ENROLLED
Committee Substitute for
SENATE BILL NO. 232

(By Mr. Craig, et al)

PASSED April 13, 1985
In Effect July 1, 1985
AN ACT to amend and reenact section fifteen, article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend chapter thirty-one of said code by adding thereto a new article, designated article twenty; to amend and reenact sections one, two and four, article three, chapter fifty of said code; and to further amend said article three by adding thereto a new section, designated section four-a; to amend and reenact sections eleven, twenty-eight and thirty-one, article one, chapter fifty-nine of said code; and to further amend said article one by adding thereto a new section, designated section twenty-eight-a, all relating generally to the West Virginia regional jail and prison authority and funding therefor; excepting certain costs and fees from net proceeds accounted for and sent to the treasury of the state by the sheriff; requiring certain proceeds of costs and fines to be transmitted to the regional jail and prison development fund upon completion of regional jail facilities; providing for certain expenses related to local holding facilities; creating the West Virginia regional jail and prison authority; enacting the West Virginia regional jail and prison authority.
act; definitions; the authority to be a body corporate and a
government instrumentality; governing board;
commissioner of corrections to be chairman; commissioner
of finance and administration to be treasurer; members;
appointment; terms; vacancies; members bond; board to be
governing body and exercise powers of authority; meetings;
officers; quorum; bylaws; rules regarding business of
authority; executive director; personnel, consultants,
technicians and legal staff; expenses from regional jail and
prison development fund; comprehensive study of prison,
work farm and jail facilities; deadline; requirements of
study; plan to specify groups of counties; bidding
procedures; notice thereof; contracts for lease not to be bid;
bond of contractors; what authority to consider when
creating the plan establishing regions; public hearings and
notice thereof; hearings on sites; procedures to be
promulgated; requirements; powers of authority; regional
jail commissions; composition; appointment; terms;
vacancies; compensation and expenses; regional jail
commission powers and duties; jail, work farm and prison
standards commission; members; appointment;
compensation and expenses; secretarial and other expenses;
vacancies; quorum; purpose; standards and procedures for
prisons, work farms, regional jails and local jail facilities
used as temporary holding facilities; requirements of
standards; promulgation of standards by legislative rule
making; review and update of standards; reports to
authority; regional jail and prison development fund
created; special account in state treasury; revolving fund;
revenues to secure bonds, security interests or notes;
investments; interest to be credited to the fund; excess to
general fund; what fund shall consist of; how amounts
deposited to be accounted for and expended; counties to use
regional jail facilities; costs per day to be paid; borrowing of
money; authorization by resolution of board; not to exceed
twenty-five years; provisions of resolution; notes, security
interests and bonds to be general obligations and negotiable
instruments; provisions of resolutions authorizing notes,
security interests or bonds or any issue thereof may contain
to be a part of the contract with holders; authority for
purchase and redemption of notes, security interests or
bonds; the state of West Virginia not to be liable on notes,
security interests or bonds or other evidences of indebtedness of the authority; disclaimer thereof to be noted thereon; twenty-five percent of holders authorized to appoint a trustee in the event of default in payment, default in any agreement or failure or refusal to comply with law on the part of the authority; procedures; powers of trustee upon request of twenty-five percent of holders; incidental powers; notice before declaration that obligations due and payable; notes, security interests and bonds to be securities; who may invest therein; duties of state board of investments prior to investing therein; requirements and limits for purchase by state board of investments; tax exemption of authority; obligations, and interest and income thereon to be exempt from taxation by this state or its subdivisions or instrumentalities except inheritance taxes; limit on principal amount of obligations; computation thereof; purchase by state board of investments limited; validity of any pledge, mortgage, deed of trust or security instrument; money of authority to be collected and received by the treasurer of the authority and paid into the state treasury; exceptions; conflicts of interest prohibited; such contracts or agreements to be void; acts of authority not to conflict with performance due by agreement with federal agency; authority not to alter or limit rights and powers inconsistent therewith; civil filing fees in magistrate courts raised; costs in criminal proceedings in magistrate courts raised; disposition of additional fees and costs to regional jail and prison development fund in the state treasury; civil filing fees in circuit court raised; fees for services in circuit court misdemeanor and felony cases raised; disposition of additional filing fees and fees for services in criminal cases to the state treasury; fees for enforcement of a judgment raised; duties of clerks; additional costs, fees, fees for services in criminal cases exempt from certain handling; authority to exercise all power and authority provided in this article necessary and convenient to plan, finance, construct, renovate, maintain and operate prisons after first providing for regional jail facilities.

Be it enacted by the Legislature of West Virginia:

That section fifteen, article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted; that chapter thirty-one of said code be amended by adding thereto a new article, designated article twenty; that sections one, two and four, article three, chapter fifty of said code be amended and reenacted; that said article three be further amended by adding thereto a new section, designated section four-a; that sections eleven, twenty-eight and thirty-one, article one, chapter fifty-nine of said code be amended and reenacted; and that said article one be further amended by adding thereto a new section, designated section twenty-eight-a, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 5. FISCAL AFFAIRS.

§7-5-15. Annual statement of sheriff of fines and costs received from magistrates; payment into state treasury.

