

# WEST VIRGINIA CODE: §7-4-6

## §7-4-6. West Virginia Prosecuting Attorneys Institute.

(a) There is continued the West Virginia Prosecuting Attorneys Institute, a public body whose membership shall consist of the 55 elected county prosecuting attorneys in the state. The Institute shall meet at least once each calendar year and the presence of 28 of the 55 prosecutors at any meeting constitutes a quorum for the conduct of the Institute's business.

(b) There is continued the executive council of the West Virginia Prosecuting Attorneys Institute, which shall consist of seven prosecuting attorneys elected by the membership of the West Virginia Prosecuting Attorneys Institute at its annual meeting and two persons appointed annually by the county commissioner's association of West Virginia. The executive council shall elect one member of the council to serve as chairman of the institute for a term of one year without compensation. The executive council shall serve as the regular executive body of the institute.

(c) There is continued the position of Executive Director of the West Virginia Prosecuting Attorneys Institute to be employed by the executive council of the institute. The executive director of the West Virginia Prosecuting Attorneys Institute shall serve at the will and pleasure of the executive council of the institute. The executive director shall be licensed to practice law in the State of West Virginia and shall devote full time to his or her official duties and may not engage in the private practice of law.

(d) The duties and responsibilities of the institute, as implemented by and through its executive council and its executive director, include the following:

(1) The provision for special prosecuting attorneys to pursue a criminal matter, a juvenile delinquency matter, or a matter involving child abuse neglect pursuant to Chapter 49 of this code, or in any matter in which a special prosecutor previously appointed has failed to take any action on the matter within such time as the executive director considers unreasonable, not to exceed three terms of court from the date on which the special prosecutor was appointed: *Provided*, That such replacement or original appointment may be any attorney with a license in good standing in this state in any county upon the request of a circuit court judge of that county and upon the approval of the executive council;

(2) The establishment and implementation of general and specialized training programs for prosecuting attorneys, their staffs and, where determined practical by the executive council and executive director, all statutorily authorized law-enforcement or investigative agencies of the state or its political subdivisions;

(3) The establishment of a training program for all newly appointed or newly elected prosecuting attorneys;

(4) The provision of materials for prosecuting attorneys and their staffs, including legal research, technical assistance, and technical and professional publications;

(5) The compilation and dissemination of information on behalf of prosecuting attorneys and their staffs on current developments and changes in the law and the administration of criminal justice;

(6) The establishment and implementation of uniform reporting procedures for prosecuting attorneys and their professional staffs in order to maintain and to provide accurate and timely data and information relative to criminal prosecutorial matters;

(7) The acceptance and expenditure of grants, moneys for reimbursement of expenses, gifts, and acceptance of services from any public or private source;

(8) The entering into of agreements and contracts with public or private agencies, groups, organizations, or educational institutions;

(9) The identification of experts and other resources for use by prosecutors in criminal matters;

(10) The recommendation to the Legislature or the Supreme Court of Appeals of the State of West Virginia on measures required, or procedural rules to be promulgated, to make uniform the processing of juvenile cases in the 55 counties of the state; and

(11) The development of a written handbook for prosecutors and their assistants to use which delineates relevant information concerning the elements of various crimes in West Virginia and other information the institute considers appropriate.

(e) Each prosecuting attorney is subject to appointment by the institute to serve as a special prosecuting attorney in any county where the prosecutor for that county or his or her office has been disqualified from participating in a particular criminal case, a juvenile delinquency matter, or a matter involving child abuse neglect pursuant to Chapter 49 of this code, or in any matter in which a special prosecutor previously appointed has failed to take any action on the matter within such time as the executive director considers unreasonable, not to exceed three terms of court from the date on which the special prosecutor was appointed: *Provided*, That such replacement or original appointment may be any attorney with a license in good standing in this state. The circuit judge of any county of this state, who disqualifies the prosecutor or his or her office from participating in a particular criminal case, a juvenile delinquency matter, or a matter involving child abuse or neglect pursuant to chapter 49 of this code in that county, shall seek the appointment by the institute of a special prosecuting attorney to substitute for the disqualified prosecutor. The executive director of the institute shall, upon written request to the institute by any circuit judge as a result of disqualification of the prosecutor or for other good cause shown, and upon approval of the executive council, appoint a prosecuting attorney to serve as a special prosecuting attorney. The special prosecuting attorney appointed shall serve without any further compensation other than that

paid to him or her by his or her county, except that he or she is entitled to be reimbursed for his or her legitimate expenses associated with travel, mileage, and room and board from the county to which he or she is appointed as a prosecutor. The county commission in which county he or she is special prosecutor is responsible for all expenses associated with the prosecution of the criminal action. A person who is serving as a prosecuting attorney or an assistant prosecuting attorney of any county is not required to take an additional oath when appointed to serve as a special prosecuting attorney.

(f) The executive director of the institute shall maintain an appointment list that shall include the names of all 55 prosecuting attorneys and that shall also include the names of any assistant prosecuting attorney who wishes to serve as a special prosecuting attorney upon the same terms and conditions as set forth in this section. The executive director of the institute, with the approval of the executive council, shall appoint special prosecuting attorneys from the appointment list for any particular matter giving due consideration to the proximity of the proposed special prosecuting attorney's home county to the county requesting a special prosecutor and giving due consideration to the expertise of the special prosecuting attorney.

(g) Each county commission shall pay, on a monthly basis, a special prosecution premium to the Treasurer of the state for the funding of the West Virginia Prosecuting Attorneys Institute. The monthly premiums shall be paid according to the following schedule:

#### MONTHLY PREMIUMS

Assessed Valuation of Property

of All Classes in the County

| Category | Minimum         | Maximum         | Premium |
|----------|-----------------|-----------------|---------|
| A        | \$1,500,000,000 | Unlimited       | \$400   |
| B        | \$1,000,000,000 | \$1,499,999,000 | \$375   |
| C        | \$ 800,000,000  | \$ 999,999,000  | \$350   |
| D        | \$ 700,000,000  | \$ 799,999,000  | \$325   |
| E        | \$ 600,000,000  | \$ 699,999,000  | \$300   |
| F        | \$ 500,000,000  | \$ 599,999,000  | \$250   |
| G        | \$ 400,000,000  | \$ 499,999,000  | \$200   |
| H        | \$ 300,000,000  | \$ 399,999,000  | \$150   |

I \$ 200,000,000 \$ 299,999,000 \$100

J -0- \$ 199,999,000 \$ 50

(h) Upon receipt of a premium, grant, reimbursement or other funding source, excluding federal funds as provided in §4-2-1 *et seq.* of this code, the Treasurer shall deposit the funds into a special revenue fund to be known as the West Virginia Prosecuting Attorneys Institute Fund. All costs of operating the West Virginia Prosecuting Attorneys Institute shall be paid from the West Virginia Prosecuting Attorneys Institute Fund upon proper authorization by the executive council or by the executive director of the institute and subject to annual appropriation by the Legislature of the amounts contained within the fund.

(i) The institute shall annually, by the first day of the regular Legislative session, provide the Joint Committee on Government and Finance with a report setting forth the activities of the institute and suggestions for legislative action.

(j) Neither the institute nor its employees acting in their employment capacity shall engage in activities before governmental bodies which advocate positions on issues other than those issues consistent with the duties of the institute set forth in subsection (d) of this section.