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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989



ENROLLED
Committee Substitute for
SENATE BILL NO. 389

(By Senator *Tucker, Mr. President, et al*)



PASSED *April 5,* 1989
In Effect *from* Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 389

(BY SENATORS TUCKER, MR. PRESIDENT, AND HARMAN,
BY REQUEST OF THE EXECUTIVE)

[Passed April 8, 1989; in effect from passage.]

AN ACT to repeal section five-b, article twenty, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section two, article three, chapter seven of said code; to amend and reenact sections one, two, three, four, five, five-a, six, seven, eight, nine, ten, nineteen, twenty-two, twenty-four and twenty-five, article twenty, chapter thirty-one of said code; and to further amend said article twenty by adding thereto two new sections, designated sections one-a and twenty-six, all relating to the West Virginia Regional Jail and Correctional Facility Authority generally; providing that no county commission is required to provide and maintain jails or holding facilities unless it is determined to be necessary; setting forth certain legislative findings and purposes; changing the reference to "prison" throughout article twenty, chapter thirty-one of the code to "correctional facility"; renaming a special fund; providing that the chairman and secretary of the board of the Regional Jail and Correctional Facility Authority are to

be elected by the members of the board every two years; changing the number and composition of the board; specifying quarterly meetings of the board unless a special meeting or meetings are called by the chairman; requiring the board to review and approve the budget of the authority annually; specifying that the executive director of the authority is its chief executive officer; providing for the nomination and appointment of the executive director by the governor with the advice and consent of the Senate, to serve at the will and pleasure of the governor; specifying certain duties of the executive director; providing that the authority may enter into certain types of contracts; specifying that the authority shall provide the Jail and Correctional Facility Standards Commission with secretarial and other necessary services; creating the regional jail and correctional facility development fund; and creating a legislative oversight committee.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 3. COUNTY PROPERTY.

§7-3-2. Courthouse, jail and offices.

1 The county commission of every county, at the
2 expense of the county, shall provide at the county seat
3 thereof a suitable courthouse and jail, together with
4 suitable offices for the judge of the circuit court and
5 judges of courts of limited jurisdiction, clerks of circuit
6 courts, courts of limited jurisdiction and of the county

7 commission, assessor, sheriff, prosecuting attorney,
8 county superintendent of schools, and surveyor, and
9 all other offices as are or may be required by law:
10 *Provided*, That the courthouse, including any annex or
11 other facility housing the courts and offices herein set
12 out, (excepting all facilities that are on a twenty-four-
13 hour basis), shall be open to the public Monday
14 through Friday during the hours prescribed by the
15 county commission by an order duly recorded in the
16 order book of the commission. The county commission
17 in such order may, in its discretion, provide that the
18 courthouse, including any annex or other facility
19 housing the courts and offices herein set out, be open
20 on Saturday and prescribe the hours during which it
21 shall be open. In no case may the county commission
22 provide that the courthouse, including any annex or
23 other facility housing the courts and offices herein set
24 out, be open for business on Sundays or national or
25 state holidays: *Provided, however*, That the county
26 commission of every county having a population in
27 excess of two hundred thousand may provide at the
28 county seat or elsewhere in the county, as the county
29 commission shall determine, a suitable jail or jails:
30 *Provided further*, That the county commission of any
31 county, regardless of population, may, as provided in
32 article twenty-three, chapter eight of the code of West
33 Virginia, contract with the county commissions of one
34 or more other counties within this state for the
35 erection, construction, equipment, leasing and renting
36 of a regional correctional center for either adult or
37 youth offenders, at a location mutually agreeable to
38 the contracting parties and not necessarily at the
39 county seat, which will serve each county entering
40 into the contract. The county commission shall keep
41 the courthouse, jail and other offices in constant and
42 adequate repair, and supplied with the necessary heat,
43 light, furniture, record books, and janitor service, and,
44 except as to the office for the judge of the circuit
45 court, with the necessary stationery and postage, and
46 other things as shall be necessary; but all of the public
47 records, books and papers belonging or appertaining to
48 the county surveyor's office shall be delivered to the

