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WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1985

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**ENROLLED**  
*Committee Substitute for*  
SENATE BILL NO. 232

(By Mr. Craig, et al)

—•—  
PASSED April 13, 1985  
In Effect July 1, 1985 ~~January 1, 1986~~



**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**Senate Bill No. 232**

(MR. CRAIGO, MR. BOETTNER AND MR. CHAFIN, *original sponsors*)

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(Originating in the Committee on the Judiciary.)

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[Passed April 13, 1985; to take effect July 1, 1985.]

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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.**

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

27 chapter for constructing, reconstructing or renovating any  
 28 jail facility used for county prisoners; and (4) after a  
 29 regional facility is made available to the county pursuant to  
 30 article twenty, chapter thirty-one of this code, the expenses  
 31 and costs of operation of the jail for the county in the form of  
 32 the per day costs required to be paid into the regional jail  
 33 and prison development fund pursuant to subsection (h),  
 34 section ten, article twenty, chapter thirty-one of this code,  
 35 the periodic payments, if any, for the establishment of a jail  
 36 improvement fund in the manner provided by section nine,  
 37 article one of this chapter, which shall thereafter be  
 38 transmitted to the state treasurer and deposited in the  
 39 regional jail and prison development fund, and the funds  
 40 expended by the respective counties, if any, for expenses  
 41 incurred in housing prisoners in local jail facilities used as  
 42 holding facilities.

## **CHAPTER 31. CORPORATIONS.**

### **ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND PRISON AUTHORITY.**

#### **§31-20-1. Short title.**

1 This article shall be known and may be cited as "The West  
 2 Virginia Regional Jail and Prison Authority Act."

#### **§31-20-2. Definitions.**

1 Unless the context indicates clearly otherwise, as used in  
 2 this article:  
 3 (a) "Authority" or "West Virginia regional jail  
 4 authority" means the West Virginia regional jail and prison  
 5 authority created by this article.  
 6 (b) "Board" means the governing body of the authority.  
 7 (c) "Bonds" means bonds of the authority issued under  
 8 this article.  
 9 (d) "Cost of construction or renovation of a local jail  
 10 facility or regional jail facility" means the cost of all lands,  
 11 water areas, property rights and easements, financing  
 12 charges, interest prior to and during construction and for a  
 13 period not exceeding six months following the completion  
 14 of construction, equipment, engineering and legal services,  
 15 plans, specifications and surveys, estimates of costs and  
 16 other expenses necessary or incidental to determining the

17 feasibility or practicability of any such project, together  
18 with such other expenses as may be necessary or incidental  
19 to the financing and the construction or renovation of such  
20 facilities and the placing of same in operation.

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

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

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

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

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

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

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

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

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

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

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

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

57 (q) "Security interest" means an interest in the loan  
58 portfolio of the authority which interest is secured by an

59 underlying loan or loans and is evidenced by a note issued  
60 by the authority.

61 (r) "Work farm" shall have the same meaning as that  
62 term is used in section twelve, article eight, chapter seven of  
63 this code authorizing work farms for individual counties.

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

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

4 The authority shall be governed by a board, consisting of  
5 a chairman, who shall be the commissioner of the  
6 department of corrections; a treasurer, who shall be the  
7 commissioner of the department of finance and  
8 administration or his designated representative; three  
9 members appointed by the governor, who are  
10 representative of the areas of law, medicine and county  
11 government; the state superintendent of schools or his  
12 designated representative; the state fire marshal or his  
13 designated representative; the director of the department of  
14 health or his designated representative; and a  
15 representative from the juvenile facilities review panel.  
16 Upon the establishment of the regional jail commissions, as  
17 provided for in section five of this article, one member of  
18 each commission shall become a member of the board, such  
19 member to be appointed by the regional jail commission.  
20 Members of the Legislature are not eligible to serve on the  
21 board.

