WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

ENROLLED

Committee Substitute for
SENATE BILL NO. 233

(By Senators Kivell and Licht)

PASSED April 5, 1989
In Effect 90 days from Passage
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.

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

(b) Notwithstanding any other provision of this article, the superintendent may contract with public, quasi-public, military or private entities to provide extraordinary police or security services by the department when it is determined by the superintendent to be in the public interest. The superintendent shall assign such personnel, equipment or facilities as is deemed necessary and the department shall be reimbursed for the wages, overtime wages, benefits and costs of providing the contract services as negotiated between the parties. The compensation paid to public safety personnel by virtue of contracts provided for in this section shall be paid from a special account and shall be excluded from any formulation used to calculate an employee's benefits. All requests for obtaining extraordinary police or security services shall be made to the superintendent in writing and shall explain the funding source and the authority for
making such a request. No officer or member of the department shall be required to accept any assignment made pursuant to this subsection. Every officer or member assigned to duty hereunder shall be paid according to the hours and overtime hours actually worked notwithstanding that officer's or member's status as exempt personnel under the Federal Labor Standards Act or applicable state statutes. Every contract entered into under this subsection shall contain the provision that in the event of public disaster or emergency where the reassignment to official duty of all officers and members is required, neither the department nor any of its officers or members shall be liable for any damages incurred as the result of the reassignment. Further, any entity contracting with the department of public safety under this section shall also agree as part of that contract to hold harmless and indemnify the state, department of public safety and its personnel from any liability arising out of employment under the contract. The superintendent is authorized to promulgate Legislative rules and regulations in accordance with chapter twenty-nine-a of this code relating to the implementation of any contracts made under this subsection: Provided, That said regulations shall expressly prohibit private employment of officers or members in circumstances involving labor disputes.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within is approved this the [date] day of [month], 1989.

[Signature]
Governor