49 clerk of the county commission and retained by him in
50 his official possession and under his control and shall
51 constitute a part of the public records, books and
52 papers of his office. All courthouses, jails and offices
53 hereafter erected shall be built of stone and brick, or
54 stone or brick, or other equally fireproof materials,
55 and the offices shall be fireproof or be furnished with
56 fireproof vaults or safes. The jails shall be well
57 secured, and sufficient for the convenient accommoda-
58 tion of those who may be confined therein. The county
59 commission may also provide other necessary offices
60 and buildings, and may, by purchase or otherwise,
61 acquire as much land as may be requisite or desirable
62 for county purposes, and may suitably enclose,
63 improve and embellish the lands so acquired.

64 Subject to the conditions hereinabove set forth with
65 respect to the site of the courthouse, jail, and other
66 offices, the commission may, from time to time, as
67 may seem to it proper, provide, at the expense of the
68 county, a new or other building or buildings to be used
69 for the courthouse and jail, or for either, together with
70 suitable offices, as aforesaid, and for that purpose may
71 acquire, by purchase or otherwise, and hold any lands,
72 or lands and buildings, which may be necessary, and
73 may enclose, improve and embellish the same. When
74 any new or other building or buildings shall be ready
75 for occupancy, the county commission shall make an
76 order declaring that, on a day to be therein named, the
77 new or other building or buildings shall become the
78 courthouse, or jail, or both the courthouse and jail of
79 the county, and shall cause copies of the order to be
80 posted at the front door of the new as well as of the
81 old courthouse, at least twenty days before the day
82 named in the order; and on and after the day named
83 the new or other building or buildings shall become,
84 respectively, the courthouse, or jail, or both the
85 courthouse and jail of the county in all respects and
86 for all purposes. After the change shall have been
87 made the county commission may sell or otherwise
88 dispose of, as may seem to it proper, the building or
89 buildings previously used as a courthouse and jail, or
90 either, and the land on which they are, or either is,

91 situated, and of the interest of the county therein.

92 Notwithstanding any other provision of this code to
93 the contrary, any county commission providing and
94 maintaining a jail on the effective date of this article
95 shall not be required to provide and maintain a jail
96 after a regional jail becomes available pursuant to the
97 provisions of article twenty, chapter thirty-one of this
98 code, unless the county commission determines that
99 such a facility is necessary: *Provided*, That such
100 county commission may provide and maintain a
101 holding facility which complies with the standards set
102 forth for such holding facilities in legislative rules
103 promulgated by the jail and correctional facility
104 standards commission or its predecessor, the jail and
105 prison standards commission.

CHAPTER 31. CORPORATIONS.

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-1. Short title.

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

§31-20-1a. Legislative findings and purposes.

1 (a) The Legislature finds as follows:

2 (1) That existing jails and correctional facilities in
3 this state serve neither the best interests of the inmate
4 population of such jails and facilities nor the citizens
5 of West Virginia;

6 (2) That due to time constraints established and
7 imposed by judicial decisions, it is imperative that the
8 Legislature give immediate and diligent attention to
9 the improvement of existing facilities and the con-
10 struction and maintenance of new facilities, as well as
11 to the development and implementation of new,
12 innovative and effective programs dealing with incar-
13 cerated persons;

14 (3) That the physical condition of most existing jails

15 and correctional facilities contribute to a frustration of
16 efforts to provide rehabilitation, education, vocational
17 training, and social and psychological adjustment and
18 improvement for incarcerated persons, to the end that
19 such existing facilities are utilized largely for the
20 limited purposes of confinement;

21 (4) That there is a need to examine, understand and
22 implement various new and innovative trends which
23 are being advanced in the area of correctional institu-
24 tion design, and to explore the developing alternatives
25 to incarceration which are being experimented with in
26 other jurisdictions; and

27 (5) That the revenues of this state, insofar as they
28 are currently used to maintain a traditional penal
29 system, are not efficiently utilized to provide facilities
30 or produce programs which could direct an inmate's
31 time and effort to prepare him for life outside of
32 confinement; nor do such revenues provide corrections
33 officials with the resources necessary to address the
34 issues and problems with which they are confronted.