The sheriff shall annually, during the month of January, render under oath to the auditor a true statement of the account of all fines and costs collected by magistrates and transmitted to him and pay into the treasury of the state, the net proceeds of such fines and costs as exhibited by such account, to be appropriated as directed by the fifth section of article twelve of the constitution of this state. Failure to do so shall be deemed a breach of his official duty. For the purposes of this section, the net proceeds of such fines and costs shall be deemed to be the proceeds remaining after deducting therefrom: (1) The cost of auditing the accounts of magistrates by the chief inspector’s office; (2) the amounts of costs and fees paid into the regional jail and prison development fund of the state treasury by the clerk in the manner provided by section four-a, article three, chapter fifty of this code; (3) until a regional facility is provided pursuant to article twenty, chapter thirty-one of this code, the expenses and costs of operation and maintenance of the county jail or a regional correctional facility, other than a facility provided pursuant to article twenty, chapter thirty-one of this code, operated jointly with one or more other county or counties, and of constructing, reconstructing and renovating any jail facility used for county prisoners and of periodic payments, if any, for the establishment of a jail improvement fund in the manner provided by section nine, article one of this
CHAPTER 31. CORPORATIONS.

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND PRISON AUTHORITY.

§31-20-1. Short title.

This article shall be known and may be cited as “The West Virginia Regional Jail and Prison Authority Act.”

§31-20-2. Definitions.

Unless the context indicates clearly otherwise, as used in this article:

(a) “Authority” or “West Virginia regional jail authority” means the West Virginia regional jail and prison authority created by this article.

(b) “Board” means the governing body of the authority.

(c) “Bonds” means bonds of the authority issued under this article.

(d) “Cost of construction or renovation of a local jail facility or regional jail facility” means the cost of all lands, water areas, property rights and easements, financing charges, interest prior to and during construction and for a period not exceeding six months following the completion of construction, equipment, engineering and legal services, plans, specifications and surveys, estimates of costs and other expenses necessary or incidental to determining the...
feasibility or practicability of any such project, together with such other expenses as may be necessary or incidental to the financing and the construction or renovation of such facilities and the placing of same in operation.

(e) "County" means any county of this state.

(f) "Federal agency" means the United States of America and any department, corporation, agency or instrumentality created, designated or established by the United States of America.

(g) "Fund" means the regional jail development fund provided in section ten of this article.

(h) "Government" means state and federal government, and any political subdivision, agency or instrumentality thereof, corporate or otherwise.

(i) "Inmate" means any person properly committed to a local or regional jail facility or a prison.

(j) "Local jail facility" means any facility for the confinement, custody, supervision or control of persons convicted of misdemeanors, awaiting trial or awaiting transportation to a state correctional facility.

(k) "Municipality" means any city, town or village in this state.

(l) "Notes" means any notes as defined in section one hundred four, article three, chapter forty-six of this code issued under this article by the authority.

(m) "Prison" means any prison, penitentiary, detention center or other correctional institution operated by the department of corrections.

(n) "Regional jail facility" or "regional jail" means any facility operated by the authority and used jointly by two or more counties for the confinement, custody, supervision or control of persons convicted of misdemeanors or awaiting trial or awaiting transportation to a state correctional facility.

(o) "Regional jail commission" means the commission established in section eight of this article.

(p) "Revenues" means all fees, charges, moneys, profits, payments of principal of, or interest on, loans and other investments, grants, contributions and all other income received by the authority.

(q) "Security interest" means an interest in the loan portfolio of the authority which interest is secured by an
underlying loan or loans and is evidenced by a note issued by the authority.

“Work farm” shall have the same meaning as that term is used in section twelve, article eight, chapter seven of this code authorizing work farms for individual counties.

§31-20-3. West Virginia regional jail and prison authority; composition; appointment; terms; compensation and expenses.

There is hereby created the West Virginia regional jail and prison authority which shall be a body corporate and a government instrumentality.

The authority shall be governed by a board, consisting of a chairman, who shall be the commissioner of the department of corrections; a treasurer, who shall be the commissioner of the department of finance and administration or his designated representative; three members appointed by the governor, who are representative of the areas of law, medicine and county government; the state superintendent of schools or his designated representative; the state fire marshal or his designated representative; the director of the department of health or his designated representative; and a representative from the juvenile facilities review panel.

Upon the establishment of the regional jail commissions, as provided for in section five of this article, one member of each commission shall become a member of the board, such member to be appointed by the regional jail commission.

Members of the Legislature are not eligible to serve on the board.

The governor shall nominate and, by and with the advice and consent of the Senate, appoint three members of the authority for staggered terms of four years beginning the first day of July, one thousand nine hundred eighty-five. Of the members of the board first appointed, one shall be appointed for a term ending the thirtieth day of June, one thousand nine hundred eighty-six, and one each for terms ending one and two years thereafter. As these original appointments expire, each subsequent appointment shall be for a full four-year term.

Any appointed member whose term has expired shall serve until his successor has been duly appointed and
Any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member is eligible for reappointment. Members of the authority are not entitled to compensation for services performed as members but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties. All members of the board of the authority shall execute an official bond in a penalty of ten thousand dollars, conditioned as required by law. Premiums on such bond shall be paid from funds accruing to the authority. Such bond shall be approved as to form by the attorney general and as to sufficiency by the governor and, when fully executed and approved, shall be filed in the office of the secretary of state.

§31-20-4. Governing body; organization and meetings; quorum; administrative expenses.

