

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2023

**FISCAL
NOTE**

BY DELEGATE RODIGHIERO

[Introduced February 8, 2017; Referred
to the Committee on Political Subdivisions then Finance]

1 A BILL to amend and reenact §31-20-10 of the Code of West Virginia, 1931, as amended, relating
 2 to changing the way that the costs of incarcerating inmates in regional jails is collected so
 3 that these are shared by the county, state and municipality where the alleged criminal act
 4 occurs; making the cost of incarceration for less than twenty-four hours one-half the per
 5 diem charge for a full day; and, providing a funding source for regional jail central office
 6 employees and operations.

Be it enacted by the Legislature of West Virginia:

1 That §31-20-10 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.**

§31-20-10. Regional jail and correctional facility authority funds.

1 (a) The Regional Jail and Correctional Facility Authority may create special funds in the
 2 State Treasury to identify various revenue sources and payment of specific obligations. These
 3 funds may be used for purposes that include, but are not limited to, the construction, renovation
 4 or repair of specific facilities, cash control, facility maintenance and the individual operations
 5 accounts of facilities operated by the authority. The authority may create other separate accounts
 6 within these funds that it determines are necessary for the efficient operation of the authority.

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

10 (c) Whenever the authority determines that the balance in these funds is in excess of the
 11 immediate requirements of this article, it may request that the excess be invested until needed.
 12 In this case, the excess shall be invested in a manner consistent with the investment of temporary

13 state funds. Interest earned on any money invested pursuant to this section shall be credited to
14 these funds.

15 (d) If the authority determines that moneys held in these funds are in excess of the amount
16 needed to carry out the purposes of this article, it shall take any action that is necessary to release
17 the excess and transfer it to the General Revenue Fund of the State Treasury.

18 (e) These funds consist of the following:

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

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

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

25 (4) All sums paid by the ~~counties~~ state, county and municipality pursuant to subsection (h)
26 of this section; and

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

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

31 (1) Amounts raised by the sale of bonds or other borrowing authorized by this article shall
32 be deposited in a separate account within these funds and expended for the purpose of
33 construction, renovation and repair of correctional facilities, regional jails and juvenile detention
34 and correctional facilities ~~for which need has been~~ as determined by the authority;

35 (2) Amounts deposited from all other sources shall be pledged first to the debt service on
36 any bonded indebtedness, including lease-purchase obligations entered into by the authority with
37 another state entity or other obligation incurred by borrowing of the authority;

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

41 (4) The authority shall requisition and expend from these funds, after any requirements of
42 debt service have been satisfied, the amounts ~~that are~~ necessary for the maintenance and
43 operation of regional jails ~~that are constructed pursuant to the provisions of this article and shall~~
44 ~~expend those amounts for that purpose~~ constructed pursuant to this article. ~~These funds shall~~
45 ~~make an accounting~~ An accounting shall be made of all amounts received from each county by
46 virtue of ~~any~~ filing fees, court costs or fines required by law to be deposited in these funds and
47 amounts from the jail improvement funds of the various counties. After the expenses of
48 administration have been deducted, the amounts expended in the respective regions from those
49 sources shall be in proportion to the percentage the amount contributed to these funds by the
50 counties in each region bears to the total amount received by these funds from those sources;

51 (5) Notwithstanding any other provisions of this article, sums paid into these funds by ~~each~~
52 ~~county~~ the state and each county and municipality pursuant to subsection (h) of this section for
53 each inmate shall be placed in a separate account and ~~shall be~~ requisitioned from these funds to
54 pay for costs incurred at the regional jail facility at which each inmate was incarcerated; and

55 (6) Any amounts deposited in these funds from other sources permitted by this article shall
56 be expended in the respective regions based on particular needs ~~to be~~ determined by the
57 authority.