35 (b) The purposes of this article are as follows:

36 (1) To provide a cost-efficient system within this
37 state for the construction, maintenance and operation
38 of jails and correctional facilities;

39 (2) To develop and implement plans for the renova-
40 tion and improvement of existing facilities and the
41 design and construction of new facilities to better
42 serve the inmate population and the citizens of this
43 state;

44 (3) To provide an environment in which new and
45 innovative corrections programs may be considered
46 and undertaken, and in which opportunities may be
47 offered to inmates to overcome personal deficiencies
48 which are educational, vocational, social or psycholog-
49 ical in nature;

50 (4) To investigate the feasibility of individualizing
51 and classifying inmates according to their psychologi-
52 cal and physical conditions at the time they are
53 incarcerated, and the feasibility of designing for each

54 such inmate a plan for self-improvement and
55 rehabilitation.

§31-20-2. Definitions.

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

3 (a) "Authority" or "West Virginia Regional Jail
4 Authority" means the West Virginia regional jail and
5 correctional facility authority created by this article.

6 (b) "Board" means the governing body of the
7 authority.

8 (c) "Bonds" means bonds of the authority issued
9 under this article.

10 (d) "Cost of construction or renovation of a local jail
11 facility or regional jail facility" means the cost of all
12 lands, water areas, property rights and easements,
13 financing charges, interest prior to and during con-
14 struction and for a period not exceeding six months
15 following the completion of construction, equipment,
16 engineering and legal services, plans, specifications
17 and surveys, estimates of costs and other expenses
18 necessary or incidental to determining the feasibility
19 or practicability of any such project, together with
20 such other expenses as may be necessary or incidental
21 to the financing and the construction or renovation of
22 such facilities and the placing of same in operation.

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

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

28 (g) "Fund" means the regional jail and correctional
29 facility development fund provided in section ten of
30 this article.

31 (h) "Government" means state and federal govern-
32 ment, and any political subdivision, agency or instru-
33 mentality thereof, corporate or otherwise.

34 (i) "Inmate" means any person properly committed

35 to a local or regional jail facility or a correctional
36 facility.

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

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

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

46 (m) "Correctional facility" means any correctional
47 facility, penitentiary, detention center or other correc-
48 tional institution operated by the department of
49 corrections.

50 (n) "Regional jail facility" or "regional jail" means
51 any facility operated by the authority and used jointly
52 by two or more counties for the confinement, custody,
53 supervision or control of persons convicted of misde-
54 meanors or awaiting trial or awaiting transportation to
55 a state correctional facility.

56 (o) "Regional jail commission" means the commis-
57 sion established in section eight of this article.

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

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

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

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

1 There is hereby created the West Virginia regional
2 jail and correctional facility authority which shall be a
3 body corporate and a government instrumentality.
4 The authority shall have and is hereby granted all of
5 the powers and authority and shall perform all of the
6 functions and services heretofore vested in and per-
7 formed by the West Virginia regional jail and prison
8 authority. The West Virginia regional jail and prison
9 authority is hereby abolished. The terms of members
10 currently serving on the board of the West Virginia
11 regional jail and prison authority shall expire on the
12 thirtieth day of June, one thousand nine hundred
13 eighty-nine. Wherever in this chapter and elsewhere
14 in law reference is made to the West Virginia regional
15 jail and prison authority, such reference shall hence-
16 forth be construed and understood to mean the West
17 Virginia regional jail and correctional facility
18 authority.

19 The authority shall be governed by a board of seven
20 members, consisting of the commissioner of the
21 department of corrections; the commissioner of the
22 department of finance and administration or his
23 designated representative; three county officials
24 appointed by the governor, no more than two of which
25 may be of the same political party; and two citizens
26 appointed by the governor to represent the areas of
27 law and medicine. Members of the Legislature are not
28 eligible to serve on the board.

29 The governor shall nominate and, by and with the
30 advice and consent of the Senate, appoint five
31 members of the authority for staggered terms of four
32 years beginning the first day of July, one thousand
33 nine hundred eighty-nine. Of the members of the
34 board first appointed, one shall be appointed for a
35 term ending the thirtieth day of June, one thousand
36 nine hundred ninety-one, two shall be appointed for
37 terms ending the thirtieth day of June, one thousand
38 nine hundred ninety-two, and two shall be appointed

39 for terms ending the thirtieth day of June, one
40 thousand nine hundred ninety-three. As these original
41 appointments expire, each subsequent appointment
42 shall be for a full four-year term.

43 Any appointed member whose term has expired
44 shall serve until his successor has been duly appointed
45 and qualified. Any person appointed to fill a vacancy
46 shall serve only for the unexpired term. Any
47 appointed member is eligible for reappointment.
48 Members of the authority are not entitled to compen-
49 sation for services performed as members but are
50 entitled to reimbursement for all reasonable and
51 necessary expenses actually incurred in the perfor-
52 mance of their duties.

53 All members of the board of the authority shall
54 execute an official bond in a penalty of ten thousand
55 dollars, conditioned as required by law. Premiums on
56 such bond shall be paid from funds accruing to the
57 authority. Such bond shall be approved as to form by
58 the attorney general and as to sufficiency by the
59 governor and, when fully executed and approved, shall
60 be filed in the office of the secretary of state.

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

1 The governing body of the authority shall consist of
2 the members of the board as provided for in section
3 three of this article and shall exercise all the powers
4 given to the authority in this article. On the second
5 Monday of July of each odd-numbered year, the board
6 shall meet to elect a chairman and a secretary from
7 among its own members. The commissioner of finance
8 and administration or his designated representative
9 shall serve as treasurer of the board. The board shall
10 otherwise meet quarterly, unless a special meeting is
11 called by its chairman.

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

17 The board shall prescribe, amend and repeal bylaws
18 and rules governing the manner in which the business
19 of the authority is conducted and shall review and
20 approve the budget prepared by the executive director
21 annually.

22 The governor shall, with the advice and consent of
23 the Senate, appoint an executive director to act as its
24 chief executive officer, to serve at the will and
25 pleasure of the governor. The executive director is
26 empowered to employ any other personnel he deter-
27 mines necessary and may appoint counsel and legal
28 staff for the authority and retain such temporary
29 engineering, financial and other consultants or techni-
30 cians as may be required for any special study or
31 survey consistent with the provisions of this article.
32 The executive director is further empowered to
33 engage in negotiations and carry out plans to imple-
34 ment the provisions of this article and to exercise
35 those powers listed in section five of this article on
36 behalf of the authority. The executive director shall
37 prepare annually a budget to be submitted to the
38 board for its review and approval.

39 All costs incidental to the administration of the
40 authority including office expense, personal services
41 expense and current expense, shall be paid from the
42 regional jail and correctional facility development
43 fund in accordance with guidelines issued by the board
44 of the authority.

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

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

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

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

24 (1) The relative physical condition of the correctional
25 facilities and jail facilities located within the state;

26 (2) The transportation costs associated with the
27 establishment of centralized jail services including, but
28 not limited to, the costs of transporting persons
29 incarcerated in regional jails to court appearances, to
30 interviews with their attorneys, and to have visitation
31 with their families and friends, all in any county seat
32 of a county served by the regional facility: *Provided*,
33 That consideration of such costs in the creation of the
34 plan shall not be construed to require the transporta-
35 tion of inmates to interviews with their attorneys or to
36 have visitation with their families and friends when
37 visitation facilities and schedules are established in
38 regional jails;

39 (3) The availability of medical services and educa-
40 tional and recreational opportunities;

41 (4) Information received from public hearings;

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

44 (6) Available facilities which may be used as regional
45 jails or correctional facilities including, but not limited
46 to, existing county and state owned properties: *Pro-*
47 *vided*, That if the authority determines that an
48 existing facility meets the standards or could reasona-
49 bly be made to meet the standards for a regional jail

50 or other correctional facility, the authority may
51 proceed to acquire such existing facility and compen-
52 sate the owner thereof in an amount not less than any
53 local share expended by the owner as matching
54 moneys for the receipt of federal funds: *Provided,*
55 *however,* That if the authority determines that an
56 existing facility does not meet the standards or could
57 not reasonably be made to meets the standards for a
58 regional jail or other correctional facility, the author-
59 ity shall provide the owner with a written statement
60 setting forth the reasons supporting such
61 determination;

62 (7) The cost of acquiring, constructing, renovating,
63 operating and maintaining local jail facilities for use as
64 local holding facilities in each county and regional jail
65 facilities for each county and the financing provided
66 by this article;

67 (8) The leasing of any available portion of any
68 regional jail space and the leasing of available facilities
69 of any regional jail to the West Virginia department of
70 corrections for the keeping and detaining of prisoners
71 sentenced to serve terms of incarceration under the
72 custody of the West Virginia department of corrections
73 for nonviolent crimes and to contract with the depart-
74 ment of corrections for the providing of food, clothing,
75 shelter and any and all incidental costs in the care,
76 control and maintenance of such prisoners: *Provided,*
77 That such leasing does not restrict space or facilities
78 needed for the detention of county prisoners;

79 (9) The advisability and cost effectiveness of acquir-
80 ing, constructing, renovating, operating and maintain-
81 ing work farms serving one or more counties or
82 regions; and

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

86 Public hearings pursuant to this section shall be held
87 by the authority in convenient locations throughout
88 the state. No less than ten public hearings shall be
89 held for public comment on the establishment of

90 regional jails. The authority shall cause to be pub-
91 lished at least two weeks in advance of a hearing a
92 Class II-0 legal advertisement, as provided in section
93 two, article three, chapter fifty-nine of this code,
94 setting forth the reason for the hearing and the time,
95 place and date thereof. The publication area shall be
96 each county which may be included in a region for the
97 purposes of a regional jail with the county in which
98 the public hearing is held.

99 In addition to the hearing requirements above,
100 before beginning construction of a new facility for use
101 as a regional jail or correctional facility or before
102 beginning renovation or acquisition of an existing
103 facility for use as a regional jail facility, which existing
104 facility is not already a jail, correctional facility or
105 secure facility for the detention of juveniles or persons
106 otherwise involuntarily committed or confined, the
107 authority shall hold a hearing for comment by all
108 members of the public on all aspects relating to the
109 advisability of the use of the site for that regional jail
110 facility. The authority shall promulgate legislative
111 rules pursuant to chapter twenty-nine-a of this code
112 for the requirements for notice and other procedures
113 of said public hearings, which requirements shall be as
114 similar as practicable to those hearings conducted
115 regarding the construction of bridges by the West
116 Virginia department of highways.

117 The authority, as a public corporation and govern-
118 mental instrumentality exercising public powers of the
119 state, may exercise all powers necessary or appropri-
120 ate to carry out the purposes of this article, including,
121 but not limited to, the power:

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

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

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

127 (d) To conduct examinations and investigations and
128 to hear testimony and take proof, under oath or

129 affirmation at public or private hearings, on any
130 matter relevant to this article and necessary for
131 information on the construction or renovation of any
132 correctional facility or the establishment of any
133 correctional facility industries project.

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

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

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

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

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

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

151 (k) To make contracts of every kind and nature and
152 to execute all instruments necessary or convenient for
153 carrying on its business, including contracts with any
154 other governmental agency of this state or of the
155 federal government or with any person, individual,
156 partnership or corporation to effect any or all of the
157 purposes of this article.

158 (l) Without in any way limiting any other subdivi-
159 sion of this section, to accept grants from and enter
160 into contracts and other transactions with any federal
161 agency.

162 (m) To borrow money and to issue its negotiable
163 bonds, security interests or notes and to provide for
164 and secure the payment thereof, and to provide for the
165 rights of the holders thereof, and to purchase, hold and
166 dispose of any of its bonds, security interests or notes:

167 *Provided*, That no bond or other obligation may be
168 issued or incurred unless and until the Legislature by
169 concurrent resolution has approved the purpose and
170 amount of each project for which proceeds from the
171 issuance of such bond or other obligation will be used.