The governing body of the authority shall consist of the members of the board as provided in section three of this article and shall exercise all the powers given to the authority in this article. The commissioner of the department of corrections shall be chairman of the board and its chief executive officer. On the second Monday of July of each year, the board shall meet to elect a secretary from among its own members. A majority of the members of the board constitute a quorum, and a quorum must be present for the board to conduct business. Unless the bylaws require a larger number, action may be taken by majority vote of the members present. The board shall manage the property and business of the authority and prescribe, amend and repeal bylaws and rules governing the manner in which the business of the authority is conducted. The authority shall employ an executive director and any other personnel it determines necessary and may appoint its own counsel and legal staff and retain such temporary engineering, financial and other consultants or technicians as may be required for any special study or survey consistent with the provisions of this article. All costs incidental to the administration of the authority
including office expense, personal services expense and current expense, shall be paid from the regional jail and prison development fund in accordance with guidelines issued by the board of the authority.

§31-20-5. Powers and duties of the authority; bidding procedures.

The regional jail and prison authority shall complete a comprehensive study of all prison and jail facilities in the state of West Virginia no later than the first day of July, one thousand nine hundred eighty-six. This study shall include an assessment of the physical conditions of confinement within the institutions and the relative need for the institutions when considering other available institutions of confinement located within the state.

After completing this study the authority shall submit a plan to the governor on the establishment of regional jails in this state and the acquisition, construction or renovation of facilities for prisons. The authority shall specify groups of counties within the state to be formed into regions for the establishment of such regional jails. Within each region a local jail commission shall be established and have the powers and duties as set forth in section six of this article.

The authority shall consider, but not be limited to, the following when creating the plan establishing regions:

1. The relative physical condition of the prisons and jail facilities located within the state;
2. The transportation costs associated with the establishment of centralized jail services including, but not limited to, the costs of transporting persons incarcerated in regional jails to court appearances, to interviews with their attorneys, and to have visitation with their families and friends all in any county seat of a county served by the regional facility;
3. The availability of medical services and educational and recreational opportunities;
4. Information received from public hearings;
5. The relative efficiency in the cost of jail services caused by establishment of regional jail facilities;
6. Available facilities which may be used as regional jails or prisons including, but not limited to, existing county and state owned properties;
(7) The cost of acquiring, constructing, renovating, operating and maintaining local jail facilities for use as local holding facilities in each county and regional jail facilities for each county and the financing provided by this article;

(8) The leasing of any available portion of any regional jail space and the leasing of available facilities of any regional jail to the West Virginia department of corrections for the keeping and detaining of prisoners sentenced to serve terms of incarceration under the custody of the West Virginia department of corrections for nonviolent crimes and to contract with the department of corrections for the providing of food, clothing, shelter and any and all incidental costs in the care, control and maintenance of such prisoners: Provided, That such leasing does not restrict space or facilities needed for the detention of county prisoners;

(9) The advisability and cost effectiveness of acquiring, constructing, renovating, operating and maintaining work farms serving one or more counties or regions; and

(10) The proximity of possible sites for the regional jail facilities to residential areas, schools, churches and other public buildings and facilities.

Public hearings pursuant to this section shall be held by the authority in convenient locations throughout the state. No less than ten public hearings shall be held for public comment on the establishment of regional jails. The authority shall cause to be published at least two weeks in advance of a hearing a Class II-O legal advertisement, as provided in section two, article three, chapter fifty-nine of this code, setting forth the reason for the hearing and the time, place and date thereof, the publication area shall be each county which may be included in a region for the purposes of a regional jail with the county in which the public hearing is held.

In addition to the hearing requirements above, before beginning construction of a new facility for use as a regional jail or prison facility or before beginning renovation or acquisition of an existing facility for use as a regional jail facility which existing facility is not already a jail, prison or secure facility for the detention of juveniles or persons otherwise involuntarily committed or confined, the
authority shall hold a hearing for comment by all members of the public on all aspects relating to the advisability of the use of the site for that regional jail facility. The authority shall promulgate rules and regulations pursuant to chapter twenty-nine-a of this code for the requirements for notice and other procedures of said public hearings which requirements shall be as similar as practicable to those hearings conducted regarding the construction of bridges by the West Virginia department of highways.

The authority, as a public corporation and governmental instrumentality exercising public powers of the state, may exercise all powers necessary or appropriate to carry out the purposes of this article, including, but not limited to, the power:

(a) To acquire, own, hold and dispose of property, real and personal, tangible and intangible.

(b) To lease property, whether as lessee or lessor.

(c) To mortgage or otherwise grant security interests in its property.

(d) To conduct examinations and investigations and to hear testimony and take proof, under oath or affirmation at public or private hearings, on any matter relevant to this article and necessary for information on the construction or renovation of any correctional facility or the establishment of any prison industries project.

(e) To issue subpoenas requiring the attendance of witnesses and the production of books and papers relevant to any hearing before such authority or one or more members appointed by it to conduct any hearing.

(f) To apply to the circuit court having venue of such offense to have punished for contempt any witness who refuses to obey a subpoena, to be sworn or affirmed or to testify or who commits any contempt after being summoned to appear.

(g) To sue and be sued, implead and be impleaded, and complain and defend in any court.

(h) To adopt, use and alter at will a corporate seal.

(i) To make bylaws for the management and regulation of its affairs pursuant to article three, chapter twenty-nine-a of this code.

(j) To appoint officers, agents and employees.

(k) To make contracts of every kind and nature and to
execute all instruments necessary or convenient for carrying on its business.

(l) Without in any way limiting any other subdivision of this section, to accept grants from and enter into contracts and other transactions with any federal agency.

(m) To borrow money and to issue its negotiable bonds, security interests or notes and to provide for and secure the payment thereof, and to provide for the rights of the holders thereof, and to purchase, hold and dispose of any of its bonds, security interests or notes: Provided, That no bond or other obligation may be issued or incurred unless and until the Legislature by concurrent resolution has approved the purpose and amount of each project for which proceeds from the issuance of such bond or other obligation will be used.

