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
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article twenty, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section two, article three, chapter seven of said code be amended and reenacted; that sections one, two, three, four, five, five-a, six, seven, eight,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 expense of the county, shall provide at the county seat thereof a suitable courthouse and jail, together with suitable offices for the judge of the circuit court and judges of courts of limited jurisdiction, clerks of circuit courts, courts of limited jurisdiction and of the county
commission, assessor, sheriff, prosecuting attorney, county superintendent of schools, and surveyor, and all other offices as are or may be required by law: Provided, That the courthouse, including any annex or other facility housing the courts and offices herein set out, (excepting all facilities that are on a twenty-four-hour basis), shall be open to the public Monday through Friday during the hours prescribed by the county commission by an order duly recorded in the order book of the commission. The county commission in such order may, in its discretion, provide that the courthouse, including any annex or other facility housing the courts and offices herein set out, be open on Saturday and prescribe the hours during which it shall be open. In no case may the county commission provide that the courthouse, including any annex or other facility housing the courts and offices herein set out, be open for business on Sundays or national or state holidays: Provided, however, That the county commission of every county having a population in excess of two hundred thousand may provide at the county seat or elsewhere in the county, as the county commission shall determine, a suitable jail or jails: Provided further, That the county commission of any county, regardless of population, may, as provided in article twenty-three, chapter eight of the code of West Virginia, contract with the county commissions of one or more other counties within this state for the erection, construction, equipment, leasing and renting of a regional correctional center for either adult or youth offenders, at a location mutually agreeable to the contracting parties and not necessarily at the county seat, which will serve each county entering into the contract. The county commission shall keep the courthouse, jail and other offices in constant and adequate repair, and supplied with the necessary heat, light, furniture, record books, and janitor service, and, except as to the office for the judge of the circuit court, with the necessary stationery and postage, and other things as shall be necessary; but all of the public records, books and papers belonging or appertaining to the county surveyor's office shall be delivered to the
clerk of the county commission and retained by him in
his official possession and under his control and shall
constitute a part of the public records, books and
papers of his office. All courthouses, jails and offices
hereafter erected shall be built of stone and brick, or
stone or brick, or other equally fireproof materials,
and the offices shall be fireproof or be furnished with
fireproof vaults or safes. The jails shall be well
secured, and sufficient for the convenient accommoda-
tion of those who may be confined therein. The county
commission may also provide other necessary offices
and buildings, and may, by purchase or otherwise,
acquire as much land as may be requisite or desirable
for county purposes, and may suitably enclose,
improve and embellish the lands so acquired.

Subject to the conditions hereinabove set forth with
respect to the site of the courthouse, jail, and other
offices, the commission may, from time to time, as
may seem to it proper, provide, at the expense of the
county, a new or other building or buildings to be used
for the courthouse and jail, or for either, together with
suitable offices, as aforesaid, and for that purpose may
acquire, by purchase or otherwise, and hold any lands,
or lands and buildings, which may be necessary, and
may enclose, improve and embellish the same. When
any new or other building or buildings shall be ready
for occupancy, the county commission shall make an
order declaring that, on a day to be therein named, the
new or other building or buildings shall become the
courthouse, or jail, or both the courthouse and jail of
the county, and shall cause copies of the order to be
posted at the front door of the new as well as of the
old courthouse, at least twenty days before the day
named in the order; and on and after the day named
the new or other building or buildings shall become,
respectively, the courthouse, or jail, or both the
courthouse and jail of the county in all respects and
for all purposes. After the change shall have been
made the county commission may sell or otherwise
dispose of, as may seem to it proper, the building or
buildings previously used as a courthouse and jail, or
either, and the land on which they are, or either is,
situated, and of the interest of the county therein.

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

CHAPTER 31. CORPORATIONS.

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

§31-20-1. Short title.

