

SB 361 S

FILED

2007 APR -4 PM 3: 54

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2007**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

---

**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 361**

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,  
BY REQUEST OF THE EXECUTIVE)

---

[Passed March 10, 2007; in effect ninety days from passage.]

FILED

2007 APR -4 PM 3: 54

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 361**

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,  
BY REQUEST OF THE EXECUTIVE)

---

[Passed March 10, 2007; in effect ninety days from passage.]

---

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31-20-30, relating to authorizing the Executive Director of the West Virginia Regional Jail and Correctional Facility Authority to establish a work program for qualified inmates in regional jail facilities; providing accounting procedures and requirements; specifying required deductions from earnings; permitting transfer of funds to

Enr. Com. Sub. for S. B. No. 361] 2

the Commissioner of Corrections; and authorizing legislative rules.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §31-20-30, to read as follows:

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

**§31-20-30. Work program.**

1       (a) The executive director is authorized to establish at  
2 each regional jail facility a work program for qualified  
3 inmates and to establish at each regional jail facility  
4 under his or her jurisdiction an inmate trustee account.  
5 The authority shall establish guidelines and  
6 qualifications to allow inmates sentenced to a regional  
7 jail facility to be gainfully employed with local  
8 businesses and governmental entities as part of a job  
9 program: *Provided*, That with regard to an inmate  
10 sentenced to the Division of Corrections that is  
11 domiciled at a regional jail facility under the  
12 supervision of the authority, the Commissioner of the  
13 Division of Corrections or designee shall first determine  
14 the eligibility of such inmate for participation in the  
15 work program authorized by this section and consent to  
16 such inmate's participation therein. A qualified inmate  
17 does not include an inmate convicted of a sexual offense  
18 or a violent felony.

19       (b) The administrator or designee of each regional jail  
20 facility shall receive and take charge of the money of all  
21 inmates in his or her regional jail and all money sent to

22 the inmates or earned by the inmates as compensation  
23 for work performed under this section. The  
24 administrator or designee shall credit the money and  
25 earnings to the inmate entitled to it and shall keep an  
26 accurate account of all the money so received, which  
27 account is subject to examination by the executive  
28 director or designee. The administrator or designee  
29 shall deposit the moneys in one or more responsible  
30 banks in accounts to be designated inmate trustee  
31 account.

32 (c) For each inmate sentenced to the Division of  
33 Corrections participating in a work program authorized  
34 by this section, the administrator or designee of the  
35 regional jail facility shall keep in an account at least ten  
36 percent of all money earned during the inmate's  
37 incarceration and pay the money to the inmate at the  
38 time of the inmate's release. The administrator may  
39 authorize the inmate to withdraw money from his or her  
40 mandatory savings for the purpose of preparing the  
41 inmate for reentry into society.

42 (d) An inmate who works in work programs  
43 established under this section shall make  
44 reimbursement to the authority toward the cost of his or  
45 her incarceration to be credited to the agency billed for  
46 that incarceration: *Provided*, That prior to directing a  
47 qualified inmate to make reimbursement under this  
48 section, the executive director or designee shall consider  
49 the following:

50 (1) The inmate's ability to pay;

51 (2) The nature and extent of the inmate's  
52 responsibilities to his or her dependents, if any;

53 (3) The length of probable incarceration under the  
54 court's sentence; and

55 (4) The effect, if any, that reimbursement might have  
56 on the inmate's rehabilitation.

57 (e) (1) The administrator shall deduct from the  
58 earnings of each qualified inmate legitimate court-  
59 ordered financial obligations including, but not limited  
60 to, child support payments, liens and any other court-  
61 ordered financial obligation. The executive director  
62 shall develop a policy that outlines the formula for the  
63 distribution of the qualified inmate's income and the  
64 formula shall include a percentage deduction, not to  
65 exceed forty percent in the aggregate, for any court  
66 ordered victim restitution, court fees and child support  
67 obligations owed under a support order, including an  
68 administrative fee not to exceed one dollar, consistent  
69 with the provisions of subsection (c), section four  
70 hundred six, article fourteen, chapter forty-eight of this  
71 code, to support the authority's administration of this  
72 financial service.

73 (2) In the event that the qualified inmate's income is  
74 subject to garnishment for child support enforcement  
75 deductions, it shall be calculated on the net wages after  
76 taxes, legal financial obligations and garnishment:  
77 *Provided*, That nothing in this section limits the  
78 authority of the Bureau for Child Support Enforcement  
79 of the Department of Health and Human Resources  
80 from taking collection action against an inmate's  
81 moneys, assets or property.

82 (f) The administrator or designee of a regional jail  
83 facility, upon request of an inmate to release funds, on

84 behalf of the family of the inmate, may authorize the  
85 release of funds up to one half of the money earned by  
86 the inmate participating in a work program as  
87 authorized by this section: *Provided*, That the court-  
88 ordered financial obligations provided in subsection (e)  
89 of this section and other fees owed by the inmate  
90 including, but not limited to, the costs of incarceration  
91 and any restitution for facility rule infractions, have  
92 been paid. The remainder of the money earned, after  
93 deducting amounts expended as authorized, shall be  
94 accumulated to the credit of the inmate and be paid to  
95 the inmate at times as may be prescribed by rules. The  
96 funds so accumulated on behalf of inmates shall be held  
97 by the administrator or designee of each institution  
98 under a bond approved by the Attorney General.

99 (g) The administrator or designee shall deliver to the  
100 inmate at the time he or she leaves the regional jail  
101 facility, or as soon as practicable after departure,  
102 moneys and earnings then credited to the inmate:  
103 *Provided*, That if an inmate is transferred to the  
104 physical custody of the Commissioner of the Division of  
105 Corrections, as defined in section two of this article, at  
106 the time he or she leaves the regional jail facility, the  
107 administrator or designee shall deliver moneys and  
108 earnings then credited to the inmate to the  
109 Commissioner of the Division of Corrections for  
110 administration in accordance with the provisions of  
111 section three-a, article one, chapter twenty-five of this  
112 code. In case of the death of the inmate before  
113 authorized release from the regional jail facility, the  
114 administrator or designee shall deliver the property to  
115 the inmate's lawful representative. In case a  
116 conservator is appointed for the inmate while he or she  
117 is domiciled at the regional jail facility, the

118 administrator shall deliver to the conservator, upon  
119 proper demand, all moneys and personal property  
120 belonging to the inmate that are in the custody of the  
121 administrator.

122 (h) The executive director shall propose rules for  
123 legislative approval in accordance with article three,  
124 chapter twenty-nine-a of this code to administer and  
125 establish the work programs authorized by this section.

126 (i) Notwithstanding any provision of this code to the  
127 contrary, the county commission, its members and  
128 agents, the Executive Director of the West Virginia  
129 Regional Jail and Correctional Facility Authority or  
130 designee its members or agents, the sheriff, his or her  
131 deputies, correctional officers and agents shall be  
132 immune from all liability of any kind except for  
133 accident, injury or death resulting directly from gross  
134 negligence or malfeasance.

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

*A. White*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Russell Adams*  
.....  
Clerk of the Senate

*Gregg M. Smith*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* ..... this  
the *4<sup>th</sup>* Day of *April* ..... 2007.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 03 2007

Time 1:35 pm