

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

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ENROLLED

Com. Sub. for

HOUSE BILL No. 2273

(By Delegate *MR. Speaker MR. Chambers*
+ Delegate Swann)

[By Request of the Executive]

— ● —

Passed *MARCH 14,* 1987

In Effect *Ninety Days from* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 2273

(By MR. SPEAKER, MR. CHAMBERS, and DELEGATE SWANN)
[By request of the Executive]

[Passed March 14, 1987; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend article eleven of said chapter by adding thereto a new section, designated section one-a; to amend article twenty, chapter thirty-one of said code by adding thereto a new section designated section twenty-five, all relating to municipalities; providing for the collection of minimum costs against certain defendants by municipal courts; payment of costs collected to the regional jail and prison development fund in the state treasury; requiring the regional jail and prison authority to comply with the provisions of the West Virginia Regional Jail and Prison Authority Act; completion of comprehensive plan; formation of regions; appointment of regional jail commissions; development of jail and prison standards; obtaining land for regional jails; consideration of consolidation of regional jail system with the state correctional system; and collection of moneys.

Be it enacted by the Legislature of West Virginia:

That section one, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as

amended, be amended and reenacted; that article eleven of said chapter be further amended by adding thereto a new section, designated section one-a; and that article twenty, chapter thirty-one of said code be amended by adding thereto a new section, designated section twenty-five, all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 11. POWERS AND DUTIES WITH RESPECT TO ORDINANCES AND ORDINANCE PROCEDURES.

§8-11-1. Ordinances to make municipal powers effective; penalties imposed under judgment of mayor or police court or municipal judge; right to injunctive relief; right to maintain action to collect fines against nonresidents.

1 To carry into effect the powers and authority con-
2 ferred upon any municipality or its governing body by
3 the provisions of this chapter or any past or future act
4 of the Legislature of this state, the governing body shall
5 have plenary power and authority to make and pass all
6 needful ordinances, orders, bylaws, acts, resolutions,
7 rules and regulations, not contrary to the Constitution
8 and laws of this state; and, for a violation thereof, to
9 prescribe reasonable penalties in the form of fines,
10 forfeitures and imprisonment in the county jail or the
11 place of imprisonment in such municipality, if there be
12 one, for a term not exceeding thirty days. Such fines,
13 forfeitures and imprisonment shall be recovered,
14 imposed or enforced under the judgment of the mayor
15 of such municipality or the individual lawfully exercis-
16 ing his functions, or the police court judge or municipal
17 court judge of a city, if there be one, and may be
18 suspended upon such reasonable conditions as may be
19 imposed by such mayor, other authorized individual or
20 judge. Any municipality may also maintain a civil action
21 in the name of the municipality in the circuit court of
22 the county in which the municipality or the major
23 portion of the territory thereof is located to obtain an
24 injunction to compel compliance with, or to enjoin a
25 violation or threatened violation of, any ordinance of
26 such municipality, and such circuit court shall have
27 jurisdiction to grant the relief sought. A certified

28 transcript of a judgment for a fine rendered by a
29 municipal court may be filed in the office of the clerk
30 of a circuit court and docketed in the judgment lien book
31 kept in the office of the clerk of the county commission
32 in the same manner and with the same effect as the
33 filing and docketing of a certified transcript of judg-
34 ment rendered by a magistrate court as provided for in
35 section two, article six, chapter fifty of this code. The
36 judgment shall include costs assessed against the
37 defendant. In addition to any other costs which may be
38 lawfully imposed, an additional cost shall be imposed in
39 an amount of not less than twenty-two dollars in each
40 proceeding, except that such additional cost shall not be
41 assessed for a traffic offense that is not a moving
42 violation or an offense for which the ordinance does not
43 provide for a period of incarceration. Of the twenty-two
44 dollars imposed as an additional cost, two dollars shall
45 be an administrative cost to be retained by the
46 municipality.

