WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

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
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.

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

(b) The administrator or designee of each regional jail facility shall receive and take charge of the money of all inmates in his or her regional jail and all money sent to
the inmates or earned by the inmates as compensation for work performed under this section. The administrator or designee shall credit the money and earnings to the inmate entitled to it and shall keep an accurate account of all the money so received, which account is subject to examination by the executive director or designee. The administrator or designee shall deposit the moneys in one or more responsible banks in accounts to be designated inmate trustee account.

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

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

(1) The inmate's ability to pay;

(2) The nature and extent of the inmate's responsibilities to his or her dependents, if any;
(3) The length of probable incarceration under the court's sentence; and

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

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

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

(f) The administrator or designee of a regional jail facility, upon request of an inmate to release funds, on
behalf of the family of the inmate, may authorize the release of funds up to one half of the money earned by the inmate participating in a work program as authorized by this section: Provided, That the court-ordered financial obligations provided in subsection (e) of this section and other fees owed by the inmate including, but not limited to, the costs of incarceration and any restitution for facility rule infractions, have been paid. The remainder of the money earned, after deducting amounts expended as authorized, shall be accumulated to the credit of the inmate and be paid to the inmate at times as may be prescribed by rules. The funds so accumulated on behalf of inmates shall be held by the administrator or designee of each institution under a bond approved by the Attorney General.

(g) The administrator or designee shall deliver to the inmate at the time he or she leaves the regional jail facility, or as soon as practicable after departure, moneys and earnings then credited to the inmate: Provided, That if an inmate is transferred to the physical custody of the Commissioner of the Division of Corrections, as defined in section two of this article, at the time he or she leaves the regional jail facility, the administrator or designee shall deliver moneys and earnings then credited to the inmate to the Commissioner of the Division of Corrections for administration in accordance with the provisions of section three-a, article one, chapter twenty-five of this code. In case of the death of the inmate before authorized release from the regional jail facility, the administrator or designee shall deliver the property to the inmate’s lawful representative. In case a conservator is appointed for the inmate while he or she is domiciled at the regional jail facility, the
administrator shall deliver to the conservator, upon proper demand, all moneys and personal property belonging to the inmate that are in the custody of the administrator.

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

(i) Notwithstanding any provision of this code to the contrary, the county commission, its members and agents, the Executive Director of the West Virginia Regional Jail and Correctional Facility Authority or designee its members or agents, the sheriff, his or her deputies, correctional officers and agents shall be immune from all liability of any kind except for accident, injury or death resulting directly from gross negligence or malfeasance.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this 41st Day of April, 2007.

Governor