

H. B. 3038

(By Delegates Folk, Faircloth, Kump and Householder)  
[Introduced March 21, 2013; referred to the  
Committee on the Judiciary then Finance.]

**FISCAL  
NOTE**

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 that 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 an inmate who is incarcerated for less than twelve hours one-half the normal per diem rate charged, and the per diem charge for an inmate who is imprisoned for more than twelve, but less than twenty-four hours, two-thirds the normal per diem rate charged.

*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:

1 **ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY**  
2 **AUTHORITY.**

3 **§31-20-10. Regional Jail and Correctional Facility Authority**  
4 **Funds.**

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

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

20 (c) Whenever the authority determines that the balance in  
21 these funds is in excess of the immediate requirements of this  
22 article, it may request that the excess be invested until needed.  
23 In this case, the excess shall be invested in a manner consistent

1 with the investment of temporary state funds. Interest earned on  
2 any money invested pursuant to this section shall be credited to  
3 these funds.

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

9 (e) These funds consist of the following:

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

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

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

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

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

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

24 (1) Amounts raised by the sale of bonds or other borrowing

1 authorized by this article shall be deposited in a separate account  
2 within these funds and expended for the purpose of construction,  
3 renovation and repair of correctional facilities, regional jails  
4 and juvenile detention and correctional facilities ~~for which need~~  
5 ~~has been~~ as determined by the authority;

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

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

15 (4) The authority shall requisition and expend from these  
16 funds, after any requirements of debt service have been satisfied,  
17 the amounts ~~that are~~ necessary for the maintenance and operation of  
18 regional jails ~~that are~~ constructed pursuant to the provisions of  
19 this article. ~~and shall expend those amounts for that purpose~~  
20 These funds shall make an accounting of all amounts received from  
21 each county by virtue of any filing fees, court costs or fines  
22 required by law to be deposited in these funds and amounts from the  
23 jail improvement funds of the various counties. After the expenses  
24 of administration have been deducted, the amounts expended in the

1 respective regions from those sources shall be in proportion to the  
2 percentage the amount contributed to these funds by the counties in  
3 each region bears to the total amount received by these funds from  
4 those sources;

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

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

15       (g) (1) After a regional jail facility becomes available  
16 pursuant to this article for the incarceration of inmates, each  
17 county within the region shall incarcerate all persons whom the  
18 county would have incarcerated in any jail prior to the  
19 availability of the regional jail facility in the regional jail  
20 facility except those whose incarceration in a local jail facility  
21 used as a local holding facility is specified as appropriate under  
22 the standards and procedures developed pursuant to section nine of  
23 this article and who the sheriff or the circuit court elects to  
24 incarcerate therein.

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

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

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

12 ~~(h) When inmates are placed in a regional jail facility~~  
13 ~~pursuant to subsection (g) of this section, the county shall pay~~  
14 ~~into the Regional Jail and Correctional Facility Authority Fund a~~  
15 ~~cost per day for each incarcerated inmate to be determined by the~~  
16 ~~Regional Jail and Correctional Facility Authority according to~~  
17 ~~criteria and by procedures established by legislative rules~~  
18 ~~proposed for promulgation pursuant to article three, chapter~~  
19 ~~twenty-nine-a of this code and as established in section ten-a of~~  
20 ~~this article to cover the costs of operating the regional jail~~  
21 ~~facilities of this state to maintain each inmate. The Regional~~  
22 ~~Jail and Correctional Facility Authority shall determine a per day~~  
23 ~~cost for each incarcerated inmate, according to procedures~~  
24 ~~established by legislative rules pursuant to article three, chapter~~

1 twenty-nine-a of this code, and as established in section ten-a of  
2 this article, to cover the costs of operating the regional jail  
3 facilities of this state to maintain each inmate. Such cost shall  
4 be paid in the following manner:

5 (1) In all cases, fifty percent shall be paid by the state;

6 (2) In cases where the inmate allegedly committed the criminal  
7 act in a municipality and an inmate is charged with a violation of  
8 a municipal ordinance, act, resolution, rule and/or regulation then  
9 twenty-five percent shall be paid by the county where the inmate  
10 allegedly committed the criminal act, and twenty-five percent by  
11 the municipality.

12 (3) In the event the alleged criminal act occurred outside of  
13 a municipality, or, in cases where the inmate allegedly committed  
14 the criminal act in a municipality and an inmate is not charged  
15 with a violation of a municipal ordinance, act, resolution, rule  
16 and/or regulation, then, the county where the inmate allegedly  
17 committed the criminal act shall pay fifty percent of the cost of  
18 incarceration.

19 (4) If an inmate is incarcerated for more than one alleged  
20 criminal act, then the applicable ratio for payment shall be  
21 determined by the alleged criminal act which occurred first in  
22 time.

23 The per diem costs for incarcerating inmates may not include  
24 the cost of construction, acquisition or renovation of the regional

1 jail facilities. ~~Provided, That~~ Each regional jail facility  
2 operating in this state shall keep a record of the date and time  
3 that an inmate is incarcerated and a county may not be charged for  
4 a second day of incarceration for an individual inmate until that  
5 inmate has remained incarcerated for more than twenty-four hours.  
6 After that, in cases of continuous incarceration, subsequent per  
7 diem charges shall be made upon a county only as subsequent  
8 intervals of twenty-four hours pass from the original time of  
9 incarceration. However, the per diem charge for an inmate who is  
10 incarcerated for less than twelve hours shall be one-half the  
11 normal per diem rate charged, and the per diem charge for an inmate  
12 who is imprisoned for more than twelve, but less than twenty-four  
13 hours, shall be two-thirds the normal per diem rate charged.

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 in regional jails is collected so that it is shared by the county, state and municipality where the alleged criminal act occurred; and making the cost of incarcerating an inmate who is incarcerated for less than twelve hours one-half the normal per diem rate charged, and the per diem charge for an inmate who is imprisoned for more than twelve, but less than twenty-four hours, two-thirds the normal per diem rate charged.

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