WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

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ENROLLED

HOUSE BILL No. 2868

(By Delegate Harley)

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Passed April 5, 1989

In Effect from Passage
ENROLLED

H. B. 2868

(By Delegate Farley)

[Passed April 8, 1989; in effect from passage.]

AN ACT to amend and reenact section three, article one, chapter five-f of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section three, article two of said chapter; to amend and reenact section two-a, article seven, chapter six of said code; to amend and reenact section five, article two, chapter fifteen of said code; to amend and reenact section three, article one, chapter twenty-four of said code; to amend and reenact section ten-a, article one, chapter fifty-one of said code, and to amend and reenact section thirteen, article two of said chapter fifty-one, all relating to salaries of certain state officers, judges and justices; setting the salaries of secretaries of departments; increasing the salaries of certain state officers; setting the salaries of certain other state appointed officers and employees; setting effective dates and providing for phase-in of certain salary increases; providing for filing sworn statement by certain state appointive officers as to compensation of their employees; making terms of public service commissioners at will and pleasure of governor; increasing salaries of members of department of public safety and providing effective date; increasing salaries of circuit court judges and supreme court justices and providing effective dates thereof.

Be it enacted by the Legislature of West Virginia:
That section three, article one, chapter five-f of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section three, article two of said chapter be amended and reenacted; that section two-a, article seven, chapter six of said code be amended and reenacted; that section five, article two, chapter fifteen of said code be amended and reenacted; that section three, article one, chapter twenty-four of said code be amended and reenacted; that section ten-a, article one, chapter fifty-one of said code be amended and reenacted, and that section thirteen, article two of said chapter fifty-one be amended and reenacted, all to read as follows:

CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

ARTICLE 1. GENERAL PROVISIONS.

§5F-1-3. Oath; bond; compensation.

(a) Each person appointed to serve as a secretary shall take the oath or affirmation prescribed by section five, article four of the constitution, and such oath shall be certified by the person who administers the same and filed in the office of the secretary of state.

(b) Each person so appointed shall give bond in the penalty of twenty-five thousand dollars conditioned for the faithful performance of the duties of the office, which bond shall be approved by the attorney general as to form and by the governor as to sufficiency. The surety of such bond may be a bonding or surety company, in which case the premium shall be paid out of the appropriation made for the administration of the department.

(c) Each secretary shall receive a salary of seventy thousand dollars per year.

(d) The salary and expenses necessary for each secretary and all expenditures for personal services for the office of secretary shall be paid from and within existing appropriations made to the agencies and boards transferred to the department headed by that secretary, and revised expenditure schedules shall be submitted to the commissioner of finance and administration and the
legislative auditor stating the amount and source of funds to be expended: Provided, That for fiscal years beginning the first day of July, one thousand eight hundred eighty-nine, such amounts shall follow the procedures described in chapter five-a of this code.

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-3. Administrators; appointment; oath; bond; compensation.

(a) Notwithstanding any other provision of this code (including subsections (h) and (i), section one of this article) to the contrary, each administrator required by other provisions of this code to be appointed by the governor shall:

(1) Continue to be appointed by the governor by and with the advice and consent of the Senate and each such administrator shall serve at the will and pleasure of the governor, and the governor may appoint a person to fill more than one such position of administrator and may appoint a secretary to fill one or more positions of such administrator, but each person appointed as such an administrator must possess whatever qualifications are elsewhere specified in this code as being required for appointment to such position;

(2) Take the oath of office or affirmation prescribed by section five, article four of the constitution, and such oath shall be certified by the person who administers the same and filed in the office of the secretary of state;

(3) Give bond in the penalty of fifteen thousand dollars conditioned for the faithful performance of the duties of the office, which bond shall be approved by the attorney general as to form and by the secretary as to sufficiency. The surety of such bond may be a bonding or surety company, in which case the premium shall be paid out of the appropriation made for the administration of the department; and

(4) Receive an annual salary as shall be fixed from time to time by law or as otherwise provided.

(b) Each administrator required by other provisions
of this code to be appointed in any manner other than
by the governor shall continue to be appointed, shall
take such oath of office, give such bond and receive such
salary as shall be so specified by such other provisions
of this code.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of such officers.

(a) Notwithstanding any other provision of this code to the contrary, each of the following appointive state officers named in this subsection shall be appointed by the governor, by and with the advice and consent of the Senate. Each of such appointive state officers shall serve at the will and pleasure of the governor for the term for which the governor was elected and until the respective state officers' successors have been appointed and qualified. Each of such appointive state officers shall hereafter be subject to the existing qualifications for holding each such respective office and each shall have and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respecting each such office.