(n) To sell, at public or private sale, any bond or other negotiable instrument, security interest or obligation of the authority in such manner and upon such terms as the authority considers would best serve the purposes of this article.

(o) To issue its bonds, security interests and notes payable solely from the revenues or other funds available to the authority therefor; and the authority may issue its bonds, security interests or notes in such principal amounts as it considers necessary to provide funds for any purposes under this article, including:

(1) The payment, funding or refunding of the principal of, interest on or redemption premiums on, any bonds, security interests or notes issued by it whether the bonds, security interests, notes or interest to be funded or refunded have or have not become due.

(2) The establishment or increase of reserves to secure or to pay bonds, security interests, notes or the interest thereon and all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. Any bonds, security interests or notes may be additionally secured by a pledge of any revenues, funds, assets or moneys of the authority from any source whatsoever.

(p) To issue renewal notes or security interests, to issue bonds to pay notes or security interests and, whenever it considers refunding expedient, to refund any bonds by the
issue of new bonds, whether the bonds to be refunded
have or have not matured except that no such renewal notes
shall be issued to mature more than ten years from date of
issuance of the notes renewed and no such refunding bonds
may be issued to mature more than twenty-five years from
the date of issuance.

(q) To apply the proceeds from the sale of renewal notes,
security interests or refunding bonds to the purchase,
redemption or payment of the notes, security interests or
bonds to be refunded.

(r) To accept gifts or grants of property, funds, security
interests, money, materials, labor, supplies or services from
the United States of America or from any governmental
unit or any person, firm or corporation, and to carry out the
terms or provisions of, or make agreements with respect to,
or pledge, any gifts or grants, and to do any and all things
necessary, useful, desirable or convenient in connection
with the procuring, acceptance or disposition of gifts or
grants.

(s) To the extent permitted under its contracts with the
holders of bonds, security interests or notes of the authority,
to consent to any modification of the rate of interest, time of
payment of any installment of principal or interest, security
or any other term of any bond, security interest, note or
contract or agreement of any kind to which the authority is
a party.

(t) To sell security interests in the loan portfolio of the
authority. Such security interests shall be evidenced by
instruments issued by the authority. Proceeds from the sale
of security interests may be issued in the same manner and
for the same purposes as bond and note revenues.

(u) To promulgate rules, in accordance with the
provisions of chapter twenty-nine-a of this code, to
implement and make effective the powers, duties and
responsibilities invested in the authority by the provisions
of this article and otherwise by law.

(v) To assume the responsibility for operation and
management of regional jail facilities under the jurisdiction
of the state regional jail and prison authority including the
transportation of persons incarcerated therein for all
required purposes including, but not limited to, court
appearances and reasonable interviews with their
204 attorney or visitation with their family and friends all in the
205 county seat of any county served by the regional facility.
206 (w) To exercise all power and authority provided in this
207 article necessary and convenient to plan, finance, construct,
208 renovate, maintain and operate prisons after first providing
209 for regional jail facilities.

§31-20-5a. Bidding procedures.

1 When the cost under any contract or agreement entered
2 into by the authority other than compensation for personal
3 services, involves an expenditure of more than two
4 thousand dollars, the authority shall make a written
5 contract with the lowest responsible bidder after public
6 notice published as Class II legal advertisement in
7 compliance with the provisions of article three, chapter
8 fifty-nine of this code, the publication area for such
9 publication to be the county or counties wherein the work is
10 to be performed or which is affected by the contract, which
11 notice shall state the general character of the work and
12 general character of the materials to be furnished, the place
13 where plans and specifications therefor may be examined
14 and the time and place of receiving bids, but a contract for
15 lease of a prison or regional or county jail project
16 constructed and owned by the authority is not subject to the
17 foregoing requirements and the authority may enter into
18 such contract for lease pursuant to negotiation upon such
19 terms and conditions and for such period as it finds to be
20 reasonable and proper under the circumstances and in the
21 best interests of proper operation or efficient acquisition or
22 construction of such projects. The authority may reject any
23 and all bids. A bond with good and sufficient surety,
24 approved by the authority, shall be required of all
25 contractors in an amount equal to at least fifty percent of
26 the contract price, conditioned upon faithful performance
27 of the contract.

§31-20-6. Regional jail commissions; composition;
appointment; terms; compensation and exp-
penses.

1 Upon the formation of specific regions by the regional jail
2 and prison authority for the establishment of regional jails
3 as provided in section five of this article, there shall be
created in each region a regional jail commission composed
of the following members: The sheriff from each county in
the region or his designated representative; a member of the
county commission from each county in the region chosen
by the commission or a designated representative; one
mayor from each county in the region to be appointed by the
regional jail and prison authority from a list of names
submitted by the West Virginia municipal league, or his
designated representative; and three persons from the
region who are representative of the areas of law, medicine
and education to be appointed by the regional jail and
prison authority and who shall serve for a term of three
years: Provided, That any local regional jail authority or
commission established prior to the effective date of this
article shall be recognized as meeting the requirements of
this section, at the option of the local regional jail authority
or commission.

Any appointed member whose term has expired shall
serve until his successor has been duly appointed and
qualified. Any person appointed to fill a vacancy shall serve
only for the unexpired term. Any appointed member is
eligible for reappointment. Members of the authority are
not entitled to compensation for services performed as
members but are entitled to reimbursement for all
reasonable and necessary expenses actually incurred in the
performance of their duties. The county commission from
each county in the region shall provide the commission with
secretarial and other necessary services.

