

H. B. 2456

(By Delegates Sobonya, Miller, Frich, Overington,
Householder and Walters)

[Introduced January 28, 2015; 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 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 revenue sources and payment of specific obligations. These funds may be used for purposes that include, but are not limited to, the construction, renovation or repair of

1 specific facilities, cash control, facility maintenance and the individual operations accounts of
2 facilities operated by the authority. The authority may create other separate accounts within these
3 funds that it determines are necessary for the efficient operation of the authority.

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

7 (c) Whenever the authority determines that the balance in these funds is in excess of the
8 immediate requirements of this article, it may request that the excess be invested until needed. In
9 this case, the excess shall be invested in a manner consistent with the investment of temporary state
10 funds. Interest earned on any money invested pursuant to this section shall be credited to these
11 funds.

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

15 (e) These funds consist of the following:

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

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

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

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

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

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

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

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

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

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

1 in each region bears to the total amount received by these funds from those sources;

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

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

8 (g) (1) After a regional jail facility becomes available pursuant to this article for the
9 incarceration of inmates, each county within the region shall incarcerate all persons whom the county
10 would have incarcerated in any jail prior to the availability of the regional jail facility in the regional
11 jail facility except those whose incarceration in a local jail facility used as a local holding facility is
12 specified as appropriate under the standards and procedures developed pursuant to section nine of
13 this article and who the sheriff or the circuit court elects to incarcerate therein.

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

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

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

22 ~~(h) When inmates are placed in a regional jail facility pursuant to subsection (g) of this~~

1 section, the county shall pay into the Regional Jail and Correctional Facility Authority Fund a cost
2 per day for each incarcerated inmate to be determined by the Regional Jail and Correctional Facility
3 Authority according to criteria and by procedures established by legislative rules proposed for
4 promulgation pursuant to article three, chapter twenty-nine-a of this code and as established in
5 section ten-a of this article to cover the costs of operating the regional jail facilities of this state to
6 maintain each inmate. The Regional Jail and Correctional Facility Authority shall determine a per
7 day cost for each incarcerated inmate, according to procedures established by legislative rules
8 pursuant to article three, chapter twenty-nine-a of this code, and as established in section ten-a of this
9 article, to cover the costs of operating the regional jail facilities of this state to maintain each inmate.
10 Such cost shall be paid in the following manner: Fifty percent shall be paid by the state, forty-five
11 percent shall be paid by the county where the inmate allegedly committed the criminal act, and five
12 percent by the municipality, if applicable, where the inmate allegedly committed the criminal act.
13 In the event the alleged criminal act occurred outside of a municipality, the county where the inmate
14 allegedly committed the criminal act shall pay fifty percent of the cost of incarceration. If an inmate
15 is incarcerated for more than one alleged criminal act, then the applicable ratio for payment shall be
16 determined regarding the alleged criminal act which occurred first in time. The per diem costs for
17 incarcerating inmates may not include the cost of construction, acquisition or renovation of the
18 regional jail facilities. ~~Provided, That~~ Each regional jail facility operating in this state shall keep a
19 record of the date and time that an inmate is incarcerated and a county may not be charged for a
20 second day of incarceration for an individual inmate until that inmate has remained incarcerated for
21 more than twenty-four hours. After that, in cases of continuous incarceration, subsequent per diem
22 charges shall be made upon a county only as subsequent intervals of twenty-four hours pass from the

- 1 original time of incarceration. However, the per diem charge for an inmate who is incarcerated for
- 2 less than twenty-four hours shall be one-half 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 a person for less than twenty-four hours one-half the amount charged for incarcerating an inmate for a full day.

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