WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2001

ENROLLED

House Bill No. 3131

(By Mr. Speaker, Mr. Kiss, and Delegates Trump and Michael)

Passed April 14, 2001

In Effect Ninety Days from Passage
AN ACT to amend and reenact section fifteen, article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section one-a, article eleven, chapter eight; to amend and reenact sections two, three, ten and twenty-two, article twenty, chapter thirty-one; and to amend and reenact section twenty-eight-a, article one, chapter fifty-nine all of said code, all relating to the funding of the regional jail and correctional facility authority; providing for disposition of fines received from magistrates and municipalities; authorizing the West Virginia regional and correctional facility authority to create special funds in the state treasury; and disposition of certain fees paid in conjunction with divorce and civil actions and criminal cases with the West Virginia regional and correctional facility authority.

Be it enacted by the Legislature of West Virginia:

That section fifteen, article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be
amended and reenacted; that section one-a, article eleven, chapter eight; sections two, three, ten and twenty-two, article twenty, chapter thirty-one; and section twenty-eight-a, article one, chapter fifty-nine all of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 5. FISCAL AFFAIRS.

§7-5-15. Annual statement of sheriff of fines and costs received from magistrates; payment into state treasury.

The sheriff shall annually, during the month of January, render under oath to the auditor a true statement of the account of all fines and costs collected by magistrates and transmitted to him or her and pay into the treasury of the state, the net proceeds of fines and costs as exhibited by the account, to be appropriated as directed by section 5, article XII of the constitution of this state. Failure to do this is a breach of his or her official duty. For the purposes of this section, the net proceeds of such fines and costs are the proceeds remaining after deducting therefrom: (1) The cost of auditing the accounts of magistrates by the chief inspector's office; (2) the amounts of costs and fees paid into the regional jail and correctional facility authority fund of the state treasury by the clerk in the manner provided by section four-a, article three, chapter fifty of this code; (3) until a regional facility is provided pursuant to article twenty, chapter thirty-one of this code, the expenses and costs of operation and maintenance of the county jail or a regional correctional facility, other than a facility provided pursuant to article twenty, chapter thirty-one of this code, operated jointly with one or more other county or counties, and of constructing, reconstructing and renovating any jail facility used for county prisoners and of periodic payments, if any, for the establishment of a jail improvement fund in the manner provided by section nine, article one of this chapter for constructing, reconstructing or renovating any jail facility used for county
prisoners; and (4) after a regional facility is made available to
the county pursuant to article twenty, chapter thirty-one of this
code, the expenses and costs of operation of the jail for the
county in the form of the per day costs required to be paid into
a regional jail and correctional facility authority fund pursuant
to subsection (h), section ten, article twenty, chapter thirty-one
of this code, the periodic payments, if any, for the establishment
of a jail improvement fund in the manner provided by section
nine, article one of this chapter, which shall thereafter be
transmitted to the state treasurer and deposited in a regional jail
and correctional facility authority fund, and the funds expended
by the respective counties, if any, for expenses incurred in
housing prisoners in local jail facilities used as holding facili-
ties.

CHAPTER 8. MUNICIPAL CORPORATIONS.

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

§8-11-1a. Disposition of criminal costs into state treasury account
for regional jail and correctional facility authority
fund.

The clerk of each municipal court, or other person desig-
nated to receive fines and costs, shall at the end of each month
pay into the regional jail and correctional facility authority fund
in the state treasury an amount equal to forty dollars of the costs
collected in each proceeding involving a traffic offense consti-
tuting a moving violation, regardless of whether the penalty for
the violation provides for a period of incarceration, or any other
offense for which the ordinance prescribing the offense
provides for a period of incarceration: Provided, That in a case
where a defendant has failed to pay all costs assessed against
him or her, no payment may be made to the regional jail and
correctional facility authority fund until the defendant has paid
all costs which, when paid, are available for the use and benefit
of the municipality.
CHAPTER 31. CORPORATIONS.

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

§31-20-2. Definitions.

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

(a) "Adjacent regional juvenile detention facility" means a
facility constructed or maintained on property owned or
controlled by the regional jail authority and designed for the
short term preadjudicatory detention of juveniles, for the
confinement of juveniles who are awaiting transportation to or
placement at another juvenile detention facility or juvenile
correctional facility and for juveniles who are awaiting trial as
an adult pursuant to section ten, article five, chapter forty-nine
of this code.