Beginning on the first day of January, one thousand nine hundred ninety, the annual salary of each such named appointive state officer shall be as follows:

Administrator, division of highways, sixty thousand dollars; administrator, division of health, fifty-seven thousand two hundred dollars; administrator, division of human services, forty-seven thousand eight hundred dollars; administrator, state tax division, forty-nine thousand nine hundred dollars; administrator, division of energy, sixty-five thousand dollars; administrator, division of finance and administration, forty-seven thousand eight hundred dollars; administrator, division of corrections, forty-five thousand dollars; administra-
tor, division of community and industrial development, sixty-three thousand six hundred dollars; administrator, division of worker’s compensation, forty-five thousand dollars; administrator, division of commerce, sixty-two thousand five hundred dollars; administrator, division of natural resources, forty-seven thousand eight hundred dollars; administrator, division of public safety, forty-four thousand six hundred dollars; administrator, lottery division, sixty thousand dollars; director, public employees insurance agency, fifty-five thousand dollars; administrator, division of employment security, forty-five thousand dollars; administrator, division of banking, thirty-eight thousand three hundred dollars; administrator, division of insurance, thirty-six thousand seven hundred dollars; administrator, division of culture and history, thirty-eight thousand three hundred dollars; chairman, public service commission, fifty thousand dollars; members, public service commission, forty-six thousand two hundred dollars; administrator, division of motor vehicles, forty thousand dollars; director, division of personnel, thirty-eight thousand three hundred dollars; adjutant general, thirty-five thousand seven hundred dollars; chairman, health care cost review authority, forty thousand dollars; members, health care cost review authority, thirty-six thousand five hundred dollars; director, human rights commission, forty thousand dollars; administrator, division of labor, thirty-five thousand seven hundred dollars; administrator, division of veterans affairs, thirty-two thousand dollars; administrator, division of emergency services, thirty-two thousand dollars; administrator, non-intoxicating beer commission, thirty-two thousand dollars; members, board of probation and parole, twenty-eight thousand three hundred dollars; members, employment security review board, seventeen thousand dollars; members, worker’s compensation appeal board, seventeen thousand eight hundred dollars.

Prior to the first day of January, one thousand nine hundred ninety, each of the aforesaid officers shall continue to receive the annual salaries they were
receiving as of the last day of March, one thousand nine hundred eighty-nine.

(b) Notwithstanding any other provisions of this code to the contrary, each of the state officers named in this subsection shall continue to be appointed in the manner prescribed in this code, and shall be paid an annual salary as follows, except that any increase in salary over and above the salary being received by any of the following state officers as of the last day of March, one thousand nine hundred eighty-nine, shall not become effective until the first day of January, one thousand nine hundred ninety:

- Chancellor, board of regents, seventy thousand dollars;
- State superintendent of schools, seventy thousand dollars;
- Administrator, division of risk and insurance management, forty-two thousand dollars;
- Director, division of rehabilitation services, fifty-five thousand dollars;
- Executive director, educational broadcasting authority, forty-seven thousand five hundred dollars;
- Secretary, library commission, forty-seven thousand five hundred dollars;
- Director, geologic and economic survey, forty-seven thousand five hundred dollars;
- Executive director, division of rehabilitation services, forty-five thousand dollars;
- Executive secretary, teacher's retirement system, forty-seven thousand five hundred dollars;
- Executive secretary, public employees retirement system, forty thousand one hundred dollars;
- Director, air pollution control commission, forty-four thousand dollars;
- Executive director, public legal services council, forty-seven thousand five hundred dollars;
- Director, commission on aging, forty thousand dollars;
- Commissioner, oil and gas conservation commission, forty thousand dollars;
- Director, farm management commission, thirty-two thousand five hundred dollars;
- State fire administrator, twenty-five thousand dollars;
- Director, railroad maintenance authority, thirty-two thousand five hundred dollars;
- Secretary, women's commission, thirty thousand one hundred dollars;
- Executive director, regional jail
authority, forty-two thousand six hundred dollars;
director, hospital finance authority, twenty-five thou-
sand eight hundred dollars.

(c) No increase in the salary of any appointive state
officer pursuant to this section shall be paid until and
unless such appointive state officer shall have first filed
with the state auditor and the legislative auditor a
sworn statement, on a form to be prescribed by the
attorney general, certifying that such spending unit is
in compliance with any general law providing for a
salary increase for his employees. The attorney general
shall prepare and distribute such form to the affected
spending units: Provided, That no decrease in salary
shall be effective for any current appointive state officer
appointed prior to the first day of January, one thousand
nine hundred eighty-nine: Provided, however, That such
decreases shall take effect at such time as any appoin-
tive office is vacated.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.

