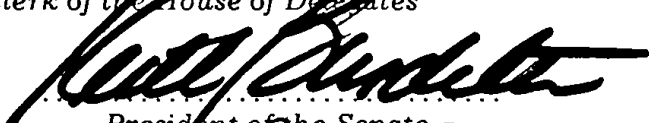
..... Ernest C. Moore
Chairman House Committee


Originated in the Senate.

In effect ninety days from passage.)

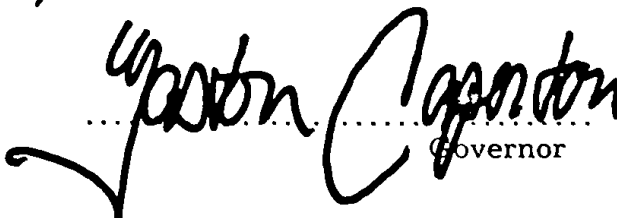

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 6th
day of May, 1993.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/24/93

Time 1:37 pm