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

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

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

(e) "Cost of construction or renovation of a local jail
facility, regional jail facility or juvenile 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 project, together with any other ex-
penses necessary or incidental to the financing and the construction or renovation of the facilities and the placing of the facilities in operation.

(f) “County” means any county of this state.

(g) “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.

(h) “Fund” or “funds” means a regional jail and correctional facility authority fund provided in section ten of this article, including those accounts that may be established by the authority for accurate accounting of the expenditure of public funds by that agency.

(i) “Government” means state and federal government, and any political subdivision, agency or instrumentality of the state or federal government, corporate or otherwise.

(j) “Inmate” means any adult person properly committed to a local or regional jail facility or a correctional facility.

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

(l) “Municipality” means any city, town or village in this state.

(m) “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.
(n) "Correctional facility" means any correctional facility, penitentiary or other correctional institution operated by the division of corrections for the incarceration of adults.

(o) "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 adult persons convicted of misdemeanors or awaiting trial or awaiting transportation to a state correctional facility.

(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 is secured by an underlying loan or loans and is evidenced by a note issued by the authority.

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

(s) "Juvenile detention facility" or "juvenile detention center" means a facility operated by the division of juvenile services for the short term preadjudicatory detention of juveniles, for the confinement of juveniles who are awaiting transportation to or placement at another juvenile detention facility or juvenile correctional facility and for juveniles who are awaiting trial as an adult pursuant to section ten, article five, chapter forty-nine of this code.

(t) "Juvenile correctional facility" means a facility operated by the division of juvenile services for the postdispositional confinement of juveniles adjudicated of offenses that would be criminal offenses if committed by an adult.
§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. Wherever in this chapter and elsewhere in law reference is made to the West Virginia regional jail and prison authority, that reference means the West Virginia regional jail and correctional facility authority.

The authority shall be governed by a board of nine members, seven of whom are entitled to vote on matters coming before the authority. The complete governing board shall consist of the commissioner of the division of corrections; the director of the division of juvenile services; the secretary of the department of military affairs and public safety; the secretary of the department of administration, or his or her 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. The commissioner of the division of corrections and the director of the division of juvenile services shall serve in an advisory capacity and are not entitled to vote on matters coming before the authority. 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 the five appointed 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 or her 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 compensation for services performed as members but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance 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 the bond shall be paid from funds accruing to the authority. The 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.

§31-20-10. Regional jail and correctional facility authority funds.

(a) The regional jail and correctional facility authority may create special funds in the state treasury to identify various revenue sources and payment of specific obligations. These funds may be used for purposes that include, but are not limited to, the construction, renovation or repair of specific facilities, cash control, facility maintenance and the individual operations accounts of facilities operated by the authority. The authority may create other separate accounts within these funds that it determines are necessary for the efficient operation of the authority.

(b) Revenues deposited into these funds shall be used to make payments of interest and shall be pledged as security for bonds, security interests or notes issued or lease-purchase
obligations entered into with another state entity by the author-
ity pursuant to this article.

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

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

(e) These funds 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 in these funds;

(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 these funds.
(f) The amounts deposited in these funds 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 these funds and expended for the purpose of construction, renovation and repair of correctional facilities, regional jails and juvenile detention and correctional facilities 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, including lease-purchase obligations entered into by the authority with another state entity or other obligation incurred by borrowing of the authority;

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

(4) The authority shall requisition from these funds after any requirements of debt service have been satisfied the amounts that are necessary for the maintenance and operation of regional jails that are constructed pursuant to the provisions of this article and shall expend those amounts for that purpose. These funds 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 these funds 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 those sources shall be in proportion to the percentage the amount contributed to these funds by the counties in each region bears to the total amount received by these funds from those sources;
(5) Notwithstanding any other provisions of this article, sums paid into these funds 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 these funds to pay for costs incurred at the regional jail facility at which each inmate was incarcerated; and

(6) Any amounts deposited in these funds 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 authority fund a cost per day for each incarcerated inmate to be determined by the regional jail and correctional facility authority according to criteria and by procedures established by legislative rules proposed for promulgation 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 inmate. The per diem costs for incarcerating inmates may not include the cost of construction, acquisition or renovation of the regional jail facilities: Provided, That each regional jail facility operating in this state shall keep a record of the date and time that an
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106 inmate is incarcerated, and a county may not be charged for a
107 second day of incarceration for an individual inmate until that
108 inmate has remained incarcerated for more than twenty-four
109 hours. Thereafter, in cases of continuous incarceration, subse-
110 quent per diem charges shall be made upon a county only as
111 subsequent intervals of twenty-four hours pass from the original
112 time of incarceration.