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

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

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

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

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

207 (q) To apply the proceeds from the sale of renewal
208 notes, security interests or refunding bonds to the
209 purchase, redemption or payment of the notes, secu-
210 rity interests or bonds to be refunded.

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

220 (s) To the extent permitted under its contracts with
221 the holders of bonds, security interests or notes of the
222 authority, to consent to any modification of the rate of
223 interest, time of payment of any installment of prin-
224 cipal or interest, security or any other term of any
225 bond, security interest, note or contract or agreement
226 of any kind to which the authority is a party.

227 (t) To sell security interests in the loan portfolio of
228 the authority. Such security interests shall be evi-
229 denced by instruments issued by the authority. Pro-
230 ceeds from the sale of security interests may be issued
231 in the same manner and for the same purposes as
232 bond and note revenues.

233 (u) To promulgate rules and regulations, in accor-
234 dance with the provisions of chapter twenty-nine-a of
235 this code, to implement and make effective the pow-
236 ers, duties and responsibilities invested in the author-
237 ity by the provisions of this article and otherwise by
238 law.

239 (v) To assume the responsibility for operation and
240 management of regional jail facilities under the
241 jurisdiction of the state regional jail and correctional
242 facility authority. The authority shall provide for the
243 transportation of inmates between the regional jails
244 and local holding facilities for court appearances.

245 (w) To exercise all power and authority provided in

246 this article necessary and convenient to plan, finance,
247 construct, renovate, maintain and operate or oversee
248 the operation of regional jails and correctional facilities.

249 Notwithstanding any other provision of this section,
250 the regional jail and correctional facility authority
251 shall no later than the first day of November, one
252 thousand nine hundred eighty-nine, submit a plan to
253 the joint committee on government and finance of the
254 Legislature detailing the means by which the author-
255 ity will comply with the mandates of the supreme
256 court of appeals as to the structural and internal
257 conditions and programs of the correctional facilities
258 in this state. In preparing such plan, the authority is
259 to allow for and consider any input from the public.

§31-20-5a. Bidding procedures.

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

27 shall be required of all contractors in an amount equal
28 to at least fifty percent of the contract price, condi-
29 tioned upon faithful performance of the contract.

**§31-20-6. Regional jail commissions; composition; appoint-
ment; terms; compensation and expenses.**

1 Upon the formation of specific regions by the
2 regional jail and correctional facility authority for the
3 establishment of regional jails as provided in section
4 five of this article, there shall be created in each
5 region a regional jail commission composed of the
6 following members: The sheriff from each county in
7 the region or his designated representative; a member
8 of the county commission from each county in the
9 region chosen by the commission or a designated
10 representative; one mayor from each county in the
11 region to be appointed by the regional jail and correc-
12 tional facility authority from a list of names submitted
13 by the West Virginia municipal league, or his desig-
14 nated representative; and three persons from the
15 region who are representative of the areas of law,
16 medicine and education to be appointed by the
17 regional jail and correctional facility authority and
18 who shall serve for a term of three years: *Provided*,
19 That any local regional jail authority or commission
20 established prior to the effective date of this article
21 shall be recognized as meeting the requirements of
22 this section, at the option of the local regional jail
23 authority or commission.

24 Any appointed member whose term has expired
25 shall serve until his successor has been duly appointed
26 and qualified. Any person appointed to fill a vacancy
27 shall serve only for the unexpired term. Any
28 appointed member is eligible for reappointment.
29 Members of the commission are not entitled to com-
30 pensation for services performed as members but are
31 entitled to reimbursement for all reasonable and
32 necessary expenses actually incurred in the perfor-
33 mance of their duties. The county commission from
34 each county in the region shall provide the commis-
35 sion with secretarial and other necessary services.

