

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2845**

BY DELEGATES LANE, BYRD, WALTERS, ROBINSON,  
ROWE, PUSHKIN, MR. SPEAKER, MR. ARMSTEAD,  
CANESTRARO, LOVEJOY AND FAST

[Introduced March 8, 2017; Referred  
to the Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §31-20-10a of the Code of West Virginia, 1931, as amended,  
 2 relating to establishing that the Division of Corrections is responsible for the costs of  
 3 housing and maintaining an inmate the day following an inmate’s conviction.

*Be it enacted by the Legislature of West Virginia:*

1 That §31-20-10a 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.**

**§31-20-10a. 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 Correctional Facility Authority, counties,  
 2 municipalities, the Division of Corrections, the United States marshal service, the United States  
 3 bureau of prisons and any other entity by whose authority inmates are incarcerated and  
 4 maintained in facilities operated by the authority.

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

13 (2) If the actual operational costs exceed the approved schedule of operational  
 14 expenditures by more than ten percent in a line item, the authority's executive director shall add  
 15 a temporary surcharge to the cost per inmate day in an amount sufficient to cover the actual

16 expenditures.

17 (c) The county is responsible for costs incurred by the authority for housing and  
18 maintaining inmates in its facilities who have not been committed to the custody of the  
19 Commissioner of Corrections.

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

24 (e) The Division of Corrections is responsible for the costs incurred by the authority for  
25 housing and maintaining inmates who have been sentenced to the custody of the Division of  
26 Corrections beginning the calendar day following the day ~~the commitment order was entered into~~  
27 ~~the court record~~ of conviction. The circuit clerk of the county from which the commitment order  
28 has been entered shall immediately transmit by facsimile machine an advance copy of the  
29 certified commitment order to the Division of Corrections and to the regional jail in which the  
30 inmate is confined.

31 (f) The Division of Corrections is responsible for the costs incurred by the authority for  
32 housing and maintaining inmates who have been held on a parole violation warrant.

33 (g) The Division of Corrections is responsible for the costs incurred by the authority for  
34 housing and maintaining inmates who have been returned to a regional jail under court order,  
35 except that the county from which the inmate was charged is responsible for the per diem costs  
36 in the event that a court of competent jurisdiction sets aside or vacates the order of commitment  
37 to the Division of Corrections, from the date of the order or the return of the inmate to a regional  
38 jail, whichever is later.

39 (h) The costs incurred by the authority for housing and maintaining inmates who are being  
40 held as fugitives from justice from another jurisdiction shall be billed to the fugitive's demanding  
41 jurisdiction, except the costs incurred by the authority for housing and maintaining any person

42 who is arrested and confined in one of the authority's facilities on the basis of the commission of  
43 a new crime shall be billed to the arresting county until the pending West Virginia charges have  
44 been properly resolved.

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

NOTE: The purpose of this bill is to establish that the Division of Corrections is responsible for inmate's housing costs beginning the day after the inmate's conviction.

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