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

32 Any appointed member whose term has expired shall  
33 serve until his successor has been duly appointed and



34 qualified. Any person appointed to fill a vacancy shall serve  
35 only for the unexpired term. Any appointed member is  
36 eligible for reappointment. Members of the authority are  
37 not entitled to compensation for services performed as  
38 members but are entitled to reimbursement for all  
39 reasonable and necessary expenses actually incurred in the  
40 performance of their duties.

41 All members of the board of the authority shall execute an  
42 official bond in a penalty of ten thousand dollars,  
43 conditioned as required by law. Premiums on such bond  
44 shall be paid from funds accruing to the authority. Such  
45 bond shall be approved as to form by the attorney general  
46 and as to sufficiency by the governor and, when fully  
47 executed and approved, shall be filed in the office of the  
48 secretary of state.

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

1 The governing body of the authority shall consist of the  
2 members of the board as provided in section three of this  
3 article and shall exercise all the powers given to the  
4 authority in this article. The commissioner of the  
5 department of corrections shall be chairman of the board  
6 and its chief executive officer. On the second Monday of  
7 July of each year, the board shall meet to elect a secretary  
8 from among its own members.

9 A majority of the members of the board constitute a  
10 quorum, and a quorum must be present for the board to  
11 conduct business. Unless the bylaws require a larger  
12 number, action may be taken by majority vote of the  
13 members present.

14 The board shall manage the property and business of the  
15 authority and prescribe, amend and repeal bylaws and rules  
16 governing the manner in which the business of the authority  
17 is conducted.

18 The authority shall employ an executive director and any  
19 other personnel it determines necessary and may appoint its  
20 own counsel and legal staff and retain such temporary  
21 engineering, financial and other consultants or technicians  
22 as may be required for any special study or survey  
23 consistent with the provisions of this article.

24 All costs incidental to the administration of the authority

25 including office expense, personal services expense and  
 26 current expense, shall be paid from the regional jail and  
 27 prison development fund in accordance with guidelines  
 28 issued by the board of the authority.

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

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

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

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

19 (1) The relative physical condition of the prisons and  
 20 jail facilities located within the state;

21 (2) The transportation costs associated with the  
 22 establishment of centralized jail services including, but not  
 23 limited to, the costs of transporting persons incarcerated in  
 24 regional jails to court appearances, to interviews with their  
 25 attorneys, and to have visitation with their families and  
 26 friends all in any county seat of a county served by the  
 27 regional facility;

28 (3) The availability of medical services and educational  
 29 and recreational opportunities;

30 (4) Information received from public hearings;

31 (5) The relative efficiency in the cost of jail services  
 32 caused by establishment of regional jail facilities;

33 (6) Available facilities which may be used as regional  
 34 jails or prisons including, but not limited to, existing county  
 35 and state owned properties;

36 (7) The cost of acquiring, constructing, renovating,  
37 operating and maintaining local jail facilities for use as  
38 local holding facilities in each county and regional jail  
39 facilities for each county and the financing provided by this  
40 article;

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

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

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

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

71 In addition to the hearing requirements above, before  
72 beginning construction of a new facility for use as a regional  
73 jail or prison facility or before beginning renovation or  
74 acquisition of an existing facility for use as a regional jail  
75 facility which existing facility is not already a jail, prison or  
76 secure facility for the detention of juveniles or persons  
77 otherwise involuntarily committed or confined, the

78 authority shall hold a hearing for comment by all members  
79 of the public on all aspects relating to the advisability of the  
80 use of the site for that regional jail facility. The authority  
81 shall promulgate rules and regulations pursuant to chapter  
82 twenty-nine-a of this code for the requirements for notice  
83 and other procedures of said public hearings which  
84 requirements shall be as similar as practicable to those  
85 hearings conducted regarding the construction of bridges  
86 by the West Virginia department of highways.

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

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

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

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

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

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

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

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

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

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

118 (j) To appoint officers, agents and employees.

119 (k) To make contracts of every kind and nature and to

120 execute all instruments necessary or convenient for  
121 carrying on its business.