§31-20-7. General powers of the commission.

Each regional jail commission shall prepare and submit
such plans, suggestions and recommendations to the
regional jail and prison authority which will define the
needs for its region as to the construction, renovation and
general operation of a regional jail facility. The report may
include, but is not limited to, recommendations for
conforming its jail facility to the jail standards
promulgated by the jail and prison standards commission,
upgrading the recreational and educational opportunities
for inmates confined in the region's facility, development of
programs in cooperation with community medical and
mental health centers in the region to provide adequate
medical and drug and alcohol addiction services within the facility and information concerning the costs incurred in the operation of the facility.

§31-20-8. Jail and prison standards commission; appointments; compensation; vacancies; quorum.

A jail and prison standards commission of eleven members is hereby created. The governor shall appoint two county sheriffs, to be chosen from a list of three names provided by the president of the West Virginia sheriff's association, and three county commissioners, to be chosen from a list of five names provided by the president of the West Virginia county commissioner's association. The chief justice of the state supreme court of appeals shall appoint a representative from the juvenile facilities review panel. Each of the members so appointed shall serve for a term of three years and be eligible for reappointment. The commissioner of the department of corrections, the director of the department of health, the state fire marshal, the commissioner of the department of human services and the director of the division of vocational education of the state department of education or their designees, shall be members ex officio in an advisory capacity.

Members of the commission shall serve without compensation, but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties. The governor shall provide the commission with secretarial and other necessary services. A vacancy among the appointed members of the commission shall be filled, within thirty days, in the same manner as the original appointment. A quorum consists of five members. Members of the commission shall select a chairman.

§31-20-9. Purpose; powers and duties.

The purpose of the commission is to assure that proper minimum standards and procedures are developed for jail, work farm and prison operation, maintenance, management of inmates for prisons, regional jails and local jail facilities used as temporary holding facilities. In order to accomplish this purpose, the commission shall:
(1) Prescribe standards for the maintenance and operation of prisons, county and regional jails. Such standards shall include, but not be limited to, requirements assuring adequate space, lighting and ventilation; fire protection equipment and procedures; provision of specific personal hygienic articles; bedding, furnishings and clothing; food services; appropriate staffing and training; sanitation, safety and hygiene; isolation and suicide prevention; appropriate medical, dental and other health services; indoor and outdoor exercise; appropriate vocational and educational opportunities; classification; inmate rules and discipline; inmate money and property; religious services; inmate work programs; library services; visitation, mail and telephone privileges; and other standards necessary to assure proper operation.

(2) Promulgate such rules pursuant to the provisions of chapter twenty-nine-a of this code as are necessary to implement the provisions of this article, including without limitation minimum jail, work farm and prison standards which shall be promulgated on or before the first day of July, one thousand nine hundred eighty-six.

(3) Develop a process for reviewing and updating the jail, work farm and prison standards pursuant to the provisions of chapter twenty-nine-a of this code as may be necessary to assure that they conform to current law.

(4) Report periodically to the authority to advise and recommend actions to be taken by the authority to implement proper minimum jail, work farm and prison standards.

§31-20-10. Regional jail and prison development fund.

(a) The regional jail and prison development fund is hereby created and shall be a special account in the state treasury. The fund shall operate as a revolving fund whereby all appropriations and payments thereto may be applied and reapplied by the authority for the purposes of this article. Separate accounts may be established within the special account for the purpose of identification of various revenue resources and payment of specific obligations.

(b) Revenues deposited into the fund may be used to make payments of interest and may be pledged as security
for bonds, security interests or notes issued by the authority pursuant to this article.

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

(d) If the authority determines that funds held in the fund are in excess of the amount needed to carry out the purposes of this article, it shall take such action as is necessary to release such excess and transfer it to the general fund of the state treasury.

(e) The fund shall consist of the following:

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

(2) Moneys collected and deposited in the state treasury which are specifically designated by acts of the Legislature for inclusion into the fund;

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

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

(5) All interest earned on investments made by the state from moneys deposited in this fund.

(f) The amounts deposited in the fund shall be accounted for and expended in the following manner:

(1) Amounts raised by the sale of bonds or other borrowing authorized by this article shall be deposited in a separate account within the fund and expended for the purpose of construction and renovation of regional jails for which need has been determined by the authority;

(2) Amounts deposited from all other sources shall be pledged first to the debt service on any bonded indebtedness or other obligation incurred by borrowing of the authority;

(3) After any requirements of debt service have been satisfied, the authority shall requisition from the fund such amounts as are necessary to provide for payment of the administrative expenses of this article;
(4) The authority shall requisition from the fund after any requirements of debt service have been satisfied such amounts as are necessary for the maintenance and operation of the regional jails that are constructed pursuant to the plan required by this article and shall expend such amounts for such purpose. The fund shall make an accounting of all amounts received from each county by virtue of any filing fees, court costs or fines required by law to be deposited in the fund and amounts from the jail improvement funds of the various counties. After the expenses of administration have been deducted the amounts expended in the respective regions from such sources shall be in proportion to the percentage the amount contributed to the fund by the counties in each region bears to the total amount received by the fund from such sources; (5) Notwithstanding any other provisions of this article, sums paid into the fund by each county pursuant to subsection (h) of this section for each inmate shall be placed in a separate account and shall be requisitioned from the fund to pay for the costs specified in that subsection incurred at the regional jail facility at which each such inmate was incarcerated; and (6) Any amounts deposited in the fund from other sources permitted by this article shall be expended in the respective regions based on particular needs to be determined by the authority.

