

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2038

**FISCAL
NOTE**

BY DELEGATE RODIGHIERO)

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

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

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 pursuant to subsection (h) of this section; and

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

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

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

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

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

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

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

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

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

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

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

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

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

89 paid by each county within the State of West Virginia. The per diem costs for incarcerating
90 inmates may not include the cost of construction, acquisition or renovation of the regional jail
91 facilities. ~~Provided, That~~ In addition, each regional jail facility operating in this state shall keep a
92 record of the date and time that an inmate is incarcerated and a county may not be charged for a
93 second day of incarceration for an individual inmate until that inmate has remained incarcerated
94 for more than twenty-four hours. After that, in cases of continuous incarceration, subsequent per
95 diem charges shall be made upon a county only as subsequent intervals of twenty-four hours
96 pass from the original time of incarceration.

97 (i) In addition, considering that the Central Office employees of the Regional Jail and
98 Correctional Facility Authority are not covered under the Civil Service System, the state shall pay
99 one hundred percent of the total budget to operate the Central Office, wherever so located,
100 including, but not limited to, employee salaries and related costs, lease payments, utilities,
101 building and property insurance coverage, building maintenance, and other such costs or
102 obligations necessary to fully operate said facility in 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 took place.

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