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
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.

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

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

2. Propose legislative rules for promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this
code that are necessary to implement the provisions of this
article relating to jail facilities, including, without limitation,
minimum jail and work farm standards which shall be
proposed for promulgation on or before July 1, 1999:

Provided, That rules filed by the jail and correctional
facilities standards commission and authorized by the
Legislature to be promulgated before the amendment to this
section enacted in the regular session of the Legislature in the
year 1998 remain in force except that such previously
promulgated rules no longer apply to: (i) Correctional
facilities; and (ii) jail facilities that were originally
constructed for use as a jail which were completed and placed
in operation before April 5, 1998: Provided, however, That
such previously promulgated rules shall serve as guidelines
for those facilities that fall within the specifications of (ii)
herein;

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

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

(b) Notwithstanding any other provision of this code to
the contrary, any county commission providing and
maintaining a jail on the effective date of this article may not
be required to provide and maintain a jail after a regional jail
becomes available pursuant to the provisions of article
twenty, chapter thirty-one of this code, unless the county
commission determines that a facility is necessary: Provided,
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That the county commission may provide and maintain a facility which complies with the standards set forth for holding facilities in legislative rules promulgated by the jail facilities standards commission or its predecessor, the jail and correctional facilities standards commission.

§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 determined
by the authority.
(g) (1) 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 specified 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.

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

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

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

(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 Authority 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 established 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 construction, 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.

§31-20-32. Jail processing fee.

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

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

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

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

(b) A refund of a fee collected under this section shall be made to a person who has paid the fee if the person is not
convicted of the offense for which the person was booked and the person provides documentation from the court showing that all charges for which the person was booked were dismissed, accurate current name and address and a valid photographic identification. In the case of multiple offenses, if the person is convicted of any of the offenses the fee may not be refunded. If the person is convicted of a lesser included offense or a related offense, no refund may be made.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chaiman 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 happened this the 28th day of March, 2010.

Governor
PRESENTED TO THE GOVERNOR
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