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

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

(a) The Legislature finds as follows:

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

(2) That due to time constraints established and imposed by judicial decisions, it is imperative that the Legislature give immediate and diligent attention to the improvement of existing facilities and the construction and maintenance of new facilities, as well as to the development and implementation of new, innovative and effective programs dealing with incarcerated persons;

(3) That the physical condition of most existing jails
and correctional facilities contribute to a frustration of
efforts to provide rehabilitation, education, vocational
training, and social and psychological adjustment and
improvement for incarcerated persons, to the end that
such existing facilities are utilized largely for the
limited purposes of confinement;

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

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

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

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

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

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

(4) To investigate the feasibility of individualizing
and classifying inmates according to their psychologi-
cal and physical conditions at the time they are
incarcerated, and the feasibility of designing for each
such inmate a plan for self-improvement and rehabilitation.

§31-20-2. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(r) "Work farm" shall have the same meaning as that term is used in section twelve, article eight, chapter seven of this code authorizing work farms for individual counties.
§31-20-3. West Virginia regional jail and correctional facility authority; composition; appointment; terms; compensation and expenses.

There is hereby created the West Virginia regional jail and correctional facility authority which shall be a body corporate and a government instrumentality. The authority shall have and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by the West Virginia regional jail and prison authority. The West Virginia regional jail and prison authority is hereby abolished. The terms of members currently serving on the board of the West Virginia regional jail and prison authority shall expire on the thirtieth day of June, one thousand nine hundred eighty-nine. Wherever in this chapter and elsewhere in law reference is made to the West Virginia regional jail and prison authority, such reference shall henceforth be construed and understood to mean the West Virginia regional jail and correctional facility authority.

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

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

Any appointed member whose term has expired
shall serve until his successor has been duly appointed
and qualified. Any person appointed to fill a vacancy
shall serve only for the unexpired term. Any
appointed member is eligible for reappointment.
Members of the authority are not entitled to compens-
sation for services performed as members but are
entitled to reimbursement for all reasonable and
necessary expenses actually incurred in the perfor-
manoe of their duties.

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

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

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

A majority of the members of the board constitute
a quorum, and a quorum must be present for the
board to conduct business. Unless the bylaws require
a larger number, action may be taken by majority
vote of the members present.
The board shall prescribe, amend and repeal bylaws and rules governing the manner in which the business of the authority is conducted and shall review and approve the budget prepared by the executive director annually.

The governor shall, with the advice and consent of the Senate, appoint an executive director to act as its chief executive officer, to serve at the will and pleasure of the governor. The executive director is empowered to employ any other personnel he determines necessary and may appoint counsel and legal staff for the authority and retain such temporary engineering, financial and other consultants or technicians as may be required for any special study or survey consistent with the provisions of this article. The executive director is further empowered to engage in negotiations and carry out plans to implement the provisions of this article and to exercise those powers listed in section five of this article on behalf of the authority. The executive director shall prepare annually a budget to be submitted to the board for its review and approval.

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

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

The regional jail and correctional facility authority shall complete a comprehensive study of all correctional facilities and jail facilities in the state of West Virginia no later than the first day of July, one thousand nine hundred eighty-six. This study shall include an assessment of the physical conditions of confinement within the institutions and the relative need for the institutions when considering other available institutions of confinement located within the state.
After completing this study, the authority shall submit a plan to the governor on the establishment of regional jails in this state and the acquisition, construction or renovation of facilities for correctional facilities. The authority shall specify groups of counties within the state to be formed into regions for the establishment of such regional jails. Within each region a local jail commission shall be established and have the powers and duties as set forth in section six of this article.