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

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

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

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

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

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

159 (p) To issue renewal notes or security interests, to issue  
160 bonds to pay notes or security interests and, whenever it  
161 considers refunding expedient, to refund any bonds by the

162 issuance of new bonds, whether the bonds to be refunded  
163 have or have not matured except that no such renewal notes  
164 shall be issued to mature more than ten years from date of  
165 issuance of the notes renewed and no such refunding bonds  
166 may be issued to mature more than twenty-five years from  
167 the date of issuance.

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

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

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

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

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

198 (v) To assume the responsibility for operation and  
199 management of regional jail facilities under the jurisdiction  
200 of the state regional jail and prison authority including the  
201 transportation of persons incarcerated therein for all  
202 required purposes including, but not limited to, court  
203 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 ex-  
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

4 created in each region a regional jail commission composed  
5 of the following members: The sheriff from each county in  
6 the region or his designated representative; a member of the  
7 county commission from each county in the region chosen  
8 by the commission or a designated representative; one  
9 mayor from each county in the region to be appointed by the  
10 regional jail and prison authority from a list of names  
11 submitted by the West Virginia municipal league, or his  
12 designated representative; and three persons from the  
13 region who are representative of the areas of law, medicine  
14 and education to be appointed by the regional jail and  
15 prison authority and who shall serve for a term of three  
16 years: *Provided*, That any local regional jail authority or  
17 commission established prior to the effective date of this  
18 article shall be recognized as meeting the requirements of  
19 this section, at the option of the local regional jail authority  
20 or commission.

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

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

1 Each regional jail commission shall prepare and submit  
2 such plans, suggestions and recommendations to the  
3 regional jail and prison authority which will define the  
4 needs for its region as to the construction, renovation and  
5 general operation of a regional jail facility. The report may  
6 include, but is not limited to, recommendations for  
7 conforming its jail facility to the jail standards  
8 promulgated by the jail and prison standards commission,  
9 upgrading the recreational and educational opportunities  
10 for inmates confined in the region's facility, development of  
11 programs in cooperation with community medical and  
12 mental health centers in the region to provide adequate



13 medical and drug and alcohol addiction services within the  
14 facility and information concerning the costs incurred in  
15 the operation of the facility.

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

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

18 Members of the commission shall serve without  
19 compensation, but may be reimbursed for reasonable and  
20 necessary expenses incurred in the performance of their  
21 duties. The governor shall provide the commission with  
22 secretarial and other necessary services.

23 A vacancy among the appointed members of the  
24 commission shall be filled, within thirty days, in the same  
25 manner as the original appointment. A quorum consists of  
26 five members. Members of the commission shall select a  
27 chairman.

**§31-20-9. Purpose; powers and duties.**

1 The purpose of the commission is to assure that proper  
2 minimum standards and procedures are developed for jail,  
3 work farm and prison operation, maintenance,  
4 management of inmates for prisons, regional jails and local  
5 jail facilities used as temporary holding facilities. In order  
6 to accomplish this purpose, the commission shall:

7 (1) Prescribe standards for the maintenance and  
8 operation of prisons, county and regional jails. Such  
9 standards shall include, but not be limited to, requirements  
10 assuring adequate space, lighting and ventilation; fire  
11 protection equipment and procedures; provision of specific  
12 personal hygienic articles; bedding, furnishings and  
13 clothing; food services; appropriate staffing and training;  
14 sanitation, safety and hygiene; isolation and suicide  
15 prevention; appropriate medical, dental and other health  
16 services; indoor and outdoor exercise; appropriate  
17 vocational and educational opportunities; classification;  
18 inmate rules and discipline; inmate money and property;  
19 religious services; inmate work programs; library services;  
20 visitation, mail and telephone privileges; and other  
21 standards necessary to assure proper operation.

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

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

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

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

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

10 (b) Revenues deposited into the fund may be used to  
11 make payments of interest and may be pledged as security

12 for bonds, security interests or notes issued by the authority  
13 pursuant to this article.

