WEST VIRGINIA LEGISLATURE
Regular Session, 2004

ENROLLED

SENATE BILL NO. 316

(By Senator LOVE, et al.)

PASSED March 13, 2004

In Effect July 1, 2004
AN ACT to amend and reenact §31-20-10 of the code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §31-20-10a, all relating to regional jail and correctional facility authority funds; providing statutory procedures for determining the cost per day for inmates incarcerated in facilities operated by the authority; and outlining the allocation of costs for housing inmates.

Be it enacted by the Legislature of West Virginia:

That §31-20-10 of the code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be further amended by adding thereto a new section, designated §31-20-10a, all to read as follows:

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

§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 authority 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 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 deter-
mined 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 speci-
fied 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 author-
ity 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 estab-
lished by legislative rules proposed for promulgation
pursuant to article three, chapter twenty-nine-a of this
code and as established in section ten-a of this article 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 con-
struction, 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 inmate is incarcerated 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. After that, 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.

§31-20-10a. Criteria and procedures for determining the cost per day for inmates incarcerated in facilities operated by the authority and allocating cost.

(a) This section applies to the regional jail and correctional facility authority, counties, municipalities, the division of corrections, the United States marshal service, the United States bureau of prisons and any other entity by whose authority inmates are incarcerated and maintained in facilities operated by the authority.

(b)(1) The authority shall develop and approve a schedule of anticipated operational expenditures for each regional jail. The schedules shall include funds for personal services and fringe benefits for personnel necessary to the operation of the facilities, as well as allocations of funds for food, clothing, utilities, supplies, transportation and all other costs necessary to operate and maintain the facilities. The operational expenditure schedule shall include all costs, both direct and indirect, for operating and maintaining the regional jail. The authority shall develop and approve an operational expenditure schedule for each regional jail on an annual basis, consistent with the state fiscal year.

(2) If the actual operational costs exceed the approved schedule of operational expenditures by more than ten percent in a line item, the authority's executive director
shall add a temporary surcharge to the cost per inmate day in an amount sufficient to cover the actual expenditures.

(c) The county is responsible for costs incurred by the authority for housing and maintaining inmates in its facilities who have not been committed to the custody of the commissioner of corrections.

(d) The county is responsible for the costs incurred by the authority for housing and maintaining inmates who, prior to sentencing, are awaiting transportation to a state correctional facility for a sixty-day evaluation period as provided in section seven, article twelve, chapter sixty-two of this code.

(e) The division of corrections is responsible for the costs incurred by the authority for housing and maintaining inmates who have been sentenced to the custody of the division of corrections beginning the calendar day following the day the commitment order was entered into the court record. The circuit clerk of the county from which the commitment order has been entered shall immediately transmit by facsimile machine an advance copy of the certified commitment order to the division of corrections and to the regional jail in which the inmate is confined.

(f) The division of corrections is responsible for the costs incurred by the authority for housing and maintaining inmates who have been held on a parole violation warrant.

(g) The division of corrections is responsible for the costs incurred by the authority for housing and maintaining inmates who have been returned to a regional jail under court order, except that the county from which the inmate was charged is responsible for the per diem costs in the event that a court of competent jurisdiction sets aside or vacates the order of commitment to the division of corrections, from the date of the order or the return of the inmate to a regional jail, whichever is later.
(h) The costs incurred by the authority for housing and maintaining inmates who are being held as fugitives from justice from another jurisdiction shall be billed to the fugitive's demanding jurisdiction, except the costs incurred by the authority for housing and maintaining any person who is arrested and confined in one of the authority's facilities on the basis of the commission of a new crime shall be billed to the arresting county until the pending West Virginia charges have been properly resolved.

(i) Any other entity or jurisdiction, unless otherwise stipulated in this section, is responsible for any and all costs associated with housing its inmates in a facility operated by the authority.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Greg Bullock
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2004.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the Day of April, 2004.

Governor