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

1 Each regional jail commission shall prepare and
2 submit such plans, suggestions and recommendations
3 to the regional jail and correctional facility authority
4 which will define the needs for its region as to the
5 construction, renovation and general operation of a
6 regional jail facility. The report may include, but is
7 not limited to, recommendations for conforming its jail
8 facility to the jail standards promulgated by the jail
9 and correctional facility standards commission,
10 upgrading the recreational and educational opportun-
11 ities for inmates confined in the region's facility,
12 development of programs in cooperation with commu-
13 nity medical and mental health centers in the region
14 to provide adequate medical and drug and alcohol
15 addiction services within the facility and information
16 concerning the costs incurred in the operation of the
17 facility.

**§31-20-8. Jail and correctional facility standards commission;
appointment; compensation; vacancies;
quorum.**

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

20 Members of the commission shall serve without
21 compensation, but may be reimbursed for reasonable
22 and necessary expenses incurred in the performance
23 of their duties. The regional jail and correctional
24 facility authority shall provide the commission with
25 secretarial and other necessary services.

26 A vacancy among the appointed members of the
27 commission shall be filled, within thirty days, in the
28 same manner as the original appointment. A quorum
29 consists of four of the six voting members. Members of
30 the commission shall select a chairman.

§31-20-9. Purpose, powers and duties.

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

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

24 (2) Promulgate such rules pursuant to the provisions
25 of chapter twenty-nine-a of this code as are necessary
26 to implement the provisions of this article, including,
27 without limitation, minimum jail, work farm and
28 correctional facility standards which shall be promul-

29 gated on or before the first day of July, one thousand
30 nine hundred eighty-six.

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

36 (4) Report periodically to the authority to advise and
37 recommend actions to be taken by the authority to
38 implement proper minimum jail, work farm and
39 correctional facility standards.

40 Notwithstanding any other provision of this code to
41 the contrary, any county commission providing and
42 maintaining a jail on the effective date of this article
43 shall not be required to provide and maintain a jail
44 after a regional jail becomes available pursuant to the
45 provisions of article twenty, chapter thirty-one of this
46 code, unless the county commission determines that
47 such a facility is necessary: *Provided*, That such
48 county commission may provide and maintain a
49 holding facility which complies with the standards set
50 forth for such holding facilities in legislative rules
51 promulgated by the jail and correctional facility
52 standards commission or its predecessor, the jail and
53 prison standards commission.

**§31-20-10. Regional jail and correctional facility develop-
ment fund.**

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

10 (b) Revenues deposited into the fund may be used to
11 make payments of interest and may be pledged as
12 security for bonds, security interests or notes issued by

13 the authority pursuant to this article.

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

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

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

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

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

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

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

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

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

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

48 (2) Amounts deposited from all other sources shall
49 be pledged first to the debt service on any bonded

50 indebtedness or other obligation incurred by
51 borrowing of the authority;

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

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

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

81 (6) Any amounts deposited in the fund from other
82 sources permitted by this article shall be expended in
83 the respective regions based on particular needs to be
84 determined by the authority.

85 (g) After a regional jail facility becomes available
86 pursuant to this article for the incarceration of
87 inmates, each county within the region shall incarcer-
88 ate all persons whom the county would have incarcer-
89 ated in any jail prior to the availability of the regional

90 jail facility in the regional jail facility except those
91 whose incarceration in a local jail facility used as a
92 local holding facility is specified as appropriate under
93 the standards and procedures developed pursuant to
94 section nine of this article and who the sheriff or the
95 circuit court elects to incarcerate therein.

96 (h) When inmates are placed in a regional jail
97 facility pursuant to subsection (g) of this section the
98 county shall pay into the regional jail and correctional
99 facility development fund a cost per day for each
100 inmate so incarcerated to be determined by the
101 regional jail and correctional facility authority accord-
102 ing to criteria and by procedures established by
103 regulations pursuant to article three, chapter twenty-
104 nine-a of this code to cover the costs of operating such
105 regional jail facility to maintain each such inmate
106 which costs shall not include the cost of construction,
107 acquisition or renovation of said regional jail facility.

§31-20-19. Tax exemption.

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

§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 correctional facility development
5 fund shall be collected and received by the treasurer

6 of the authority, who shall pay it into the state
7 treasury in the manner required by section two,
8 article two, chapter twelve of this code, to be credited
9 to the fund.

