

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

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SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Regional Jail and Correctional Facility Authority TITLE NUMBER: 94

RULE TYPE: Legislative CITE AUTHORITY: 31-20-31

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 8

TITLE OF RULE BEING PROPOSED: Work Program for Regional Jail Inmates

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 27, 2007 AT 0800 hours ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:


WV Regional Jail and Correctional Facility Authority

Chad Cardinal, Esquire

1325 Virginia Street East

Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

ATTACHMENT TO FORM #2 – BRIEF SUMMARY OF PROPOSED LEGISLATIVE
RULE (Work Program for Regional Jail Inmates)

The purpose of this rule is to authorize the Executive Director of the Regional Jail Authority to establish work programs for qualified inmates and to administer the earnings of the inmates to permit reimbursement to the authority for the costs of incarceration.

WEST VIRGINIA CODE OF STATE RULES
TITLE 94. WEST VIRGINIA REGIONAL JAIL & CORRECTIONAL FACILITY
AUTHORITY
LEGISLATIVE RULE (SERIES 8)
SERIES 8. WORK PROGRAM FOR REGIONAL JAIL INMATES

§94-8-1. General.

1.1 Scope. -- This legislative rule establishes a work program for qualified inmates under the custody and control of the West Virginia Regional Jail & Correctional Facility Authority.

1.2 Authority. -- West Virginia Code §31-20-31

1.3 Filing Date. --

1.4 Effective Date. --

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§94-8-2. Definitions.

2.1 Qualified Inmate. -- An inmate who classifies as low risk to facility security and public safety, as determined through selection criteria as set forth in Regional Jail Authority policy to participate in a work program. A qualified inmate does not include an inmate convicted of a sexual offense or a violent felony. Inmates sentenced to the Division of Corrections, the Commissioner of the Division of Corrections or designee shall first determine the eligibility for such inmate for participation in the work program.

2.2 Work Program. -- A program to provide qualified inmates with community service work projects with governmental entities, non-profit organizations, and/or be employed with

local businesses. The program is designed for life skills development, offender accountability and restorative justice which entails offenders giving back to the communities. The Executive Director or designee shall determine the project priorities for work crews.

- 2.3 Classification. -- A process for determining the appropriate security placement and special needs of the inmate population in order to provide a safe and humane correctional system for the public, staff and inmates.

§94-8-3. Applicability.

3.1 This rule is applicable to inmates housed in the WV Regional Jails..

3.2 Division of Corrections inmates domiciled at a Regional Jail may be eligible for consideration for work programs, provided that the Commissioner of Corrections or designee first determines the eligibility of such inmate for participation in the work program and consents to such inmate's participation therein.

3.3 This legislative rule and the work program does not apply to any inmate(s) incarcerated under the jurisdiction of the United States Marshals Service, the Federal Bureau of Prisons, the Immigration and Customs Enforcement Service or any other federal incarcerating agency, inmates held on detainers from other states, or held for the benefit of any jurisdiction outside of the sovereignty of the State of West Virginia.

§94-8-4. Eligibility, Terms and Conditions for Work Program.

4.1 The Executive Director shall establish policy for classification, selection, and eligibility criteria for qualified inmates to participate in work program. Eligibility, terms and conditions shall include, but not be exclusive to:

4.1.1. Classified minimum custody.

- 4.1.2. Inmates must have a sentence of at least 30 days
- 4.1.3. A conduct review has been conducted and the classification staff have deemed the inmate's conduct to be appropriate for a community work program, in accordance with the classification policies.
- 4.1.4. Inmates sentenced to the Division of Corrections must first be approved by the Commissioner or designee, and consent must be given by him/her.
- 4.1.5. Inmates who violate Rules of Conduct or terms and conditions of the work program may be subject to removal from the program and disciplinary action in accordance with policy and procedures.

4.2 Inmates convicted of a sexual offense or violent felony are not eligible for a work program.

4.3 Inmates who are denied to participate in a work program may appeal such denial through the Regional Jail Authority Inmate Grievance Procedure.

4.4 Regional Jail Administrators shall have the discretion to remove any inmate from a work program should he or she determine that the inmate poses a threat to public safety and/or facility security. This decision may be appealed by the inmate through the established Inmate Grievance Procedure.

§94-8-5. Financial Responsibilities

5.1 The Administrator or designee of each Regional Jail shall receive, receipt and take charge of the money of all inmates, all money sent to the inmates or earned by the inmates as compensation for work performed.

5.2 The money of all inmates shall be maintained as set forth in West Virginia Code §31-20-31.

5.3 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.

- 5.4 The Executive Director shall develop a policy that outlines the formula for the distribution of the qualified inmate's income. The administrator or designee shall deduct from the inmate's income, for distribution, an amount not to exceed forty percent in the aggregate for: an administrative fee of \$1.00, court-ordered financial obligations including, but not limited to, court fees, victim restitution, child support obligations owed under a support order, and liens. The following is a general guideline for distribution.

Administrative fee of \$1.00

20% Child Support Enforcement

10% Victim Restitution

10% Court Fees/Court-ordered deductions, etc.

If one item is not owed, then the allowance for that item is to be split equally between the remaining deductions. If only one deduction is owed, then the full 40% will be paid to the deduction.

- 5.5 The remaining balance of the qualified inmate's account after deductions in Section 5.3 and 5.4 will be used to pay any WVRJA required financial obligations. This shall include, but not limited to, incarceration costs and any restitution for facility rule infractions. Incarceration fees for inmates who are assigned community service projects with governmental entities or non-profit organizations and who may be receiving minimal compensation will be 30% of their income. Incarceration fees for inmates, who are employed in the private sector, will be determined by policy sliding scale and the ability to pay. Such fees collected will be credited to the responsible billing jurisdiction for said inmate.

- 5.6 Provided that all court-ordered financial obligations provided in sections 5.3, 5.4, and 5.5 of this rule have been paid, 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 rule.

- 5.7 The remainder of the inmate's money, after deducting amounts expended as authorized, shall be accumulated to the credit of the inmate and be paid to the inmate at times of his or her release, or as soon as practicable after departure. Provided, that if an inmate is transferred to the physical custody of the Commissioner of the Division of Corrections, 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 or designee. 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 monies and personal property belonging to the inmate that are in the custody of the administrator.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Work Program for Regional Jails

Type of Rule: Legislative Interpretive Procedural

Agency: WV Regional Jail and Correctional Facility Authority

Address: 1325 Virginia Street East
Charleston, WV 25301

Tony Davis, Chief Financial Officer

Phone Number: 304 558 2110, ext 2019 Email: t.davis@wvrja.state.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The passage of this rule will not increase cost. Any revenues generated from this program may help maintain the per diem cost at its current level.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			

Rule Title: _____

Rule Title: Work Program for Regional Jails

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

Since this is a new program, there is no historical data available to determine what the economic impact will be. This program may provide assistance for some county jurisdictions to offset their jail costs by requiring participating inmates to be responsible for up to half of their daily per diem costs.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: _____

Signature of Agency Head or Authorized Representative