

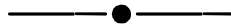
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2001 APR 30 P 4:41

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

FILED

2001 APR 30 P 4: 42

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

H. B. 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

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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.

1 The sheriff shall annually, during the month of January,
2 render under oath to the auditor a true statement of the account
3 of all fines and costs collected by magistrates and transmitted
4 to him or her and pay into the treasury of the state, the net
5 proceeds of fines and costs as exhibited by the account, to be
6 appropriated as directed by section 5, article XII of the constitu-
7 tion of this state. Failure to do this is a breach of his or her
8 official duty. For the purposes of this section, the net proceeds
9 of such fines and costs are the proceeds remaining after
10 deducting therefrom: (1) The cost of auditing the accounts of
11 magistrates by the chief inspector's office; (2) the amounts of
12 costs and fees paid into the regional jail and correctional facility
13 authority fund of the state treasury by the clerk in the manner
14 provided by section four-a, article three, chapter fifty of this
15 code; (3) until a regional facility is provided pursuant to article
16 twenty, chapter thirty-one of this code, the expenses and costs
17 of operation and maintenance of the county jail or a regional
18 correctional facility, other than a facility provided pursuant to
19 article twenty, chapter thirty-one of this code, operated jointly
20 with one or more other county or counties, and of constructing,
21 reconstructing and renovating any jail facility used for county
22 prisoners and of periodic payments, if any, for the establish-
23 ment of a jail improvement fund in the manner provided by
24 section nine, article one of this chapter for constructing,
25 reconstructing or renovating any jail facility used for county

26 prisoners; and (4) after a regional facility is made available to
27 the county pursuant to article twenty, chapter thirty-one of this
28 code, the expenses and costs of operation of the jail for the
29 county in the form of the per day costs required to be paid into
30 a regional jail and correctional facility authority fund pursuant
31 to subsection (h), section ten, article twenty, chapter thirty-one
32 of this code, the periodic payments, if any, for the establishment
33 of a jail improvement fund in the manner provided by section
34 nine, article one of this chapter, which shall thereafter be
35 transmitted to the state treasurer and deposited in a regional jail
36 and correctional facility authority fund, and the funds expended
37 by the respective counties, if any, for expenses incurred in
38 housing prisoners in local jail facilities used as holding facili-
39 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.

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

CHAPTER 31. CORPORATIONS.

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

§31-20-2. Definitions.

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

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

12 (b) “Authority” or “West Virginia Regional Jail Authority”
13 means the West Virginia regional jail and correctional facility
14 authority created by this article.

15 (c) “Board” means the governing body of the authority.

16 (d) “Bonds” means bonds of the authority issued under this
17 article.

18 (e) “Cost of construction or renovation of a local jail
19 facility, regional jail facility or juvenile facility” means the cost
20 of all lands, water areas, property rights and easements,
21 financing charges, interest prior to and during construction and
22 for a period not exceeding six months following the completion
23 of construction, equipment, engineering and legal services,
24 plans, specifications and surveys, estimates of costs and other
25 expenses necessary or incidental to determining the feasibility
26 or practicability of any project, together with any other ex-

27 penses necessary or incidental to the financing and the con-
28 struction or renovation of the facilities and the placing of the
29 facilities in operation.

30 (f) "County" means any county of this state.

31 (g) "Federal agency" means the United States of America
32 and any department, corporation, agency or instrumentality
33 created, designated or established by the United States of
34 America.

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

40 (i) "Government" means state and federal government, and
41 any political subdivision, agency or instrumentality of the state
42 or federal government, corporate or otherwise.

43 (j) "Inmate" means any adult person properly committed to
44 a local or regional jail facility or a correctional facility.

45 (k) "Local jail facility" means any county facility for the
46 confinement, custody, supervision or control of adult persons
47 convicted of misdemeanors, awaiting trial or awaiting transpor-
48 tation to a state correctional facility.

49 (l) "Municipality" means any city, town or village in this
50 state.

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

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

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

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

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

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

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

80 (t) "Juvenile correctional facility" means a facility operated
81 by the division of juvenile services for the postdispositional
82 confinement of juveniles adjudicated of offenses that would be
83 criminal offenses if committed by an adult.

§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 jail and
2 correctional facility authority which shall be a body corporate
3 and a government instrumentality. Wherever in this chapter
4 and elsewhere in law reference is made to the West Virginia
5 regional jail and prison authority, that reference means the West
6 Virginia regional jail and correctional facility authority.

7 The authority shall be governed by a board of nine mem-
8 bers, seven of whom are entitled to vote on matters coming
9 before the authority. The complete governing board shall
10 consist of the commissioner of the division of corrections; the
11 director of the division of juvenile services; the secretary of the
12 department of military affairs and public safety; the secretary
13 of the department of administration, or his or her designated
14 representative; three county officials appointed by the governor,
15 no more than two of which may be of the same political party;
16 and two citizens appointed by the governor to represent the
17 areas of law and medicine. The commissioner of the division of
18 corrections and the director of the division of juvenile services
19 shall serve in an advisory capacity and are not entitled to vote
20 on matters coming before the authority. Members of the
21 Legislature are not eligible to serve on the board.

22 The governor shall nominate and, by and with the advice
23 and consent of the Senate, appoint the five appointed members
24 of the authority for staggered terms of four years beginning the
25 first day of July, one thousand nine hundred eighty-nine. Of the
26 members of the board first appointed, one shall be appointed for
27 a term ending the thirtieth day of June, one thousand nine
28 hundred ninety-one, two shall be appointed for terms ending the
29 thirtieth day of June, one thousand nine hundred ninety-two,
30 and two shall be appointed for terms ending the thirtieth day of

31 June, one thousand nine hundred ninety-three. As these original
32 appointments expire, each subsequent appointment shall be for
33 a full four-year term.