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

(h) When inmates are placed in a regional jail facility pursuant to subsection (g) of this section the county shall pay into the regional jail and prison development fund a cost per day for each inmate so incarcerated to be determined by the regional jail and prison authority according to criteria and by procedures established by

1. The borrowing of money and the notes, bonds and security interests evidencing any such borrowing shall be authorized by resolution approved by the board, shall bear such date or dates and shall mature at such time or times, in the case of any such bonds, not exceeding twenty-five years from the date of issue, as such resolution or resolutions may provide. The notes, bonds and security interests shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment and at such place or places, and be subject to such terms or conditions of redemption as such resolution or resolutions may provide.

§31-20-12. Notes, security interests and bonds as general obligations of authority.

1. Except as may otherwise be provided by the authority every issue of its notes, security interests and bonds shall be general obligations of the authority payable out of any revenues or moneys of the authority, subject only to any agreements with the holders of particular notes, security interests or bonds pledging any particular revenues.

§31-20-13. Notes, security interests and bonds as negotiable instruments.

1. The notes, security interests and bonds issued by the authority shall be and hereby are made negotiable instruments under the provisions of article eight, chapter forty-six of this code, subject only to the provisions of the notes, security interests or bonds for registration.


1. Any resolution or resolutions authorizing any notes, security interests or bonds or any issue thereof, may contain provisions, which shall be a part of the contract with holders, as to:
(1) Pledging all or part of the revenues of the authority to secure the payment of the notes, security interests or bonds or any issue thereof, subject to such agreements with noteholders, holders of security interests or bondholders as may then exist;

(2) Pledging all or any part of the assets of the authority to secure the payment of the notes, security interests or bonds or any issue thereof, subject to such agreements with noteholders, holders of security interests or bondholders as may then exist;

(3) The setting aside of reserves or sinking funds and the regulation and disposition thereof;

(4) Limitations on the purposes to which proceeds of sale of notes, security interests or bonds may be applied and pledging such proceeds to secure the payment on the notes, security interests or bonds or of any issue thereof;

(5) Limitations on the issuance of additional notes, security interests or bonds; the terms upon which additional notes, security interests or bonds may be issued and secured; and the refunding of outstanding or other notes, security interests or bonds;

(6) The procedure, if any, by which the terms of any contract with noteholders, holders of security interests or bondholders may be amended or abrogated, the amount of notes, security interests or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(7) Limitations on the amount of moneys to be expended by the authority for operating, administrative or other expenses of the authority;

(8) Vesting in a trustee or trustees the property, rights, powers and duties of a trustee appointed by the bondholders pursuant to section thirteen of this article, and limiting or abrogating the right of the bondholders to appoint a trustee under section thirteen of this article or limiting the rights, powers and duties of such trustees; and

(9) Any other matters, of like or different character, which in any way affect the security or protection of the notes, security interests or bonds.

§31-20-15. Redemption of notes, security interests or bonds.

The authority, subject to such agreements with noteholders, holders of security interests or bondholders as
may then exist, may, out of any funds available therefor, purchase notes, security interests or bonds of the authority. If the notes, security interests or bonds are then redeemable, the price of such purchase shall not exceed the redemption price then applicable plus accrued interest to the next interest payment date thereon. If the notes, security interests or bonds are not then redeemable, the price of such purchase shall not exceed the redemption price applicable on the first date after such purchase upon which the notes, security interests or bonds become subject to redemption plus accrued interest to such date. Upon such purchase such notes, security interests or bonds shall be cancelled.

§31-20-16. Disclaimer of any liability of state of West Virginia.

The state of West Virginia shall not be liable on notes, security interests or bonds or other evidences of indebtedness of the authority and such notes, security interests or bonds or other evidences of indebtedness shall not be a debt of the state of West Virginia, and such notes, security interests or bonds or other evidences of indebtedness shall contain on the face thereof a statement to such effect.

§31-20-17. Default in payment of principal or interest.

In the event the authority shall default in the payment of principal of or interest on any issue of its notes, security interests or bonds after they become due, whether at maturity or upon call for redemption, and such default continues for a period of thirty days, or in the event the authority fails or refuses to comply with the provisions of this article or defaults in any agreement made with the holders of any issue of notes, security interests or bonds, the holders of twenty-five percent in aggregate principal amount of the notes, security interests or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county commission of any county in which the authority operates and has an office and acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes, security interests or bonds for the purposes herein provided:
(a) Any such trustee, upon the written request of the holders of twenty-five percent in the principal amount of such notes, security interests or bonds of the authority then outstanding, shall, in his or its own name, do any one or more of the following:

1. By civil action or other proceeding, enforce all rights of the noteholders, holders of security interests or bondholders, including the right to require the authority to perform its duties under this article;
2. Bring a civil action upon such notes, security interests or bonds;
3. By civil action or other proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such notes, security interests or bonds;
4. By civil action or other proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such notes, security interests or bonds; or
5. Declare all such notes, security interests or bonds due and payable, and, if all defaults are made good, then annul such declaration and its consequences.

(b) In addition to the foregoing, such trustee shall have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of holders of notes, security interests or bonds of the authority in the enforcement and protection of their rights.

(c) Before declaring the principal of any notes, security interests or bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

§31-20-18. Investment in notes, security interests and bonds.