58 (g) (1) After a regional jail facility becomes available pursuant to this article for the
59 incarceration of inmates, each county within the region shall incarcerate all persons whom the
60 county would have incarcerated in ~~any~~ a jail prior to the availability of the regional jail facility, in
61 the regional jail ~~facility~~ except those whose incarceration in a local jail facility used as a local
62 holding facility is specified as appropriate under the standards and procedures developed

63 pursuant to section nine of this article and who the sheriff or the circuit court elects to incarcerate
64 therein.

65 (2) Notwithstanding the provisions of subdivision (1) of this subsection, circuit and
66 magistrate courts are authorized to:

67 (A) Detain persons who have been arrested or charged with a crime, in a county or
68 municipal jail, specified as appropriate under the standards and procedures developed pursuant
69 to section nine of this article, for a period not to exceed ninety-six hours; or

70 (B) Commit persons convicted of a crime in a county or municipal jail, specified as
71 appropriate under the standards and procedures developed pursuant to section nine of this article,
72 for a period not to exceed fourteen days.

73 ~~(h) When inmates are placed in a regional jail facility pursuant to subsection (g) of this~~
74 ~~section, the county shall pay into the Regional Jail and Correctional Facility Authority Fund a cost~~
75 ~~per day for each incarcerated inmate to be determined by the Regional Jail and Correctional~~
76 ~~Facility Authority according to criteria and by procedures established by legislative rules proposed~~
77 ~~for promulgation pursuant to article three, chapter twenty-nine-a of this code and as established~~
78 ~~in section ten-a of this article to cover the costs of operating the regional jail facilities of this state~~
79 ~~to maintain each inmate~~ The Regional Jail and Correctional Facility Authority shall determine a
80 per day cost for each incarcerated inmate, according to procedures established by legislative
81 rules pursuant to article three, chapter twenty-nine-a of this code and as established in section
82 ten-a of this article, to cover the costs of operating the regional jail facilities of this state to maintain
83 each inmate. The cost shall be paid in the following manner: Ten percent of the cost to operate
84 all regional jails shall be paid from the State Treasury beginning on July 1, 2017, eighty-five
85 percent shall be paid by the county where the inmate allegedly committed the criminal act, and
86 five percent by the municipality, where applicable, where the inmate allegedly committed the
87 criminal act. In the event the alleged criminal act occurred outside of a municipality, the county
88 where the inmate allegedly committed the criminal act shall pay ninety percent of the cost of

89 incarceration. The percent of costs paid by the State Treasury shall increase by ten percent, for
90 five consecutive years, beginning on July 1, 2017, and continuing on July 1, 2018, 2019, 2020
91 and 2021, until the state has assumed fifty percent of the costs for operating the regional jails.

92 The per diem costs for incarcerating inmates may not include the cost of construction, acquisition
93 or renovation of the regional jail facilities. ~~Provided, That~~ Each regional jail facility ~~operating in~~
94 ~~this state~~ shall keep a record of the date and time that an inmate is incarcerated. ~~and~~ A county
95 may not be charged for a second day of incarceration for an individual inmate until that inmate
96 has remained incarcerated for more than twenty-four hours. After that, in cases of continuous
97 incarceration, subsequent per diem charges shall be made upon a county only as subsequent
98 intervals of twenty-four hours pass from the original time of incarceration. A county shall be
99 charged one-half the per diem rate for incarcerating a person for less than twenty-four hours.

100 (i) Considering that central office employees of the Regional Jail and Correctional Facility
101 Authority are not covered under the Civil Service System, the state shall pay one hundred percent
102 of the total budget to operate the central office, wherever so located, including, but not limited to,
103 employee salaries and related costs, lease payments, utilities, building and property insurance
104 coverage, building maintenance and other such costs of obligations necessary to fully operate
105 the central office facility in its entirety while maintaining staff.

NOTE: The purpose of this bill is to relieve the burden imposed on counties of incarcerating inmates in regional jails by changing the way that the cost of incarcerating inmates is collected so that it is shared by the state and county and municipality where the alleged criminal act occurs; to reduce the cost of incarceration for less than twenty-four hours to one-half the daily per diem charge; and to obligate the state to pay for regional jail operations, including labor and associated expenses.

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