§15-2-5. Salaries; exclusion from wage and hour law,
with supplemental payment; bond; leave time
for members called to duty in guard or
reserves.

Members of the department shall receive annual
salaries pursuant to appropriation by the Legislature,
payable at least monthly as follows:

Any lieutenant colonel shall receive an annual salary
of thirty-three thousand six hundred seventy-two
dollars; any major shall receive an annual salary of
thirty-one thousand fifty-six dollars; any captain shall
receive an annual salary of twenty-eight thousand nine
hundred forty-four dollars; any first lieutenant shall
receive an annual salary of twenty-seven thousand three
hundred seventy-two dollars; any second lieutenant shall
receive an annual salary of twenty-five thousand eight
hundred dollars; any master sergeant or first sergeant
shall receive an annual salary of twenty-four thousand
two hundred twenty-eight dollars; any sergeant shall
receive an annual salary of twenty-two thousand six hundred fifty-six dollars; any corporal shall receive an annual salary of twenty-one thousand seventy-two dollars; any trooper first class shall receive an annual salary of nineteen thousand five hundred dollars; and any newly enlisted trooper shall receive a salary of one thousand four hundred five dollars monthly during the period of his basic training, and upon the satisfactory completion of such training and assignment to active duty, each such trooper shall receive, during the remainder of his first year's service, a salary of one thousand five hundred fourteen dollars monthly. During the second year of his service in the department, each trooper shall receive an annual salary of eighteen thousand five hundred fifty-two dollars; during the third year of his service each such trooper shall receive an annual salary of eighteen thousand eight hundred fifty-two dollars; and during the fourth and fifth year of such trooper's service and for each year thereafter, he shall receive an annual salary of nineteen thousand ninety-two dollars: Provided, That effective on the first day of January, one thousand nine hundred ninety, any lieutenant colonel shall receive an annual salary of thirty-five thousand three hundred fifty-two dollars; any major shall receive an annual salary of thirty-two thousand six hundred four dollars; any captain shall receive an annual salary of thirty thousand three hundred ninety-six dollars; any first lieutenant shall receive an annual salary of twenty-eight thousand seven hundred forty dollars; any second lieutenant shall receive an annual salary of twenty-seven thousand ninety-six dollars; any master sergeant or first sergeant shall receive an annual salary of twenty-five thousand four hundred forty dollars; any sergeant shall receive an annual salary of twenty-three thousand seven hundred eighty-four dollars; any corporal shall receive an annual salary of twenty-two thousand one hundred twenty-eight dollars; any trooper first class shall receive an annual salary of twenty thousand four hundred seventy-two dollars; and any newly enlisted trooper shall receive a salary of one thousand four hundred seventy-five dollars monthly during the period of his basic training, and
upon the satisfactory completion of such training and
assignment to active duty, each such trooper shall
receive, during the remainder of his first year's service,
a salary of one thousand five hundred ninety dollars
monthly. During the second year of his service in the
department, each trooper shall receive an annual salary
of nineteen thousand four hundred seventy-six dollars;
during the third year of his service each such trooper
shall receive an annual salary of nineteen thousand eight
hundred dollars; and during the fourth and fifth year
of such trooper's service and for each year thereafter,
he shall receive an annual salary of twenty thousand
fifty-two dollars.

Each member of the department whose salary is fixed
and specified herein shall receive and be entitled to an
increase in salary over that hereinbefore set forth, for
grade in rank, based on length of service, including that
heretofore and hereafter served with the department as
follows: At the end of five years of service with the
department, such member shall receive a salary
increase of three hundred dollars to be effective during
his next three years of service and a like increase at
three-year intervals thereafter, with such increases to be
cumulative.

In applying the foregoing salary schedule where
salary increases are provided for length of service,
members of the department in service at the time this
article becomes effective shall be given credit for prior
service and shall be paid such salaries as the same
length of service will entitle them to receive under the
provisions hereof.

The Legislature finds and declares that there is
litigation pending in the circuit court of Kanawha
County on the question whether members of the
department of public safety are covered by the provi-
sions of the state wage and hour law, article five-c,
chapter twenty-one of this code. The Legislature further
finds and declares that because of the unique duties of
members of the department, it is not appropriate to
apply said wage and hour provisions to them. Accord-
ingly, members of the department of public safety are
hereby excluded from the provisions of said wage and hour law. The express exclusion hereby enacted shall not be construed as any indication that such members were or were not heretofore covered by said wage and hour law.