The notes, security interests and bonds of the authority are hereby made securities in which the state board of investments, all insurance companies and associations and other persons carrying on an insurance business, all banking institutions, trust companies, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business and other persons, except administrators, guardians, executors, trustees and fiduciaries, who are now or who may hereafter be authorized to invest in bonds or
other obligations of the state, may properly and legally
invest funds, including capital in their control or belonging
to them. The state board of investments, prior to investing
funds, including capital in such notes, security interests or
bonds of the authority shall first inquire fully into the
integrity and sufficiency of the collateral securing such
investment and shall be fully satisfied as to the sufficiency
and integrity thereof; and may only so invest if the yield
therefrom is at least equal to or greater than the prevailing
market yield from similar United States twenty-six-week
treasury bills. The state board of investments shall not
purchase evidences of indebtedness having terms in excess
of eighteen months from date of purchase to date of
maturity.


The exercise of the powers granted to the authority by
this article will be in all respects for the benefit of the people
of the state for the improvement of their safety, convenience
and welfare. Since the operation and maintenance of
correctional facilities and prison industries projects will
constitute the performance of essential governmental
functions, the authority is not required to pay any taxes or
assessments upon any such facilities or projects or upon any
property acquired or used by the authority or upon the
income therefrom. Such bonds, security interests and notes
and all interest and income thereon are exempt from all
taxation by this state, or any county, municipality, political
subdivision or agency thereof, except inheritance taxes.

§31-20-20. Authorized limit on borrowing.

The aggregate principal amount of notes, security
interests and bonds issued by the authority may not exceed
one hundred million dollars outstanding at any one time. In
computing the total amount of notes, security interests and
bonds which may be outstanding at any one time, the
principal amount of any outstanding notes, security
interests and bonds refunded or to be refunded either by
application of the proceeds of the sale of any refunding
notes, security interests or refunding bonds of the authority
or by exchange for any such notes, security interests or
refunding bonds shall be excluded. The state board of
investments may have invested no more than a total aggregate principal amount of fifteen million dollars at any one time in such notes, security interests or bonds.

§31-20-21. Validity of any pledge, mortgage, deed of trust or security instrument.

It is the intention hereof that any pledge, mortgage, deed of trust or security instrument made by or for the benefit of the authority shall be valid and binding between the parties from the time the pledge, mortgage, deed of trust or security instrument is made; and that the moneys or property so pledged, encumbered, mortgaged or entrusted shall immediately be subject to the lien of such pledge, mortgage, deed of trust or security instrument without any physical delivery thereof or further act.

§31-20-22. Money of the authority.

All money accruing to the authority from whatever source derived, except legislative appropriations, and except that authorized to be deposited directly into the regional jail and prison development fund shall be collected and received by the treasurer of the authority, who shall pay it into the state treasury in the manner required by section two, article two, chapter twelve of this code, to be credited to the fund.

§31-20-23. Conflict of interest; when contracts void.

No member, officer or employee of the authority may be interested, either directly or indirectly, in any manner in any contract or agreement of any person with the authority. Any contract or agreement made in violation of the provisions of this section is void and no action thereon may be maintained against the authority.

§31-20-24. Agreement with federal agencies not to alter or limit powers of authority.

The state hereby pledges to and agrees with each federal agency that, if such agency constructs or loans or contributes any funds for the acquisition, construction, extension, improvement or enlargement of any correctional facility or prison industries project, the state will not alter or limit the rights and powers of the authority in any
manner which would be inconsistent with the due performance of any agreement between the authority and such federal agency and that the authority shall continue to have and exercise all powers granted for carrying out the purposes of this article for so long as necessary.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 3. COSTS, FINES AND RECORDS.

§50-3-1. Costs in civil actions.

1 The following costs shall be charged in magistrate courts in civil actions and shall be collected in advance:
2 (a) For filing and trying any civil action and for all services connected therewith but excluding services regarding enforcement of judgment ................ $20.00
3 (b) For each service regarding enforcement of a judgment including execution, suggestion, garnishment and suggestee execution ................... $5.00
4 (c) For each bond filed in a case ................ $1.00
5 (d) For taking deposition of witness for each hour or portion thereof ................ $1.00
6 (e) For taking and certifying acknowledgment of a deed or other writing or taking oath upon an affidavit ... $.50
7 (f) For mailing any matter required or provided by law to be mailed by certified or registered mail with return receipt ......................... $1.00
8 Costs incurred in a civil action shall be reflected in any judgment rendered thereon. The provisions of section one, article two, chapter fifty-nine of this code, relating to the payment of costs by poor persons, shall be applicable to all costs in civil actions.

§50-3-2. Costs in criminal proceedings.

1 In each criminal case tried in a magistrate court in which the defendant is convicted there shall be imposed, in addition to such other costs, fines, forfeitures or penalties as may be allowed by law, costs in the amount of thirty dollars. No such costs shall be collected in advance.
2 A magistrate shall assess costs in the amount of two dollars and fifty cents for issuing a sheep warrant, appointment and swearing appraisers and docketing the same.
In each criminal case which must be tried by the circuit court but in which a magistrate renders some service, costs in the amount of ten dollars shall be imposed by the magistrate court and shall be certified to the clerk of the circuit court in accordance with the provisions of section six, article five, chapter sixty-two of this code.

§50-3-4. Disposition of costs; magistrate court fund.

Except for the funds specified in section four-a, all costs collected in magistrate courts in a civil or criminal proceeding shall be submitted on or before the tenth day of the month following the month of their collection to the magistrate court clerk or, if there is no magistrate court clerk, to the clerk of the circuit court along with such information as may be required by the rules of the supreme court and by the rules of the chief inspector of public offices. Such clerk shall pay such costs into the special county fund hereafter created during each fiscal year until there shall have been paid a sum equal to twelve thousand five hundred dollars multiplied by the number of magistrates authorized for such county. All costs collected in excess of such sum during a fiscal year shall be paid to the state. All costs and fees collected by magistrates on or after the first day of July, one thousand nine hundred seventy-six, shall be paid into said special county fund hereinafter created.