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

1. The relative physical condition of the correctional facilities and jail facilities located within the state;

2. The transportation costs associated with the establishment of centralized jail services including, but not limited to, the costs of transporting persons incarcerated in regional jails to court appearances, to interviews with their attorneys, and to have visitation with their families and friends, all in any county seat of a county served by the regional facility: Provided, That consideration of such costs in the creation of the plan shall not be construed to require the transportation of inmates to interviews with their attorneys or to have visitation with their families and friends when visitation facilities and schedules are established in regional jails;

3. The availability of medical services and educational and recreational opportunities;

4. Information received from public hearings;

5. The relative efficiency in the cost of jail services caused by establishment of regional jail facilities;

6. Available facilities which may be used as regional jails or correctional facilities including, but not limited to, existing county and state owned properties: Provided, That if the authority determines that an existing facility meets the standards or could reasonably be made to meet the standards for a regional jail
or other correctional facility, the authority may proceed to acquire such existing facility and compensate the owner thereof in an amount not less than any local share expended by the owner as matching moneys for the receipt of federal funds: Provided, however, That if the authority determines that an existing facility does not meet the standards or could not reasonably be made to meet the standards for a regional jail or other correctional facility, the authority shall provide the owner with a written statement setting forth the reasons supporting such determination;

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

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

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

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

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

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

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

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

122 (a) To acquire, own, hold and dispose of property, 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 in its property.

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

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

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

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

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

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

(j) To appoint officers, agents and employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

(w) To exercise all power and authority provided in
this article necessary and convenient to plan, finance, construct, renovate, maintain and operate or oversee the operation of regional jails and correctional facilities.

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

§31-20-5a. Bidding procedures.

1 When the cost under any contract or agreement entered into by the authority other than compensation for personal services, involves an expenditure of more than two thousand dollars, the authority shall make a written contract with the lowest responsible bidder after public notice published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, the publication area for such publication to be the county or counties wherein the work is to be performed or which is affected by the contract, which notice shall state the general character of the work and general character of the materials to be furnished, the place where plans and specifications therefor may be examined and the time and place of receiving bids, but a contract for lease of a correctional facility or regional or county jail project constructed and owned by the authority is not subject to the foregoing requirements and the authority may enter into such contract for lease pursuant to negotiation upon such terms and conditions and for such period as it finds to be reasonable and proper under the circumstances and in the best interests of proper operation or efficient acquisition or construction of such projects. The authority may reject any and all bids. A bond with good and sufficient surety, approved by the authority,
shall be required of all contractors in an amount equal
to at least fifty percent of the contract price, condi-
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
regional jail and correctional facility authority for the
establishment of regional jails as provided in section
five of this article, there shall be created in each
region a regional jail commission composed of the
following members: The sheriff from each county in
the region or his designated representative; a member
of the county commission from each county in the
region chosen by the commission or a designated
representative; one mayor from each county in the
region to be appointed by the regional jail and correc-
tional facility authority from a list of names submitted
by the West Virginia municipal league, or his desig-
nated representative; and three persons from the
region who are representative of the areas of law,
medicine and education to be appointed by the
regional jail and correctional facility authority and
who shall serve for a term of three years: Provided,

That any local regional jail authority or commission
established prior to the effective date of this article
shall be recognized as meeting the requirements of
this section, at the option of the local regional jail
authority or commission.

24 Any appointed member whose term has expired
shall serve until his successor has been duly appointed
and qualified. Any person appointed to fill a vacancy
shall serve only for the unexpired term. Any
appointed member is eligible for reappointment.

29 Members of the commission are not entitled to com-
ensation for services performed as members but are
entitled to reimbursement for all reasonable and
necessary expenses actually incurred in the perfor-
ance of their duties. The county commission from
each county in the region shall provide the commis-
sion with secretarial and other necessary services.
§31-20-7. General powers of the commission.

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

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

1 A jail and correctional facility standards commission of eleven members is hereby created. The governor shall appoint two county sheriffs, to be chosen from a list of three names provided by the president of the West Virginia sheriff's association, and three county commissioners, to be chosen from a list of five names provided by the president of the West Virginia county commissioner's association. The chief justice of the state supreme court of appeals shall appoint a representative from the juvenile facilities review panel. Each of the members so appointed shall serve for a term of three years and be eligible for reappointment. The commissioner of the department of corrections, the director of the department of health, the state fire marshal, the commissioner of the department of human services and the director of the division of vocational education of the state department of education or their designees, shall be members ex officio in an advisory capacity.
Members of the commission shall serve without compensation, but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties. The regional jail and correctional facility authority shall provide the commission with secretarial and other necessary services.

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

§31-20-9. Purpose, powers and duties.

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

1. Prescribe standards for the maintenance and operation of correctional facilities, county and regional jails. Such standards shall include, but not be limited to, requirements assuring adequate space, lighting and ventilation; fire protection equipment and procedures; provision of specific personal hygiene articles; bedding, furnishings and clothing; food services; appropriate staffing and training; sanitation, safety and hygiene; isolation and suicide prevention; appropriate medical, dental and other health services; indoor and outdoor exercise; appropriate vocational and educational opportunities; classification; inmate rules and discipline; inmate money and property; religious services; inmate work programs; library services; visitation, mail and telephone privileges; and other standards necessary to assure proper operation.

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

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

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

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

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

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

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

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

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

(e) The fund shall consist of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

§31-20-22. Money of the authority.

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

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

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

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

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

8 No moneys shall be expended for regional jail
construction from the regional jail and development
fund and no final site selection for a regional jail shall
be made by the regional jail and correctional facility
authority until (1) the regional jail commissions are
formed and activated under the provisions of section
six, article twenty, chapter thirty-one of this code, and
(2) the regional jail commission for the region in
which a jail is to be constructed submits the report
provided for under the provisions of section seven,
article twenty, chapter thirty-one of this code: Pro-
vided, That this section shall not apply to the regional
jail commission previously established for the region
consisting of Berkeley, Morgan and Jefferson counties.
Notwithstanding any other provision of this article, the regional jail and correctional facility authority shall present a written report to the joint committee on government and finance of the Legislature no later than the meeting of such committee in the month of December, one thousand nine hundred eighty-seven, which will show that the authority has done the following:

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

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

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

(d) Developed through the jail and correctional facility standards commission, jail and correctional facility standards as required by section nine of this article;

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

(f) That the authority has developed plans which will utilize regional jail facilities for the housing of convicted felons who have committed nonviolent crimes. Such plans are to provide that the convicted felons shall be housed separately from those persons serving time for misdemeanor offenses. The development of the plans shall be a cooperative effort between the authority and the department of corrections inasmuch as it is the intent of the Legislature that the penal system of this state shall be a consolidated system of both the regional jail system and the state correctional institutions.
§31-20-26. Legislative oversight committee.

1. The President of the Senate and the Speaker of the House of Delegates shall each designate five members of their respective houses, at least one of whom shall be a member of the minority party, to serve on a legislative oversight committee charged with immediate and ongoing oversight of the authority and the commissions, and functions and duties thereof created by this article. This committee shall report regularly at each legislative session on the implementation of the purposes set forth in section one-a of this article. It shall regularly investigate all matters relating to integrity, probity, and foresight in funding, operating, and planning the correctional system on state, regional, and county levels. Specifically, the committee shall study and make recommendations to the Legislature as to the revision of the system of classifying inmates, with a view variously to decreasing the prison population confined in "maximum security" facilities and to designating and meeting the needs of inmates classified as elderly, disabled, or otherwise handicapped.

2. The committee shall further study and inform the state judiciary of the impact of sentencing on the composition of the prison population in proportion to the use of facilities. It shall recommend alternatives to long-term sentencing, and shall recommend measures to improve the quality of correctional staff and facilitate its nonconfrontational contacts with inmates. The committee shall investigate means to structure inmates' time to insure genuine and willing reaccommodations to societal norms; shall probe and coordinate all available means for funding state, regional, and county correctional facilities; and shall contract with penal experts to study these issues in appropriate depth and perspective. Annually, to predict a prudent use of available funds, the committee shall study the profile of the inmate population with regard to its age and social background and needs.

3. The committee shall recommend to the Legislature...
the funding required to execute such functions. It shall meet regularly with the governing body of the authority established in this article to determine what may be required for full and timely compliance with all court-ordered changes in the correctional system 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 was approved this the 1st day of April, 1989.

Governor