

SB 316

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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2004

ENROLLED

SENATE BILL NO. 316

(By Senator LOVE, ET AL)

PASSED MARCH 13, 2004

In Effect JULY 1, 2004 - Passage

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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Senate Bill No. 316

(BY SENATORS LOVE, HUNTER, WHITE AND MCKENZIE)

[Passed March 13, 2004; to take effect July 1, 2004.]

AN ACT to amend and reenact §31-20-10 of the code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §31-20-10a, all relating to regional jail and correctional facility authority funds; providing statutory procedures for determining the cost per day for inmates incarcerated in facilities operated by the authority; and outlining the allocation of costs for housing inmates.

Be it enacted by the Legislature of West Virginia:

That §31-20-10 of the code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be further amended by adding thereto a new section, designated §31-20-10a, all 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
2 may create special funds in the state treasury to identify
3 various revenue sources and payment of specific obliga-
4 tions. These funds may be used for purposes that include,
5 but are not limited to, the construction, renovation or
6 repair of specific facilities, cash control, facility mainte-
7 nance and the individual operations accounts of facilities
8 operated by the authority. The authority may create other
9 separate accounts within these funds that it determines are
10 necessary for the efficient operation of the authority.

11 (b) Revenues deposited into these funds shall be used to
12 make payments of interest and shall be pledged as security
13 for bonds, security interests or notes issued or
14 lease-purchase obligations entered into with another state
15 entity by the authority pursuant to this article.

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

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

28 (e) These funds consist of the following:

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

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

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

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

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

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

43 (1) Amounts raised by the sale of bonds or other borrow-
44 ing authorized by this article shall be deposited in a
45 separate account within these funds and expended for the
46 purpose of construction, renovation and repair of correc-
47 tional facilities, regional jails and juvenile detention and
48 correctional facilities for which need has been determined
49 by the authority;

50 (2) Amounts deposited from all other sources shall be
51 pledged first to the debt service on any bonded indebted-
52 ness, including lease-purchase obligations entered into by
53 the authority with another state entity or other obligation
54 incurred by borrowing of the authority;

55 (3) After any requirements of debt service have been
56 satisfied, the authority shall requisition from these funds
57 the amounts that are necessary to provide for payment of
58 the administrative expenses of this article;

59 (4) The authority shall requisition from these funds,
60 after any requirements of debt service have been satisfied,
61 the amounts that are necessary for the maintenance and
62 operation of regional jails that are constructed pursuant to
63 the provisions of this article and shall expend those
64 amounts for that purpose. These funds shall make an
65 accounting of all amounts received from each county by
66 virtue of any filing fees, court costs or fines required by
67 law to be deposited in these funds and amounts from the
68 jail improvement funds of the various counties. After the
69 expenses of administration have been deducted, the
70 amounts expended in the respective regions from those
71 sources shall be in proportion to the percentage the

72 amount contributed to these funds by the counties in each
73 region bears to the total amount received by these funds
74 from those sources;

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

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

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

95 (h) When inmates are placed in a regional jail facility
96 pursuant to subsection (g) of this section, the county shall
97 pay into the regional jail and correctional facility author-
98 ity fund a cost per day for each incarcerated inmate to be
99 determined by the regional jail and correctional facility
100 authority according to criteria and by procedures estab-
101 lished by legislative rules proposed for promulgation
102 pursuant to article three, chapter twenty-nine-a of this
103 code and as established in section ten-a of this article to
104 cover the costs of operating the regional jail facilities of
105 this state to maintain each inmate. The per diem costs for
106 incarcerating inmates may not include the cost of con-
107 struction, acquisition or renovation of the regional jail

108 facilities: *Provided*, That each regional jail facility operat-
109 ing in this state shall keep a record of the date and time
110 that an inmate is incarcerated and a county may not be
111 charged for a second day of incarceration for an individual
112 inmate until that inmate has remained incarcerated for
113 more than twenty-four hours. After that, in cases of
114 continuous incarceration, subsequent per diem charges
115 shall be made upon a county only as subsequent intervals
116 of twenty-four hours pass from the original time of
117 incarceration.

**§31-20-10a. Criteria and procedures for determining the cost
per day for inmates incarcerated in facilities
operated by the authority and allocating cost.**

1 (a) This section applies to the regional jail and correc-
2 tional facility authority, counties, municipalities, the
3 division of corrections, the United States marshal service,
4 the United States bureau of prisons and any other entity
5 by whose authority inmates are incarcerated and main-
6 tained in facilities operated by the authority.

7 (b)(1) The authority shall develop and approve a sched-
8 ule of anticipated operational expenditures for each
9 regional jail. The schedules shall include funds for
10 personal services and fringe benefits for personnel neces-
11 sary to the operation of the facilities, as well as allocations
12 of funds for food, clothing, utilities, supplies, transporta-
13 tion and all other costs necessary to operate and maintain
14 the facilities. The operational expenditure schedule shall
15 include all costs, both direct and indirect, for operating
16 and maintaining the regional jail. The authority shall
17 develop and approve an operational expenditure schedule
18 for each regional jail on an annual basis, consistent with
19 the state fiscal year.

20 (2) If the actual operational costs exceed the approved
21 schedule of operational expenditures by more than ten
22 percent in a line item, the authority's executive director

23 shall add a temporary surcharge to the cost per inmate day
24 in an amount sufficient to cover the actual expenditures.

25 (c) The county is responsible for costs incurred by the
26 authority for housing and maintaining inmates in its
27 facilities who have not been committed to the custody of
28 the commissioner of corrections.

29 (d) The county is responsible for the costs incurred by
30 the authority for housing and maintaining inmates who,
31 prior to sentencing, are awaiting transportation to a state
32 correctional facility for a sixty-day evaluation period as
33 provided in section seven, article twelve, chapter sixty-two
34 of this code.

35 (e) The division of corrections is responsible for the costs
36 incurred by the authority for housing and maintaining
37 inmates who have been sentenced to the custody of the
38 division of corrections beginning the calendar day follow-
39 ing the day the commitment order was entered into the
40 court record. The circuit clerk of the county from which
41 the commitment order has been entered shall immediately
42 transmit by facsimile machine an advance copy of the
43 certified commitment order to the division of corrections
44 and to the regional jail in which the inmate is confined.

45 (f) The division of corrections is responsible for the costs
46 incurred by the authority for housing and maintaining
47 inmates who have been held on a parole violation warrant.

48 (g) The division of corrections is responsible for the costs
49 incurred by the authority for housing and maintaining
50 inmates who have been returned to a regional jail under
51 court order, except that the county from which the inmate
52 was charged is responsible for the per diem costs in the
53 event that a court of competent jurisdiction sets aside or
54 vacates the order of commitment to the division of correc-
55 tions, from the date of the order or the return of the inmate
56 to a regional jail, whichever is later.

57 (h) The costs incurred by the authority for housing and
58 maintaining inmates who are being held as fugitives from
59 justice from another jurisdiction shall be billed to the
60 fugitive's demanding jurisdiction, except the costs in-
61 curred by the authority for housing and maintaining any
62 person who is arrested and confined in one of the author-
63 ity's facilities on the basis of the commission of a new
64 crime shall be billed to the arresting county until the
65 pending West Virginia charges have been properly re-
66 solved.

67 (i) Any other entity or jurisdiction, unless otherwise
68 stipulated in this section, is responsible for any and all
69 costs associated with housing its inmates in a facility
70 operated by the authority.

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2004.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within is approved this the 7th
Day of April, 2004.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR
DATE 3.31.04
TIME 10:45 AM