

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

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## ENROLLED

SENATE BILL NO. 275

(By Senators JACKSON AND TUCKER)

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PASSED MARCH 11, 1988

In Effect 90 Days from Passage



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AN ACT to amend chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twelve, relating to creating the West Virginia law institute.

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

That chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twelve, to read as follows:

**ARTICLE 12. ESTABLISHMENT OF A WEST VIRGINIA LAW INSTITUTE.**

**§4-12-1. Authority of Legislature to establish West Virginia law institute.**

- 1 The West Virginia Legislature creates and establishes a
- 2 state law institute, to be known as the "West Virginia Law
- 3 Institute," as an official advisory law revision and law
- 4 reform agency of the state of West Virginia and to be located
- 5 at the West Virginia University college of law.

**§4-12-2. Purposes and duties.**

- 1 The general purposes of the West Virginia law institute
- 2 are to promote and encourage the clarification and
- 3 simplification of the law of West Virginia, to improve the

4 better administration of justice and to conduct scholarly  
5 legal research and scientific legal work. To that end it shall  
6 be the duty of the West Virginia law institute to:

7 (a) Consider needed improvements in both substantive  
8 and procedural law and to make recommendations  
9 concerning the same to the Legislature;

10 (b) Examine and study the law of West Virginia to  
11 discover defects and inequities and of recommending  
12 needed reforms;

13 (c) Receive and consider suggestions from judges,  
14 justices, public officials, lawyers and the public generally  
15 as to defects and anachronisms in the law;

16 (d) Recommend from time to time such changes in the law  
17 as it deems necessary to modify or eliminate antiquated and  
18 inequitable rules of law;

19 (e) Render annual reports to the Legislature and, if it  
20 deems so advisable, accompany its reports with proposed  
21 bills to carry out any of its recommendations;

22 (f) Recommend the repeal of obsolete statutes and suggest  
23 needed amendments, additions and deletions; and

24 (g) Organize and conduct an annual meeting within the  
25 state for scholarly discussions of current problems in West  
26 Virginia law, bringing together representatives of the  
27 Legislature, practicing attorneys, members of the judiciary  
28 and West Virginia state bar and representatives of the law  
29 teaching profession.

#### **§4-12-3. Governing council and members.**

1 (a) The institute shall have such members and committees  
2 as the governing body of the West Virginia law institute  
3 may direct. The governing body shall also elect a president,  
4 secretary and any other officers as it determines necessary.

5 (b) The governing body of the institute shall be a council  
6 composed of ex officio members and elected members as  
7 follows:

8 (1) One justice of the West Virginia supreme court of  
9 appeals to be selected by the justices thereof;

10 (2) One circuit court judge, selected by the West Virginia  
11 judicial association;

12 (3) One federal judge residing in West Virginia, selected  
13 by the federal judges residing in West Virginia;

14 (4) The attorney general of the state of West Virginia;

15 (5) One legal counsel to the governor of the state of West  
16 Virginia;

17 (6) The chairperson of the judiciary committees of the  
18 Senate and the House of Delegates of the West Virginia  
19 Legislature, or an attorney member of the respective  
20 committees appointed by the chairperson of the committee;

21 (7) One member each from the majority and minority  
22 parties of the Senate and the House of Delegates of the West  
23 Virginia Legislature to be selected by the President of the  
24 Senate and the Speaker of the House of Delegates,  
25 respectively;

26 (8) The director of West Virginia legislative services;

27 (9) the chairperson of the West Virginia commission on  
28 uniform state laws;

29 (10) The president and first vice-president of the West  
30 Virginia state bar;

31 (11) The chairperson of the young lawyers section of the  
32 West Virginia state bar;

33 (12) The dean of the West Virginia University college of  
34 law;

35 (13) Two attorneys appointed by the governor of the state  
36 of West Virginia for terms to run concurrently with the term  
37 of the governor;

38 (14) The director of the continuing legal education  
39 program sponsored by the West Virginia state bar and the  
40 West Virginia University college of law; and

41 (15) The editor-in-chief of the *West Virginia Law Review*.

42 (c) The elected membership shall consist of two faculty  
43 members who shall be elected from the members of the  
44 faculty of the West Virginia University college of law and  
45 three practicing attorneys from each of the four  
46 congressional districts in the state who shall be selected by  
47 the board of governors of the West Virginia state bar.

48 (d) All ex officio members of the council shall hold their  
49 positions during their respective terms of office. The term of  
50 office of the elected members of the council shall be four  
51 years. The terms of office of the first elected practicing  
52 attorney members shall be appointed by the board of  
53 governors of the West Virginia state bar such that four shall  
54 be appointed for two years, four for three years and four for  
55 four years. Thereafter, appointments shall be for four years.  
56 Elected members of the council shall be eligible for  
57 reelection.

58 (e) Vacancies in the elected membership created by death,  
59 resignation or otherwise than by the expiration of the terms  
60 of office shall be filled by the council under such rules as it  
61 may adopt.

**§4-12-4. Compensation of members of the council of the West Virginia law institute, director and assistants.**

1 The members of the council of the West Virginia law  
2 institute shall serve without any compensation for services  
3 as such. The council may employ and fix and pay reasonable  
4 compensation to the director of the institute and the  
5 director's assistants, and may pay honoraria to members of  
6 the council who perform professional services for the  
7 institute, as authorized by the council. The compensation  
8 provided for in this section shall come from private funding  
9 and no state funds are to be provided for this institute.

**§4-12-5. Adoption of membership plan.**

1 The council of the West Virginia law institute shall adopt  
2 a plan or plans of membership in the West Virginia law  
3 institute so designated as to encourage and invite the  
4 cooperation of all members of the legal profession in the  
5 work of the institute.

**§4-12-6. Institute to act in advisory capacity only; distribution of reports, studies, and recommended publications.**

1 The West Virginia law institute, in submitting reports to  
2 the Legislature, shall act solely in an advisory capacity. Its  
3 reports, studies and recommended publications shall be  
4 printed and shall be distributed by the institute in a manner  
5 as directed by the council.

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

*George C. Williams*  
.....  
Chairman Senate Committee

*Bernard V. Kelly*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Todd C. Stettin*  
.....  
Clerk of the Senate

*Donald L. Kopp*  
.....  
Clerk of the House of Delegates

*Sam Tomlinson*  
.....  
President of the Senate

*Bob McCub*  
.....  
Speaker House of Delegates

The within *approved* ..... this the *28th*  
*March*  
day of ..... 1988.

*Arch A. Phares Jr.*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/88

Time 4:32 p.m.

RECEIVED

1988 APR -5 AM 8:47

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE