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WEST VIRGINIA  
SENATE OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2010

—●—  
**ENROLLED**

**COMMITTEE SUBSTITUTE**  
**FOR**  
**House Bill No. 4541**

(By Delegates Shott and Frazier)

—●—  
Passed March 13, 2010

In Effect Ninety Days From Passage

HB 4541

# ENROLLED

FILED

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COMMITTEE SUBSTITUTE

FOR

OFFICE OF THE CLERK  
WEST VIRGINIA  
SECRETARY OF STATE

## H. B. 4541

(BY DELEGATES SHOTT AND FRAZIER)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §31-20-9, §31-20-10 and §31-20-32 of the Code of West Virginia, 1931, as amended, all relating to authorizing circuit court judges and magistrates to utilize county or municipal jails to detain persons charged with a crime up to ninety-six hours, or, to confine persons convicted of a crime for not more than fourteen days; eliminating any restrictions for county or municipal jails to be used only as holding facilities; and distributing certain processing fees to municipalities or counties.

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

That §31-20-9, §31-20-10 and §31-20-32 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

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

**§31-20-9. Jail facilities standards commission: purpose, powers and duties.**

1 (a) The purpose of the jail facilities standards commission  
2 is to assure that proper minimum standards and procedures  
3 are developed for jail facility operation, maintenance and  
4 management of inmates for regional jails and local jail  
5 facilities. In order to accomplish this purpose, the commission  
6 shall:

7 (1) Prescribe standards for the maintenance and operation  
8 of county and regional jails. The standards shall include, but  
9 not be limited to, requirements assuring adequate space,  
10 lighting and ventilation; fire protection equipment and  
11 procedures; provision of specific personal hygiene articles;  
12 bedding, furnishings and clothing; food services; appropriate  
13 staffing and training; sanitation, safety and hygiene;  
14 isolation and suicide prevention; appropriate medical, dental  
15 and other health services; indoor and outdoor exercise;  
16 appropriate vocational and educational opportunities;  
17 classification; inmate rules and discipline; inmate money and  
18 property; religious services; inmate work programs; library  
19 services; visitation, mail and telephone privileges; and other  
20 standards necessary to assure proper operation: *Provided*,  
21 That the standards developed for the construction, operation  
22 and maintenance of jails apply only to jail facilities  
23 completed after April 5, 1988, and that the standards serve  
24 only as guidelines for any jail facility in operation prior to  
25 that date: *Provided, however*, That the commission shall  
26 establish standards and procedures permitting and implementing  
27 in those facilities the double bunking of inmates in all  
28 appropriate cases to the extent that this practice does not  
29 violate federal law;

30 (2) Propose legislative rules for promulgation pursuant to  
31 the provisions of article three, chapter twenty-nine-a of this

32 code that are necessary to implement the provisions of this  
33 article relating to jail facilities, including, without limitation,  
34 minimum jail and work farm standards which shall be  
35 proposed for promulgation on or before July 1, 1999:  
36 *Provided*, That rules filed by the jail and correctional  
37 facilities standards commission and authorized by the  
38 Legislature to be promulgated before the amendment to this  
39 section enacted in the regular session of the Legislature in the  
40 year 1998 remain in force except that such previously  
41 promulgated rules no longer apply to: (i) Correctional  
42 facilities; and (ii) jail facilities that were originally  
43 constructed for use as a jail which were completed and placed  
44 in operation before April 5, 1998: *Provided, however*, That  
45 such previously promulgated rules shall serve as guidelines  
46 for those facilities that fall within the specifications of (ii)  
47 herein;

48 (3) Develop a process for reviewing and updating the jail  
49 and work farm standards pursuant to the provisions of article  
50 three, chapter twenty-nine-a of this code as necessary to  
51 assure that they conform to current law; and

52 (4) Report periodically to the regional jail and  
53 correctional facility authority and the appropriate county and  
54 municipal authorities to advise, recommend, and direct  
55 actions to be taken by the authority, the county or the  
56 municipality to implement proper minimum jail and work  
57 farm standards.

58 (b) Notwithstanding any other provision of this code to  
59 the contrary, any county commission providing and  
60 maintaining a jail on the effective date of this article may not  
61 be required to provide and maintain a jail after a regional jail  
62 becomes available pursuant to the provisions of article  
63 twenty, chapter thirty-one of this code, unless the county  
64 commission determines that a facility is necessary: *Provided*,

65 That the county commission may provide and maintain a  
66 facility which complies with the standards set forth for  
67 holding facilities in legislative rules promulgated by the jail  
68 facilities standards commission or its predecessor, the jail and  
69 correctional facilities standards commission.

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

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

11 (b) Revenues deposited into these funds shall be used to  
12 make payments of interest and shall be pledged as security  
13 for bonds, security interests or notes issued or lease-purchase  
14 obligations entered into with another state entity by the  
15 authority 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  
19 needed. In this case, the excess shall be invested in a manner  
20 consistent with the investment of temporary state funds.  
21 Interest earned on any money invested pursuant to this  
22 section shall be credited to 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  
26 necessary to release the excess and transfer it to the General  
27 Revenue Fund of the State Treasury.

28 (e) These funds consist of the following:

29 (1) Amounts raised by the authority by the sale of bonds  
30 or 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  
33 for 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  
36 any project or projects;

37 (4) All sums paid by the counties pursuant to subsection  
38 (h) 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  
42 accounted for and expended in the following manner:

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

50 (2) Amounts deposited from all other sources shall be  
51 pledged first to the debt service on any bonded indebtedness,

52 including lease-purchase obligations entered into by the  
53 authority with another state entity or other obligation incurred  
54 by borrowing of the authority;

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

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

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

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

84 (g) (1) After a regional jail facility becomes available  
85 pursuant to this article for the incarceration of inmates, each  
86 county within the region shall incarcerate all persons whom  
87 the county would have incarcerated in any jail prior to the  
88 availability of the regional jail facility in the regional jail  
89 facility except those whose incarceration in a local jail  
90 facility used as a local holding facility is specified as  
91 appropriate under the standards and procedures developed  
92 pursuant to section nine of this article and who the sheriff or  
93 the circuit court elects to incarcerate therein.

94 (2) Notwithstanding the provisions of subdivision (1) of  
95 this subsection, circuit and magistrate courts are authorized  
96 to:

97 (A) Detain persons who have been arrested or charged  
98 with a crime, in a county or municipal jail, specified as  
99 appropriate under the standards and procedures developed  
100 pursuant to section nine of this article, for a period not to  
101 exceed ninety-six hours; or

102 (B) Commit persons convicted of a crime in a county or  
103 municipal jail, specified as appropriate under the standards  
104 and procedures developed pursuant to section nine of this  
105 article, for a period not to exceed fourteen days.

106 (h) When inmates are placed in a regional jail facility  
107 pursuant to subsection (g) of this section, the county shall pay  
108 into the Regional Jail and Correctional Facility Authority  
109 Fund a cost per day for each incarcerated inmate to be  
110 determined by the Regional Jail and Correctional Facility  
111 Authority according to criteria and by procedures established  
112 by legislative rules proposed for promulgation pursuant to  
113 article three, chapter twenty-nine-a of this code and as  
114 established in section ten-a of this article to cover the costs of  
115 operating the regional jail facilities of this state to maintain



116 each inmate. The per diem costs for incarcerating inmates  
117 may not include the cost of construction, acquisition or  
118 renovation of the regional jail facilities: *Provided*, That each  
119 regional jail facility operating in this state shall keep a record  
120 of the date and time that an inmate is incarcerated and a  
121 county may not be charged for a second day of incarceration  
122 for an individual inmate until that inmate has remained  
123 incarcerated for more than twenty-four hours. After that, in  
124 cases of continuous incarceration, subsequent per diem  
125 charges shall be made upon a county only as subsequent  
126 intervals of twenty-four hours pass from the original time of  
127 incarceration.

**§31-20-32. Jail processing fee.**

1 (a) A person committed to be housed in jail by order of  
2 magistrate, circuit judge or by temporary commitment order  
3 shall, at the time of booking into the jail, pay a processing fee  
4 of thirty dollars. If the person is unable to pay at the time of  
5 booking, the fee shall be deducted, at a rate of fifty percent,  
6 from any new deposits made into the person's jail trust  
7 account until the jail processing fee is paid in full. The fee  
8 shall be credited to:

9 (1) the Regional Jail and Correctional Facility Authority's  
10 operating budget if the person is committed to and housed in  
11 a regional jail;

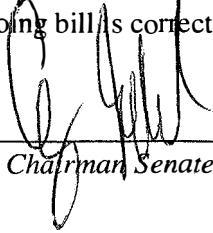
12 (2) to the county commission if the person is committed  
13 to and housed in a county jail; or

14 (3) to the municipality if the person is committed to and  
15 housed in a municipal jail. The fee should be paid prior to  
16 the offender being released.

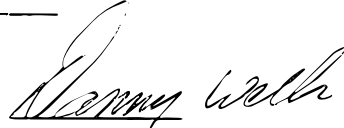
17 (b) A refund of a fee collected under this section shall be  
18 made to a person who has paid the fee if the person is not

19 convicted of the offense for which the person was booked  
20 and the person provides documentation from the court  
21 showing that all charges for which the person was booked  
22 were dismissed, accurate current name and address and a  
23 valid photographic identification. In the case of multiple  
24 offenses, if the person is convicted of any of the offenses the  
25 fee may not be refunded. If the person is convicted of a  
26 lesser included offense or a related offense, no refund may be  
27 made.

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




Chairman Senate Committee



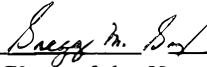
Chairman House Committee

Originating in the House.

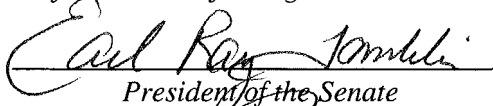
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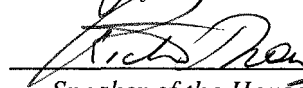
Clerk of the Senate



Clerk of the House of Delegates

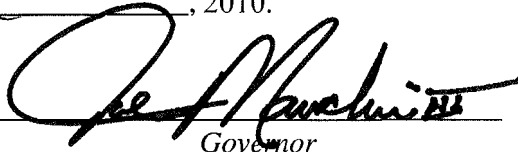


President of the Senate



Speaker of the House of Delegates

The within reapproved this the 28<sup>th</sup>  
day of March, 2010.



Governor

PRESENTED TO THE  
GOVERNOR

MAR 22 2010

Time 3:40pm