47 Execution shall be by fieri facias issued by the clerk
48 of the circuit court in the same manner as such writs
49 are issued on judgments for a fine rendered by circuit
50 courts or other courts of record under the provisions of
51 section eleven, article four, chapter sixty-two of this
52 code.

**§8-11-1a. Disposition of criminal costs into state treasury
account for regional jail and prison develop-
ment fund.**

1 The clerk of each municipal court or such person
2 designated to receive fines and costs shall at the end of
3 each month pay into the regional jail and prison
4 development fund in the state treasury an amount equal
5 to twenty dollars of the costs collected in each proceed-
6 ing except for traffic offenses that are not moving
7 violations: *Provided*, That in a case where a defendant
8 has failed to pay all costs assessed against him, no
9 payment shall be made to the regional jail and prison
10 development fund unless and until the defendant has
11 paid all costs which, when paid, are available for the use
12 and benefit of the municipality.

CHAPTER 31. CORPORATIONS.

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

§31-20-25. Further duties of the authority.

1 The Legislature hereby finds that the regional jail and
2 prison authority has not complied with the provisions of
3 this article in certain areas and by this section imposes
4 further duties upon the authority in order to save the
5 taxpayers of this state unnecessary expense in the
6 development of the regional jail system.

7 No moneys shall be expended for regional jail
8 construction from the regional jail and development
9 fund and no final site selection for a regional jail shall
10 be made by the regional jail and prison authority until
11 (1) the regional jail commissions are formed and
12 activated under the provisions of section six, article
13 twenty, chapter thirty-one of this code, and (2) regional
14 jail commission representatives are named to the
15 regional jail and prison authority as provided for in
16 section three, article twenty, chapter thirty-one of this
17 code, and (3) the regional jail commission for the region
18 in which a jail is to be constructed submits the report
19 provided for under the provisions of section seven,
20 article twenty, chapter thirty-one of this code: *Provided,*
21 That this section shall not apply to the regional jail
22 commission previously established for the region
23 consisting of Berkeley, Morgan and Jefferson counties.

24 Notwithstanding any other provision of this article,
25 the regional jail and prison authority shall present a
26 written report to the joint committee on government and
27 finance of the Legislature no later than the meeting of
28 such committee in the month of December, one thousand
29 nine hundred eighty-seven, which will show that the
30 authority has done the following:

31 (a) Completed a comprehensive plan as required in
32 section five of this article;

33 (b) Specified which counties are to be formed into
34 regions as required in section five of this article;

35 (c) Appointed a regional jail commission in each

36 region as required by section six of this article;

37 (d) Developed through the jail and prison standards
38 commission, jail and prison standards as required by
39 section nine of this article;

40 (e) That the authority in obtaining or attempting to
41 obtain land or buildings for regional jail facilities, has
42 considered all available options which will minimize
43 costs while maximizing the effectiveness of this article,
44 including, but not limited to, the option of obtaining
45 land through offers of such by county or local govern-
46 ments; and

47 (f) That the authority has developed plans which will
48 utilize regional jail facilities for the housing of convicted
49 felons who have committed nonviolent crimes. Such
50 plans are to provide that the convicted felons shall be
51 housed separately from those persons serving time for
52 misdemeanor offenses. The development of the plans
53 shall be a cooperative effort between the authority and
54 the department of corrections inasmuch as it is the
55 intent of the Legislature that the penal system of this
56 state shall be a consolidated system of both the regional
57 jail system and the state correctional institutions.

Handwritten signatures and initials, including "S. J. ...", "J. ...", and "J. ...".

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

Bruce O. Williams
Chairman Senate Committee

Lyle Settle
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Judd C. Miller
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Don Tomkinson
President of the Senate

Robert C. Byrd
Speaker of the House of Delegates

The within *appeared* this the *2nd*
day of *April*, 1987.

Arch A. Shivers, Jr.
Governor

PRESENTED TO THE

GOVERNOR

Date 3/27/87

Time 2:22 p.m.