WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1993

ENROLLED

Com. Sub. for Com. Sub. for
SENATE BILL NO. 122

(By Senator Plymale, et al.)

PASSED April 10, 1993

In Effect 90 days from Passage
AN ACT to amend and reenact sections nine and ten, article twenty, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the purpose, power and duties of the jail and correctional facility standards commission and to the collection of revenues by the regional jail and correctional facilities development fund; requiring the commission to prescribe standards for the maintenance and operation of correctional facilities, county and regional jails; providing that the standards serve as guidelines only for certain jail facilities; requiring the commission to promulgate implementing rules; requiring the commission to develop a review process for facility standards; requiring periodic reports; requiring the commission to maintain county jails after a regional becomes available; setting guidelines for the charge
and collection of revenues by the regional jail and correctional facilities development fund; directing the commission to permit and implement double bunking of inmates; and limiting charges assessed a county to one day per each twenty-four hour period of inmate incarceration.

Be it enacted by the Legislature of West Virginia:

That sections nine and ten, article twenty, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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

§31-20-9. Purpose, powers and duties.

(a) 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 and county and regional jails. The 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:

Provided, That the standards as developed for the construction, operation and maintenance of jails shall
only apply to facilities completed after the fifth day of April, one thousand nine hundred eighty-eight, and that the standards shall serve only as guidelines for any jail facility in operation prior to that date: Provided, however, That the commission shall establish standards and procedures permitting and implementing in such facilities the double bunking of inmates in all appropriate cases to the extent that such a practice does not violate federal law.

(2) Promulgate the 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 promulgated on or before the first day of July, one thousand nine hundred eighty-six.

(3) Develop a process for reviewing and updating the jail, work farm and 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.

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

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

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

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

(e) The fund shall consist of the following:

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

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

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

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

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

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

(1) Amounts raised by the sale of bonds or other borrowing authorized by this article shall be deposited in a separate account within the fund and expended for the purpose of construction and renovation of 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 according 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 the regional jail facilities of this state to maintain each such inmate which costs shall not include the cost of construction, acquisition or renovation of said regional jail facilities: Provided, That each regional jail facility operating in this state shall keep a record of the date and time of the incarceration of an inmate, and a county may not be charged for a second day of incarceration for an individual inmate until that inmate has remained incarcerated for more than twenty-four hours. Thereafter, in cases of continuous incarceration, subsequent per diem charges shall be made upon a county only as subsequent intervals of twenty-four hours pass from the original time of incarceration.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

The within is approved this the ___ day of ______, 1993.

Governor
PRESENTED TO The

GOVERNOR

Date 4/14/93

Time 1:37 pm