**§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
2 federal agency that, if such agency constructs or loans
3 or contributes any funds for the acquisition, construc-
4 tion, extension, improvement or enlargement of any
5 correctional facility or correctional facility industries
6 project, the state will not alter or limit the rights and
7 powers of the authority in any manner which would
8 be inconsistent with the due performance of any
9 agreement between the authority and such federal
10 agency and that the authority shall continue to have
11 and exercise all powers granted for carrying out the
12 purposes of this article for so long as necessary.

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

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

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

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

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

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

34 (c) Appointed a regional jail commission in each
35 region as required by section six of this article;

36 (d) Developed through the jail and correctional
37 facility standards commission, jail and correctional
38 facility standards as required by section nine of this
39 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
48 will utilize regional jail facilities for the housing of
49 convicted felons who have committed nonviolent
50 crimes. Such plans are to provide that the convicted
51 felons shall be housed separately from those persons
52 serving time for misdemeanor offenses. The develop-
53 ment of the plans shall be a cooperative effort between
54 the authority and the department of corrections
55 inasmuch as it is the intent of the Legislature that the
56 penal system of this state shall be a consolidated
57 system of both the regional jail system and the state
58 correctional institutions.

§31-20-26. Legislative oversight committee.

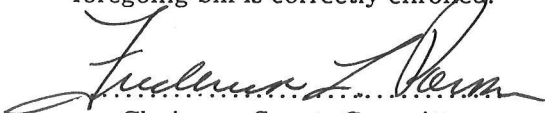
1 The President of the Senate and the Speaker of the
2 House of Delegates shall each designate five members
3 of their respective houses, at least one of whom shall
4 be a member of the minority party, to serve on a
5 legislative oversight committee charged with immedi-
6 ate and ongoing oversight of the authority and the
7 commissions, and functions and duties thereof created
8 by this article. This committee shall report regularly
9 at each legislative session on the implementation of
10 the purposes set forth in section one-a of this article.
11 It shall regularly investigate all matters relating to
12 integrity, probity, and foresight in funding, operating,
13 and planning the correctional system on state,
14 regional, and county levels. Specifically, the committee
15 shall study and make recommendations to the Legisla-
16 ture as to the revision of the system of classifying
17 inmates, with a view variously to decreasing the
18 prison population confined in "maximum security"
19 facilities and to designating and meeting the needs of
20 inmates classified as elderly, disabled, or otherwise
21 handicapped.

22 The committee shall further study and inform the
23 state judiciary of the impact of sentencing on the
24 composition of the prison population in proportion to
25 the use of facilities. It shall recommend alternatives to
26 long-term sentencing, and shall recommend measures
27 to improve the quality of correctional staff and
28 facilitate its nonconfrontational contacts with inmates.
29 The committee shall investigate means to structure
30 inmates' time to insure genuine and willing reaccom-
31 odations to societal norms; shall probe and coordinate
32 all available means for funding state, regional, and
33 county correctional facilities; and shall contract with
34 penal experts to study these issues in appropriate
35 depth and perspective. Annually, to predict a prudent
36 use of available funds, the committee shall study the
37 profile of the inmate population with regard to its age
38 and social background and needs.

39 The committee shall recommend to the Legislature

40 the funding required to execute such functions. It
41 shall meet regularly with the governing body of the
42 authority established in this article to determine what
43 may be required for full and timely compliance with
44 all court-ordered changes in the correctional system
45 and shall recommend funding for such changes.

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


.....
Chairman Senate Committee

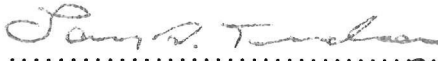

.....
Chairman House Committee

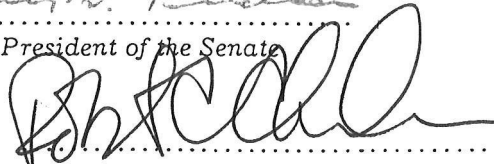
Originated in the Senate.

In effect from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within *is* approved.....this the *26th*
day of *April*.....1989.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/24/89

Time

2:40