34 Any appointed member whose term has expired shall serve
35 until his or her successor has been duly appointed and qualified.
36 Any person appointed to fill a vacancy shall serve only for the
37 unexpired term. Any appointed member is eligible for reap-
38 pointment. Members of the authority are not entitled to com-
39 pensation for services performed as members but are entitled to
40 reimbursement for all reasonable and necessary expenses
41 actually incurred in the performance of their duties.

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

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

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

11 (b) Revenues deposited into these funds shall be used to
12 make payments of interest and shall be pledged as security for
13 bonds, security interests or notes issued or lease-purchase

14 obligations entered into with another state entity by the author-
15 ity pursuant to this article.

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

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

28 (e) These funds shall consist of the following:

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

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

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

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

39 (5) All interest earned on investments made by the state
40 from moneys deposited in these funds.

41 (f) The amounts deposited in these funds shall be accounted
42 for and expended in the following manner:

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

49 (2) Amounts deposited from all other sources shall be
50 pledged first to the debt service on any bonded indebtedness,
51 including lease-purchase obligations entered into by the
52 authority with another state entity or other obligation incurred
53 by borrowing of the authority;

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

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

73 (5) Notwithstanding any other provisions of this article,
74 sums paid into these funds by each county pursuant to subsec-
75 tion (h) of this section for each inmate shall be placed in a
76 separate account and shall be requisitioned from these funds to
77 pay for costs incurred at the regional jail facility at which each
78 inmate was incarcerated; and

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

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

93 (h) When inmates are placed in a regional jail facility
94 pursuant to subsection (g) of this section, the county shall pay
95 into the regional jail and correctional facility authority fund a
96 cost per day for each incarcerated inmate to be determined by
97 the regional jail and correctional facility authority according to
98 criteria and by procedures established by legislative rules
99 proposed for promulgation pursuant to article three, chapter
100 twenty-nine-a of this code to cover the costs of operating the
101 regional jail facilities of this state to maintain each inmate. The
102 per diem costs for incarcerating inmates may not include the
103 cost of construction, acquisition or renovation of the regional
104 jail facilities: *Provided*, That each regional jail facility operat-
105 ing in this state shall keep a record of the date and time that an

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
2 derived, except legislative appropriations, and except that
3 authorized to be deposited directly into a regional jail and
4 correctional facility authority fund shall be collected and
5 received by the treasurer of the authority, who shall pay it into
6 the state treasury in the manner required by section two, article
7 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
2 equaling filing fees received for the institution of divorce
3 actions as prescribed in subsection (b) of this section, and
4 except for those payments to be made from amounts equaling
5 filing fees received for the institution of actions for divorce,
6 separate maintenance and annulment as prescribed in subsec-
7 tion (c) of this section, for each civil action instituted under the
8 rules of civil procedure, any statutory summary proceeding, any
9 extraordinary remedy, the docketing of civil appeals, or any
10 other action, cause, suit or proceeding in the circuit court, the
11 clerk of the court shall, at the end of each month, pay into the

12 funds or accounts described in this subsection an amount equal
13 to the amount set forth in this subsection of every filing fee
14 received for instituting the action as follows:

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

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

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

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

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

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

39 (4) Into the court security fund in the state treasury,
40 established pursuant to the provisions of section fourteen,

41 article three, chapter fifty-one of this code, the amount of five
42 dollars.

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

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

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

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

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

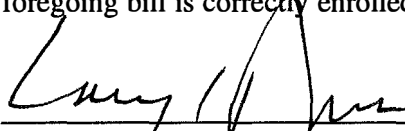
63 (d) Notwithstanding any provision of subsection (a) or (b)
64 of this section to the contrary, the clerk of the court shall, at the
65 end of each month, pay into the family court fund established
66 under section four hundred three, article thirty, chapter forty-
67 eight of this code an amount equal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

72 expedited modification of a child support order as provided in
73 subdivision (4), subsection (a), section eleven of this article.

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

80 (f) The clerk of each circuit court shall, at the end of each
81 month, pay into the regional jail and correctional facility
82 authority fund in the state treasury an amount equal to forty
83 dollars of every fee for service received in any criminal case
84 against any respondent convicted in such court and shall pay an
85 amount equal to five dollars of every the fee into the court
86 security fund in the state treasury established pursuant to the
87 provisions of section fourteen, article three, chapter fifty-one of
88 this code.

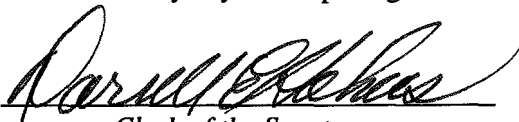
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

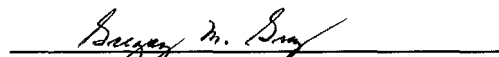

Chairman Senate Committee

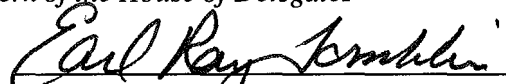

Chairman House Committee

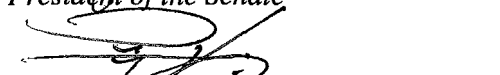
Originating in the House.

In effect ninety days from passage.

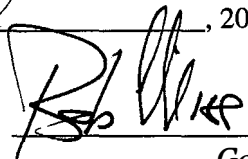

Clerk of the Senate


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

PRESENTED TO

GOVERNOR

Date 4/26/01

Time 5:30 pm