

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2480

**FISCAL
NOTE**

BY DELEGATE PHILLIPS

[Introduced February 15, 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 changing the way counties pay for regional jail inmates from a per diem rate to an hourly
 3 rate.

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 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 from these funds, after any requirements of debt service
41 have been satisfied, the amounts that are necessary for the maintenance and operation of
42 regional jails that are constructed pursuant to the provisions of this article and shall expend those

43 amounts for that purpose. These funds shall make an accounting of all amounts received from
44 each county by virtue of any filing fees, court costs or fines required by law to be deposited in
45 these funds and amounts from the jail improvement funds of the various counties. After the
46 expenses of administration have been deducted, the amounts expended in the respective regions
47 from those sources shall be in proportion to the percentage the amount contributed to these funds
48 by the counties in each region bears to the total amount received by these funds from those
49 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~~ hour 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 per hour cost applies as soon as an inmate is incarcerated until the
78 time he or she is released from incarceration. When an inmate's incarceration covers a fraction
79 of an hour, the county shall pay the full per hour rate for that time. The per ~~diem~~ hour costs for
80 incarcerating inmates may not include the cost of construction, acquisition or renovation of the
81 regional jail facilities: *Provided*, That each regional jail facility operating in this state shall keep a
82 record of the date and time that an inmate is incarcerated. ~~and a county may not be charged for~~
83 ~~a second day of incarceration for an individual inmate until that inmate has remained incarcerated~~
84 ~~for more than twenty-four hours. After that, in cases of continuous incarceration, subsequent per~~
85 ~~diem charges shall be made upon a county only as subsequent intervals of twenty-four hours~~
86 ~~pass from the original time of incarceration~~

NOTE: The purpose of this bill is to provide to counties an hourly cost when paying for the incarceration of inmates in regional jails instead of a daily rate.

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