

H. B. 2743

(By Delegate Rodighiero)

[Introduced January 21, 2011; referred to the
Committee on the Judiciary then Finance.]

A BILL to amend and reenact §31-20-10 of the Code of West Virginia, 1931, as amended, relating to relieving the burden imposed on counties of incarcerating inmates in regional jails by changing the way the cost of incarcerating inmates in regional jails is collected so that it is shared by the county, state and municipality wherein the alleged criminal act occurred; and making the cost of incarcerating a person for less than twenty-four hours, one-half the amount charged for incarcerating an inmate for a full day.

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 to read as follows:

**ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY
AUTHORITY.
§31-20-10. Regional jail and correctional facility authority
funds.**

(a) The Regional Jail and Correctional Facility Authority may create special funds in the State Treasury to identify various

1 revenue sources and payment of specific obligations. These funds
2 may be used for purposes that include, but are not limited to, the
3 construction, renovation or repair of specific facilities, cash
4 control, facility maintenance and the individual operations
5 accounts of facilities operated by the authority. The authority
6 may create other separate accounts within these funds that it
7 determines are necessary for the efficient operation of the
8 authority.

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

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

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

26 (e) These funds consist of the following:

27 (1) Amounts raised by the authority by the sale of bonds or

1 other borrowing authorized by this article;

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

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

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

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

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

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

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

25 (3) After any requirements of debt service have been
26 satisfied, the authority shall requisition from these funds the
27 amounts that are necessary to provide for payment of the

1 administrative expenses of this article;

2 (4) The authority shall requisition and expend from these
3 funds, after any requirements of debt service have been satisfied,
4 the amounts ~~that are~~ necessary for the maintenance and operation of
5 regional jails ~~that are~~ constructed pursuant to ~~the provisions of~~
6 this article. ~~and shall expend those amounts for that purpose~~
7 These funds shall make an accounting of all amounts received from
8 each county by virtue of any filing fees, court costs or fines
9 required by law to be deposited in these funds and amounts from the
10 jail improvement funds of the various counties. After the expenses
11 of administration have been deducted, the amounts expended in the
12 respective regions from those sources shall be in proportion to the
13 percentage the amount contributed to these funds by the counties in
14 each region bears to the total amount received by these funds from
15 those sources;

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

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

26 (g) (1) After a regional jail facility becomes available
27 pursuant to this article for the incarceration of inmates, each

1 county within the region shall incarcerate all persons whom the
2 county would have incarcerated in any jail prior to the
3 availability of the regional jail facility in the regional jail
4 facility except those whose incarceration in a local jail facility
5 used as a local holding facility is specified as appropriate under
6 the standards and procedures developed pursuant to section nine of
7 this article and who the sheriff or the circuit court elects to
8 incarcerate therein.

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

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

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

20 (h) ~~When inmates are placed in a regional jail facility~~
21 ~~pursuant to subsection (g) of this section, the county shall pay~~
22 ~~into the Regional Jail and Correctional Facility Authority Fund a~~
23 ~~cost per day for each incarcerated inmate to be determined by the~~
24 ~~Regional Jail and Correctional Facility Authority according to~~
25 ~~criteria and by procedures established by legislative rules~~
26 ~~proposed for promulgation pursuant to article three, chapter~~
27 ~~twenty-nine-a of this code and as established in section ten-a of~~

1 ~~this article to cover the costs of operating the regional jail~~
2 ~~facilities of this state to maintain each inmate. The Regional~~
3 ~~Jail and Correctional Facility Authority shall determine a per day~~
4 ~~cost for each incarcerated inmate, according to procedures~~
5 ~~established by legislative rules pursuant to article three, chapter~~
6 ~~twenty- nine-a of this code, and as established in section ten-a of~~
7 ~~this article, to cover the costs of operating the regional jail~~
8 ~~facilities of this state to maintain each inmate. Such cost are to~~
9 ~~be paid in the following manner: Ten percent of the cost to~~
10 ~~operate all regional jails shall be paid from the State Treasury~~
11 ~~beginning on the July 1, 2011, eighty-five percent shall be paid by~~
12 ~~the county where the inmate allegedly committed the criminal act,~~
13 ~~and five percent by the municipality, where applicable, where the~~
14 ~~inmate allegedly committed the criminal act. In the event the~~
15 ~~alleged criminal act occurred outside of a municipality, the county~~
16 ~~where the inmate allegedly committed the criminal act shall pay~~
17 ~~ninety percent of the cost of incarceration. Ten percent extra is~~
18 ~~paid by the State Treasury beginning July 1, 2011 and every year~~
19 ~~thereafter until such time as the state has assumed a full fifty~~
20 ~~percent of the costs normally paid by each county within the State~~
21 ~~of West Virginia. The per diem costs for incarcerating inmates may~~
22 ~~not include the cost of construction, acquisition or renovation of~~
23 ~~the regional jail facilities. ~~Provided, That~~ In addition, each~~
24 ~~regional jail facility operating in this state shall keep a record~~
25 ~~of the date and time that an inmate is incarcerated and a county~~
26 ~~may not be charged for a second day of incarceration for an~~
27 ~~individual inmate until that inmate has remained incarcerated for~~

1 more than twenty-four hours. After that, in cases of continuous
2 incarceration, subsequent per diem charges shall be made upon a
3 county only as subsequent intervals of twenty-four hours pass from
4 the original time of incarceration.

5 (i) In addition, considering that the Central Office employees
6 of the Regional Jail and Correctional Facility Authority are not
7 covered under the Civil Service System, the state shall pay one
8 hundred percent of the total budget to operate the Central Office,
9 wherever so located, including, but not limited to, employee
10 salaries and related costs, lease payments, utilities, building and
11 property insurance coverage, building maintenance, and other such
12 costs or obligations necessary to fully operate said facility in
13 its entirety while maintaining staff.

NOTE: The purpose of this bill is to relieve the burden imposed on counties and municipalities of incarcerating inmates in the state regional jails by changing the way the cost of incarcerating inmates in regional jails is paid so that it is shared by the state, counties and municipalities, where the alleged criminal act occurred.

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