§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 a regional jail and
correctional facility authority 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.

CHAPTER 59. FEES, ALLOWANCES AND COSTS;
NEWSPAPERS; LEGAL ADVERTISEMENTS.

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-28a. Disposition of filing fees in divorce and other civil
actions and fees for services in criminal cases.

1 (a) Except for those payments to be made from amounts
equaling filing fees received for the institution of divorce
actions as prescribed in subsection (b) of this section, and
except for those payments to be made from amounts equaling
filing fees received for the institution of actions for divorce,
separate maintenance and annulment as prescribed in subsec-
tion (c) of this section, for each civil action instituted under the
rules of civil procedure, any statutory summary proceeding, any
extraordinary remedy, the docketing of civil appeals, or any
other action, cause, suit or proceeding in the circuit court, the
clerk of the court shall, at the end of each month, pay into the
funds or accounts described in this subsection an amount equal
to the amount set forth in this subsection of every filing fee
received for instituting the action as follows:

(1) Into the regional jail and correctional facility authority
fund in the state treasury established pursuant to the provisions
of section ten, article twenty, chapter thirty-one of this code, the
amount of sixty dollars; and

(2) Into the court security fund in the state treasury estab-
lished pursuant to the provisions of section fourteen, article
three, chapter fifty-one of this code, the amount of five dollars.

(b) For each divorce action instituted in the circuit court,
the clerk of the court shall, at the end of each month, report to
the supreme court of appeals, the number of actions filed by
persons unable to pay, and pay into the funds or accounts in this
subsection an amount equal to the amount set forth in this
subsection of every filing fee received for instituting the
divorce action as follows:

(1) Into the regional jail and correctional facility authority
fund in the state treasury established pursuant to the provisions
of section ten, article twenty, chapter thirty-one of this code, the
amount of ten dollars;

(2) Into the special revenue account of the state treasury,
established pursuant to section six hundred four, article two,
chapter forty-eight of this code, an amount of thirty dollars;

(3) Into the family court fund established under section four
hundred three, article thirty, chapter forty-eight of this code, an
amount of fifty dollars; and

(4) Into the court security fund in the state treasury,
established pursuant to the provisions of section fourteen,
article three, chapter fifty-one of this code, the amount of five dollars.

(c) For each action for divorce, separate maintenance or annulment instituted in the circuit court, the clerk of the court shall, at the end of each month, pay into the funds or accounts in this subsection an amount equal to the amount set forth in this subsection of every filing fee received for instituting the divorce action as follows:

(1) Into the regional jail and correctional facility authority fund in the state treasury established pursuant to the provisions of section ten, article twenty, chapter thirty-one of this code, the amount of ten dollars;

(2) Into the special revenue account of the state treasury, established pursuant to section six hundred four, article two, chapter forty-eight of this code, an amount of thirty dollars;

(3) Into the family court fund established under section four hundred three, article thirty, chapter forty-eight of this code, an amount of seventy dollars; and

(4) Into the court security fund in the state treasury, established pursuant to the provisions of section fourteen, article three, chapter fifty-one of this code, the amount of five dollars.

(d) Notwithstanding any provision of subsection (a) or (b) of this section to the contrary, the clerk of the court shall, at the end of each month, pay into the family court fund established under section four hundred three, article thirty, chapter forty-eight of this code an amount equal to the amount of every fee received for petitioning for the modification of an order involving child custody, child visitation, child support or spousal support as determined by subdivision (3), subsection (a), section eleven of this article and for petitioning for an
expedited modification of a child support order as provided in subdivision (4), subsection (a), section eleven of this article.

(e) The clerk of the court from which a protective order is issued shall, at the end of each month, pay into the family court fund established under section four hundred three, article thirty, chapter forty-eight of this code an amount equal to every fee received pursuant to the provisions of section five hundred eight, article twenty-seven, chapter forty-eight of this code.

(f) The clerk of each circuit court shall, at the end of each month, pay into the regional jail and correctional facility authority fund in the state treasury an amount equal to forty dollars of every fee for service received in any criminal case against any respondent convicted in such court and shall pay an amount equal to five dollars of every the fee into the court security fund in the state treasury established pursuant to the provisions of section fourteen, article three, chapter fifty-one of this code.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 30th day of April, 2001.

Governor