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

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

26 (e) The fund shall consist of the following:

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

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

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

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

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

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

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

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

50 (3) After any requirements of debt service have been  
51 satisfied, the authority shall requisition from the fund such  
52 amounts as are necessary to provide for payment of the  
53 administrative expenses of this article;

54 (4) The authority shall requisition from the fund after  
55 any requirements of debt service have been satisfied such  
56 amounts as are necessary for the maintenance and  
57 operation of the regional jails that are constructed pursuant  
58 to the plan required by this article and shall expend such  
59 amounts for such purpose. The fund shall make an  
60 accounting of all amounts received from each county by  
61 virtue of any filing fees, court costs or fines required by law  
62 to be deposited in the fund and amounts from the jail  
63 improvement funds of the various counties. After the  
64 expenses of administration have been deducted the  
65 amounts expended in the respective regions from such  
66 sources shall be in proportion to the percentage the amount  
67 contributed to the fund by the counties in each region bears  
68 to the total amount received by the fund from such sources;

69 (5) Notwithstanding any other provisions of this article,  
70 sums paid into the fund by each county pursuant to  
71 subsection (h) of this section for each inmate shall be placed  
72 in a separate account and shall be requisitioned from the  
73 fund to pay for the costs specified in that subsection  
74 incurred at the regional jail facility at which each such  
75 inmate was incarcerated; and

76 (6) Any amounts deposited in the fund from other  
77 sources permitted by this article shall be expended in the  
78 respective regions based on particular needs to be  
79 determined by the authority.

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

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

96 regulations pursuant to article three of chapter twenty-  
97 nine-a of this code to cover the costs of operating such  
98 regional jail facility to maintain each such inmate which  
99 costs shall not include the cost of construction, acquisition  
100 or renovation of said regional jail facility.

**§31-20-11. Borrowing of money.**

1 The borrowing of money and the notes, bonds and  
2 security interests evidencing any such borrowing shall be  
3 authorized by resolution approved by the board, shall bear  
4 such date or dates and shall mature at such time or times, in  
5 the case of any such bonds, not exceeding twenty-five years  
6 from the date of issue, as such resolution or resolutions may  
7 provide. The notes, bonds and security interests shall bear  
8 interest at such rate or rates, be in such denominations, be  
9 in such form, either coupon or registered, carry such  
10 registration privileges, be executed in such manner, be  
11 payable in such medium of payment and at such place or  
12 places, and be subject to such terms or conditions of  
13 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  
2 every issue of its notes, security interests and bonds shall be  
3 general obligations of the authority payable out of any  
4 revenues or moneys of the authority, subject only to any  
5 agreements with the holders of particular notes, security  
6 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  
2 authority shall be and hereby are made negotiable  
3 instruments under the provisions of article eight, chapter  
4 forty-six of this code, subject only to the provisions of the  
5 notes, security interests or bonds for registration.

**§31-20-14. Authorizing resolutions.**

1 Any resolution or resolutions authorizing any notes,  
2 security interests or bonds or any issue thereof, may contain  
3 provisions, which shall be a part of the contract with  
4 holders, as to:

- 5 (1) Pledging all or part of the revenues of the authority  
6 to secure the payment of the notes, security interests or  
7 bonds or any issue thereof, subject to such agreements with  
8 noteholders, holders of security interests or bondholders as  
9 may then exist;
- 10 (2) Pledging all or any part of the assets of the authority  
11 to secure the payment of the notes, security interests or  
12 bonds or any issue thereof, subject to such agreements with  
13 noteholders, holders of security interests or bondholders as  
14 may then exist;
- 15 (3) The setting aside of reserves or sinking funds and the  
16 regulation and disposition thereof;
- 17 (4) Limitations on the purposes to which proceeds of  
18 sale of notes, security interests or bonds may be applied and  
19 pledging such proceeds to secure the payment on the notes,  
20 security interests or bonds or of any issue thereof;
- 21 (5) Limitations on the issuance of additional notes,  
22 security interests or bonds; the terms upon which  
23 additional notes, security interests or bonds may be issued  
24 and secured; and the refunding of outstanding or other  
25 notes, security interests or bonds;
- 26 (6) The procedure, if any, by which the terms of any  
27 contract with noteholders, holders of security interests or  
28 bondholders may be amended or abrogated, the amount of  
29 notes, security interests or bonds the holders of which must  
30 consent thereto, and the manner in which such consent may  
31 be given;
- 32 (7) Limitations on the amount of moneys to be expended  
33 by the authority for operating, administrative or other  
34 expenses of the authority;
- 35 (8) Vesting in a trustee or trustees the property, rights,  
36 powers and duties of a trustee appointed by the  
37 bondholders pursuant to section thirteen of this article, and  
38 limiting or abrogating the right of the bondholders to  
39 appoint a trustee under section thirteen of this article or  
40 limiting the rights, powers and duties of such trustees; and
- 41 (9) Any other matters, of like or different character,  
42 which in any way affect the security or protection of the  
43 notes, security interests or bonds.

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

- 1 The authority, subject to such agreements with
- 2 noteholders, holders of security interests or bondholders as

3 may then exist, may, out of any funds available therefor,  
4 purchase notes, security interests or bonds of the authority.

5 If the notes, security interests or bonds are then  
6 redeemable, the price of such purchase shall not exceed the  
7 redemption price then applicable plus accrued interest to  
8 the next interest payment date thereon. If the notes,  
9 security interests or bonds are not then redeemable, the  
10 price of such purchase shall not exceed the redemption  
11 price applicable on the first date after such purchase upon  
12 which the notes, security interests or bonds become subject  
13 to redemption plus accrued interest to such date. Upon such  
14 purchase such notes, security interests or bonds shall be  
15 cancelled.

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

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

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

1 In the event the authority shall default in the payment of  
2 principal of or interest on any issue of its notes, security  
3 interests or bonds after they become due, whether at  
4 maturity or upon call for redemption, and such default  
5 continues for a period of thirty days, or in the event the  
6 authority fails or refuses to comply with the provisions of  
7 this article or defaults in any agreement made with the  
8 holders of any issue of notes, security interests or bonds, the  
9 holders of twenty-five percent in aggregate principal  
10 amount of the notes, security interests or bonds of such  
11 issue then outstanding, by instrument or instruments filed  
12 in the office of the clerk of the county commission of any  
13 county in which the authority operates and has an office  
14 and acknowledged in the same manner as a deed to be  
15 recorded, may appoint a trustee to represent the holders of  
16 such notes, security interests or bonds for the purposes  
17 herein provided:

18 (a) Any such trustee, upon the written request of the  
19 holders of twenty-five percent in the principal amount of  
20 such notes, security interests or bonds of the authority then  
21 outstanding, shall, in his or its own name, do any one or  
22 more of the following:

23 (1) By civil action or other proceeding, enforce all rights  
24 of the noteholders, holders of security interests or  
25 bondholders, including the right to require the authority to  
26 perform its duties under this article;

27 (2) Bring a civil action upon such notes, security  
28 interests or bonds;

29 (3) By civil action or other proceeding, require the  
30 authority to account as if it were the trustee of an express  
31 trust for the holders of such notes, security interests or  
32 bonds;

33 (4) By civil action or other proceeding, enjoin any acts or  
34 things which may be unlawful or in violation of the rights of  
35 the holders of such notes, security interests or bonds; or

36 (5) Declare all such notes, security interests or bonds  
37 due and payable, and, if all defaults are made good, then  
38 annul such declaration and its consequences.

