

70. 233

**WEST VIRGINIA LEGISLATURE**

REGULAR SESSION, 1989



**ENROLLED**

*Committee Substitute for*  
**SENATE BILL NO. 233**

(By Senators *Kendall and Licht*)



**PASSED** *April 5,* 1989

In Effect *90 days from* Passage

RECEIVED  
1989 APR 14 PM 5:03  
OFFICE OF THE CLERK  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 233**

(SENATORS RUNDLE AND LUCHT, *original sponsors*)

---

[Passed April 5, 1989; in effect ninety days from passage.]

---

AN ACT to amend and reenact section eighteen, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to penalties for accepting money or other things of value for performing or failing to perform duties; contracting for the providing of extraordinary police or security services by the department; procedures; assignment of personnel, equipment or facilities by the superintendent; reimbursement therefor; payment of officer or member; contract to contain provisions relating to public disaster or emergency and reassignment of personnel; requiring provision for indemnity; and authorizing the superintendent to promulgate rules and regulations.

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

That section eighteen, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.**

**§15-2-18. Officers or members performing duties for private persons; general penalty; providing extraordinary police or security services by contract.**

1 (a) Any officer or member of the department of  
2 public safety who hires himself or herself to any  
3 person, firm or corporation to guard private property,  
4 or who demands or receives from any person, firm or  
5 corporation any money or other thing of value as a  
6 consideration for the performance of, or the failure to  
7 perform, his or her duties under the regulations of the  
8 superintendent and the provisions of this article, shall  
9 be guilty of a felony, and, upon conviction thereof,  
10 shall be confined in the penitentiary for not less than  
11 one nor more than five years, and any such officer or  
12 member of the department of public safety who  
13 violates any other provisions of this article, for which  
14 no other penalty is expressly provided, shall be guilty  
15 of a misdemeanor, and, upon conviction thereof, shall  
16 be fined not less than twenty-five dollars nor more  
17 than two hundred dollars, or imprisoned in the county  
18 jail for not more than four months, or both fined and  
19 imprisoned.

20 (b) Notwithstanding any other provision of this  
21 article, the superintendent may contract with public,  
22 quasi-public, military or private entities to provide  
23 extraordinary police or security services by the  
24 department when it is determined by the superinten-  
25 dent to be in the public interest. The superintendent  
26 shall assign such personnel, equipment or facilities as  
27 is deemed necessary and the department shall be  
28 reimbursed for the wages, overtime wages, benefits  
29 and costs of providing the contract services as  
30 negotiated between the parties. The compensation paid  
31 to public safety personnel by virtue of contracts  
32 provided for in this section shall be paid from a special  
33 account and shall be excluded from any formulation  
34 used to calculate an employee's benefits. All requests  
35 for obtaining extraordinary police or security services  
36 shall be made to the superintendent in writing and  
37 shall explain the funding source and the authority for

38 making such a request. No officer or member of the  
39 department shall be required to accept any assignment  
40 made pursuant to this subsection. Every officer or  
41 member assigned to duty hereunder shall be paid  
42 according to the hours and overtime hours actually  
43 worked notwithstanding that officer's or member's  
44 status as exempt personnel under the Federal Labor  
45 Standards Act or applicable state statutes. Every  
46 contract entered into under this subsection shall  
47 contain the provision that in the event of public  
48 disaster or emergency where the reassignment to  
49 official duty of all officers and members is required,  
50 neither the department nor any of its officers or  
51 members shall be liable for any damages incurred as  
52 the result of the reassignment. Further, any entity  
53 contracting with the department of public safety  
54 under this section shall also agree as part of that  
55 contract to hold harmless and indemnify the state,  
56 department of public safety and its personnel from  
57 any liability arising out of employment under the  
58 contract. The superintendent is authorized to promul-  
59 gate Legislative rules and regulations in accordance  
60 with chapter twenty-nine-a of this code relating to the  
61 implementation of any contracts made under this  
62 subsection: *Provided*, That said regulations shall  
63 expressly prohibit private employment of officers or  
64 members in circumstances involving labor disputes.

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

*Fredrick L. Foster*  
.....  
Chairman Senate Committee

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

Originated in the Senate.

In effect ninety days from passage.

*Judd C. White*  
.....  
Clerk of the Senate

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

*Lawrence J. Tompkins*  
.....  
President of the Senate

*Paul W. Clapper*  
.....  
Speaker House of Delegates

The within *is approved* this the *12<sup>th</sup>*  
day of *April* ..... 1989.

*Gaston Caperton*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/7/89

Time 5:12