In lieu of any overtime pay they might otherwise have received under the wage and hour law, and in addition to their salaries and increases for length of service, members who have completed basic training may receive supplemental pay as hereinafter provided.

The superintendent shall, within thirty days after the effective date hereof, promulgate a rule or regulation to establish the number of hours per month which shall constitute the standard work month for the members of the department. Such rule or regulation shall further establish, on a graduated hourly basis, the criteria for receipt of a portion or all of such supplemental payment when hours are worked in excess of said standard work month. Such rule or regulation shall be promulgated pursuant to the provisions of chapter twenty-nine-a of this code. The superintendent shall certify monthly to the department's payroll officer the names of those members who have worked in excess of the standard work month and the amount of their entitlement to supplemental payment.

The supplemental payment shall be in an amount equal to one and one-half percent of the annual salary of a trooper during his second year of service, not to exceed two hundred twenty-five dollars monthly: Provided, That effective the first day of January, one thousand nine hundred ninety, said supplemental payment may be up to but not exceeding two hundred thirty-six dollars monthly. The superintendent and civilian employees of the department shall not be eligible for any such supplemental payments.

Each member of the department, except the superintendent and civilian employees, shall execute, before entering upon the discharge of his duties, a bond with security in the sum of five thousand dollars payable to the state of West Virginia, conditioned upon the faithful
Any member of the department who is called to perform active duty for training or inactive duty training in the national guard or any reserve component of the armed forces of the United States annually shall be granted upon request leave time not to exceed thirty calendar days for the purpose of performing such active duty for training or inactive duty training, and the time so granted shall not be deducted from any leave accumulated as a member of the department.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 1. GENERAL PROVISIONS.

§24-1-3. Commission continued; membership; chairman; compensation.

(a) The public service commission of West Virginia, heretofore established, is continued and directed as provided by this chapter, chapter twenty-four-a and chapter twenty-four-b. In addition, after having conducted a performance audit through its joint committee on government operations, pursuant to section nine, article ten, chapter four of this code, the Legislature hereby finds and declares that the public service commission should be continued and reestablished. Accordingly, notwithstanding the provisions of section four, article ten, chapter four of this code, the public service commission shall continue to exist until the first day of July, one thousand nine hundred ninety-two. The public service commission may sue and be sued by that name. Such public service commission shall consist of three members who shall be appointed by the governor with the advice and consent of the Senate. The commissioners shall be citizens and residents of this state and at least one of them shall be duly licensed to practice law in West Virginia, of not less than ten years’ actual experience at the bar. No more than two of said commissioners shall be members of the same political party. Each commissioner shall, before entering upon the duties of his office, take and subscribe to the oath
provided by section five, article IV of the constitution, which oath shall be filed in the office of the secretary of state. The governor shall designate one of the commissioners to serve as chairman at the governor's will and pleasure. The chairman shall be the chief administrative officer of the commission. The governor may remove any commissioner only for incompetency, neglect of duty, gross immorality, malfeasance in office or violation of subsection (c) of this section.

(b) The unexpired term of members of the public service commission at the time this subsection becomes effective are continued through the thirtieth day of June, one thousand nine hundred seventy-nine. In accordance with the provisions of subsection (a) of this section, the governor shall appoint three commissioners, one for a term of two years, one for a term of four years and one for a term of six years, all the terms beginning on the first day of July, one thousand nine hundred seventy-nine. All future appointments are for terms of six years, except that an appointment to fill a vacancy is for the unexpired term only. The commissioners whose terms are terminated by the provisions of this subsection are eligible for reappointment.

(c) No person while in the employ of, or holding any official relation to, any public utility subject to the provisions of this chapter, or holding any stocks or bonds thereof, or who is pecuniarily interested therein, may serve as a member of the commission or as an employee thereof. Nor may any such commissioner be a candidate for or hold public office, or be a member of any political committee, while acting as such commissioner; nor may any commissioner or employee of said commission receive any pass, free transportation or other thing of value, either directly or indirectly, from any public utility or motor carrier subject to the provisions of this chapter. In case any of the commissioners becomes a candidate for any public office or a member of any political committee, the governor shall remove him from office and shall appoint a new commissioner to fill the vacancy created.

(d) Effective the first day of July, one thousand nine
hundred eighty-four, and in light of the assignment of
new, substantial additional duties embracing new areas
and fields of activity under certain legislative enact-
ments, each commissioner shall receive a salary of
thirty-nine thousand two hundred forty dollars a year
to be paid in monthly installments from the special
funds in such amounts as follows:

(1) From the public service commission fund collected
under the provisions of section six, article three of this
chapter, thirty thousand two hundred ten dollars;

(2) From the public service commission motor carrier
fund collected under the provisions of section six, article
six, chapter twenty-four-a of this code, seven thousand
five hundred twenty-five dollars; and

(3) From the public service commission gas pipeline
safety fund collected under the provisions of section
three, article five, chapter twenty-four-b of this code,
one thousand five hundred five dollars.

In addition to this salary provided for all commision-
ers, the chairman of the commission shall receive three
thousand five hundred dollars a year to be paid in
monthly installments from the public service commis-
sion fund collected under the provisions of section six,
article three of this chapter, on and after the first day
of July, one thousand nine hundred eighty-four.

(e) Effective the first day of July, one thousand nine
hundred eighty-five, and in light of the assignment of
new, substantial additional duties embracing new areas
and fields of activity under certain legislative enact-
ments, each commissioner shall receive a salary of forty-
one thousand dollars a year to be paid in monthly
installments from the special funds in such amounts as
follows:

(1) From the public service commission fund collected
under the provisions of section six, article three of this
chapter, thirty-one thousand six hundred dollars;

(2) From the public service commission motor carrier
fund collected under the provisions of section six, article
six, chapter twenty-four-a of this code, seven thousand
nine hundred dollars; and

(3) From the public service commission gas pipeline safety fund collected under the provisions of section three, article five, chapter twenty-four-b of this code, one thousand five hundred dollars.

In addition to this salary provided for all commissioners, the chairman of the commission shall receive three thousand six hundred seventy-five dollars a year to be paid in monthly installments from the public service commission fund collected under the provisions of section six, article three of this chapter, on and after the first day of July, one thousand nine hundred eighty-five.

(f) Effective the first day of July, one thousand nine hundred eighty-eight, and in light of the assignment of new, substantial additional duties embracing new areas and fields of activity under certain legislative enactments, each commissioner shall receive a salary of forty-four thousand dollars a year to be paid in monthly installments from the special funds in such amounts as follows:

(1) From the public service commission fund collected under the provisions of section six, article three of this chapter, thirty-three thousand nine hundred dollars;

(2) From the public service commission motor carrier fund collected under the provisions of section six, article six, chapter twenty-four-a of this code, eight thousand five hundred dollars; and

(3) From the public service commission gas pipeline safety fund collected under the provisions of section three, article five, chapter twenty-four-b of this code, one thousand six hundred dollars.

In addition to this salary provided for all commissioners, the chairman of the commission shall receive three thousand six hundred seventy-five dollars a year to be paid in monthly installments from the public service commission fund collected under the provisions of section six, article three of this chapter, on and after the first day of July, one thousand nine hundred eighty-eight.
(g) Effective the first day of January, one thousand nine hundred ninety, each commissioner shall receive the salary set forth in section two-a, article seven, chapter six of this code to be paid in monthly installments from the special funds in such amounts as follows:

1. From the public service commission fund collected under the provisions of section six, article three of this chapter, thirty-five thousand five hundred ninety-five dollars;
2. From the public service commission motor carrier fund collected under the provisions of section six, article six, chapter twenty-four-a of this code, eight thousand nine hundred twenty-five dollars; and
3. From the public service commission gas pipeline safety fund collected under the provisions of section three, article five, chapter twenty-four-b of this code, one thousand six hundred eighty dollars.

In addition to this salary provided for all commissioners, the chairman of the commission shall receive three thousand eight hundred dollars a year to be paid in monthly installments from the public service commission fund collected under the provisions of section six, article three of this chapter, on and after the first day of January, one thousand nine hundred ninety.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-10a. Salary of justices.

1. The salary of each of the justices of the supreme court of appeals shall be fifty-five thousand dollars per year: Provided, That beginning the first day of January, one thousand nine hundred ninety, the salary of each of the justices of the supreme court shall be seventy-two thousand dollars per year.

ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.


1. The salaries of the judges of the various circuit courts
shall be paid solely out of the state treasury. No county, county commission, board of commissioners or other political subdivision shall supplement or add to such salaries.

The annual salary of all circuit judges shall be fifty thousand dollars per year: Provided, That beginning the first day of January, one thousand nine hundred ninety, the annual salary of all circuit judges shall be sixty-five thousand dollars per year.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick A. Moyer
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect from passage.

 Joel E. Bechh
Clerk of the Senate

Donald T. Yeap
Clerk of the House of Delegates

Larry T. McDonald
President of the Senate

Robert C. Cgar
Speaker of the House of Delegates

The within is approved this the 27th day of April, 1989.

Governor