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

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

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

1 The notes, security interests and bonds of the authority  
2 are hereby made securities in which the state board of  
3 investments, all insurance companies and associations and  
4 other persons carrying on an insurance business, all  
5 banking institutions, trust companies, building and loan  
6 associations, savings and loan associations, investment  
7 companies and other persons carrying on a banking  
8 business and other persons, except administrators,  
9 guardians, executors, trustees and fiduciaries, who are now  
10 or who may hereafter be authorized to invest in bonds or



11 other obligations of the state, may properly and legally  
12 invest funds, including capital in their control or belonging  
13 to them. The state board of investments, prior to investing  
14 funds, including capital in such notes, security interests or  
15 bonds of the authority shall first inquire fully into the  
16 integrity and sufficiency of the collateral securing such  
17 investment and shall be fully satisfied as to the sufficiency  
18 and integrity thereof; and may only so invest if the yield  
19 therefrom is at least equal to or greater than the prevailing  
20 market yield from similar United States twenty-six-week  
21 treasury bills. The state board of investments shall not  
22 purchase evidences of indebtedness having terms in excess  
23 of eighteen months from date of purchase to date of  
24 maturity.

**§31-20-19. Tax exemption.**

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

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

1 The aggregate principal amount of notes, security  
2 interests and bonds issued by the authority may not exceed  
3 one hundred million dollars outstanding at any one time. In  
4 computing the total amount of notes, security interests and  
5 bonds which may be outstanding at any one time, the  
6 principal amount of any outstanding notes, security  
7 interests and bonds refunded or to be refunded either by  
8 application of the proceeds of the sale of any refunding  
9 notes, security interests or refunding bonds of the authority  
10 or by exchange for any such notes, security interests or  
11 refunding bonds shall be excluded. The state board of

12 investments may have invested no more than a total  
13 aggregate principal amount of fifteen million dollars at any  
14 one time in such notes, security interests or bonds.

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

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

**§31-20-22. Money of the authority.**

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

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

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

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

1 The state hereby pledges to and agrees with each federal  
2 agency that, if such agency constructs or loans or  
3 contributes any funds for the acquisition, construction,  
4 extension, improvement or enlargement of any correctional  
5 facility or prison industries project, the state will not alter  
6 or limit the rights and powers of the authority in any

7 manner which would be inconsistent with the due  
8 performance of any agreement between the authority and  
9 such federal agency and that the authority shall continue to  
10 have and exercise all powers granted for carrying out the  
11 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  
2 in civil actions and shall be collected in advance:  
3 (a) For filing and trying any civil action and for all  
4 services connected therewith but excluding services  
5 regarding enforcement of judgment.....\$20.00  
6 (b) For each service regarding enforcement of a  
7 judgment including execution, suggestion, garnishment  
8 and suggestee execution .....\$5.00  
9 (c) For each bond filed in a case .....\$1.00  
10 (d) For taking deposition of witness for each hour or  
11 portion thereof .....\$1.00  
12 (e) For taking and certifying acknowledgment of a deed  
13 or other writing or taking oath upon an affidavit...\$.50  
14 (f) For mailing any matter required or provided by law  
15 to be mailed by certified or registered mail with return  
16 receipt.....\$1.00  
17 Costs incurred in a civil action shall be reflected in any  
18 judgment rendered thereon. The provisions of section one,  
19 article two, chapter fifty-nine of this code, relating to the  
20 payment of costs by poor persons, shall be applicable to all  
21 costs in civil actions.

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

1 In each criminal case tried in a magistrate court in which  
2 the defendant is convicted there shall be imposed, in  
3 addition to such other costs, fines, forfeitures or penalties as  
4 may be allowed by law, costs in the amount of thirty dollars.  
5 No such costs shall be collected in advance.  
6 A magistrate shall assess costs in the amount of two  
7 dollars and fifty cents for issuing a sheep warrant,  
8 appointment and swearing appraisers and docketing the  
9 same.

10 In each criminal case which must be tried by the circuit  
11 court but in which a magistrate renders some service, costs  
12 in the amount of ten dollars shall be imposed by the  
13 magistrate court and shall be certified to the clerk of the  
14 circuit court in accordance with the provisions of section  
15 six, article five, chapter sixty-two of this code.

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

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

19 There is hereby created in each county a special county  
20 fund designated as the magistrate court fund. No moneys  
21 shall be appropriated from the fund except for the purposes  
22 provided for in this section. Any money remaining in the  
23 magistrate court fund on the thirtieth day of June, one  
24 thousand nine hundred seventy-nine, and on the thirtieth  
25 day of June of each year thereafter, shall be paid to the state.

26 A county may appropriate and spend from such fund such  
27 sums as shall be necessary to defray the expenses of  
28 providing bailiff and service of process services by the  
29 sheriff, to defray the cost of acquiring or renting magistrate  
30 court offices and providing utilities and telephones therefor  
31 and to defray the expenses of such other services which by  
32 the terms of this chapter are to be provided to magistrate  
33 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  
2 month pay into the regional jail and prison development  
3 fund in the state treasury an amount equal to twenty dollars  
4 of the costs collected in each criminal proceeding and ten  
5 dollars of the costs collected for the filing of each civil  
6 action.

**CHAPTER 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  
2 services rendered as such clerk the following fees, and such  
3 fees shall be paid in advance by the parties for whom such  
4 services are to be rendered:

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

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

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

14 For action on suggestion, five dollars;

15 For issuing an execution, two dollars;

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

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

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

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

26 For postage and express and for sending or receiving  
27 decrees, orders or records, by mail or express, three times  
28 the amount of the postage or express charges;

29 For each witness summons over and above five, on the  
30 part of either plaintiff or defendant, to be paid by the party  
31 requesting the same, twenty-five cents;

32 For additional services (plaintiff or appellant) where any  
33 case remains on the docket longer than three years, for each  
34 additional year or part year, five dollars.

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

38 In the case of any misdemeanor, thirty dollars;

39 In the case of any felony, forty dollars;

40 No such clerk shall be required to handle or accept for  
41 disbursement any fees, costs or accounts, of any other  
42 officer or party not payable into the county treasury, except  
43 it be on order of the court or in compliance with the  
44 provisions of law governing such fees, costs or accounts.

**§59-1-28. Use and disposition of fees of sheriffs, clerks and  
prosecuting attorneys.**

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

19 Notwithstanding any provision of law to the contrary, all  
20 fees collected by a sheriff for service of all manner of  
21 process from magistrate court, in addition to such other  
22 funds as may be provided by the county commissions, shall  
23 be dedicated by the county commission to the office of

24 sheriff for providing bailiff and service of process services  
25 for magistrate court.

**§59-1-28a. Disposition of filing fees and fees for services in criminal cases.**

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

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

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

1 Except for the funds designated in section twenty-eight-a  
2 of this article, each of the officers named in section twenty-  
3 nine of this article shall at the end of each month pay into  
4 the county treasury all fees, costs, percentages, penalties,  
5 commissions, compensation, income and all other  
6 prerequisites of whatever kind collected by his office  
7 during such month, which money shall be credited to the  
8 general county fund. All such officers shall cause to be made  
9 a quarterly report to the administrative director of the  
10 supreme court of appeals, which shall indicate the money  
11 received by them during such quarter and the source and  
12 nature of such money. Such report shall be made within  
13 thirty days following the close of each quarter.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Samuel R. McKelvie*  
.....  
Chairman Senate Committee

*Floyd Fuller*  
.....  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1985.

*Judd C. Wills*  
.....  
Clerk of the Senate

*Donald L. Kopp*  
.....  
Clerk of the House of Delegates

*Don Tansler*  
.....  
President of the Senate

*Joseph F. Allright*  
.....  
Speaker House of Delegates

The within *approved* this the *2nd*  
*May* day of ..... 1985.  
*Anna. Pharaoh*  
.....  
Governor



PRESENTED TO THE

GOVERNOR

Date 4/30/85

Time 6:11 p.m.