There is hereby created in each county a special county fund designated as the magistrate court fund. No moneys shall be appropriated from the fund except for the purposes provided for in this section. Any money remaining in the magistrate court fund on the thirtieth day of June, one thousand nine hundred seventy-nine, and on the thirtieth day of June of each year thereafter, shall be paid to the state. A county may appropriate and spend from such fund such sums as shall be necessary to defray the expenses of providing bailiff and service of process services by the sheriff, to defray the cost of acquiring or renting magistrate court offices and providing utilities and telephones therefor and to defray the expenses of such other services which by the terms of this chapter are to be provided to magistrate court by the county.
§50-3-4a. Disposition of criminal costs and civil filing fees into state treasury account for regional jail and prison development fund.

1 The clerk of each magistrate court shall at the end of each month pay into the regional jail and prison development fund in the state treasury an amount equal to twenty dollars of the costs collected in each criminal proceeding and ten dollars of the costs collected for the filing of each civil action.

CHAPTE R 59. FEES, ALLOWANCES AND COSTS.

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-11. Fees to be charged by clerk of circuit court.

1 The clerk of a circuit court shall charge and collect for services rendered as such clerk the following fees, and such fees shall be paid in advance by the parties for whom such services are to be rendered:

2 For instituting any civil action under the rules of civil procedure, any statutory summary proceeding, any extraordinary remedy, the docketing of civil appeals, or any other action, cause, suit or proceeding, twenty dollars.

3 In addition to the foregoing fees, the following fees shall likewise be charged and collected:

4 For any transcript, copy or paper made by the clerk for use in any other court or otherwise to go out of the office, for each page, twenty-five cents;

5 For action on suggestion, five dollars;

6 For issuing an execution, two dollars;

7 For issuing or renewing a suggestee execution, including copies, postage, registered or certified mail fees and the fee provided by section four, article five-a, chapter thirty-eight of this code, three dollars;

8 For vacation or modification of a suggestee execution, one dollar;

9 For docketing and issuing an execution on a transcript of judgment from a magistrate's court, three dollars;

10 For arranging the papers in a certified question, writ of error, appeal or removal to any other court, five dollars;

11 For postage and express and for sending or receiving decrees, orders or records, by mail or express, three times the amount of the postage or express charges;
For each witness summons over and above five, on the part of either plaintiff or defendant, to be paid by the party requesting the same, twenty-five cents; for additional services (plaintiff or appellant) where any case remains on the docket longer than three years, for each additional year or part year, five dollars.

The clerk shall tax the following fees for services in any criminal case against any defendant convicted in such court:

- In the case of any misdemeanor, thirty dollars;
- In the case of any felony, forty dollars;
- No such clerk shall be required to handle or accept for disbursement any fees, costs or accounts, of any other officer or party not payable into the county treasury, except it be on order of the court or in compliance with the provisions of law governing such fees, costs or accounts.


Except for the funds designated in section twenty-eight-a of this article, all fees, costs, percentages, penalties, commissions, allowances, compensation, income and all other prerequisites of whatever kind which by law may now or hereafter be collected or received as compensation for services by any clerk of the county commission, sheriff, clerk of the circuit court or of any court of limited jurisdiction, and prosecuting attorney shall be collected and received by such officer for the sole use of the treasury of the county in which he is an officer, and shall be held as public moneys belonging to the county fund, and shall be accounted for and paid over as such in the manner hereinafter provided. Nothing in this article shall be construed to require any county officer to pay into the county treasury any fees earned prior to the twenty-first day of May, one thousand nine hundred fifteen. Fees are held to be earned at the time the service is rendered and not at the time the matter is finally adjudicated.

Notwithstanding any provision of law to the contrary, all fees collected by a sheriff for service of all manner of process from magistrate court, in addition to such other funds as may be provided by the county commissions, shall be dedicated by the county commission to the office of
§59-1-28a. Disposition of filing fees and fees for services in criminal cases.

(a) The clerk of each circuit court shall at the end of each month pay into the regional jail and prison development fund in the state treasury an amount equal to ten dollars of every filing fee received for instituting any civil action under the rules of civil procedure, any statutory summary proceeding, any extraordinary remedy, the docketing of civil appeals, or any other action, cause, suit or proceeding in the circuit court.

(b) The clerk of each circuit court shall at the end of each month pay into the regional jail and prison development fund in the state treasury an amount equal to twenty dollars of every fee for service received in any criminal case against any defendant convicted in such court.

§59-1-31. Monthly payments; how credited; report required.

Except for the funds designated in section twenty-eight-a of this article, each of the officers named in section twenty-nine of this article shall at the end of each month pay into the county treasury all fees, costs, percentages, penalties, commissions, compensation, income and all other prerequisites of whatever kind collected by his office during such month, which money shall be credited to the general county fund. All such officers shall cause to be made a quarterly report to the administrative director of the supreme court of appeals, which shall indicate the money received by them during such quarter and the source and nature of such money. Such report shall be made within thirty days following the close of each quarter.
The Joint Committee on Enrolled Bills hereby certifies that the
foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 1985.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within .......... this the .........
day of .......... 1985.

Governor
PRESENTED TO THE
GOVERNOR

Date  4/30/85

Time  6:11 p.m.