WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

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ENROLLED

HOUSE BILL No. 4690

(By Delegates White and M. Bunker)

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Passed March 10, 1990

In Effect July 1, 1990
AN ACT to repeal sections one-a and nine, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections four and five of said article, relating to the department of public safety; providing for classification of members; requiring superintendent to establish a system of classification and promotion within the department and authorizing superintendent to promulgate rules for such system; creating salary schedule for members; increasing salaries of members, and repealing certain other provisions dealing with rank restructuring, promotion and promotion evaluation.

Be it enacted by the Legislature of West Virginia:

That sections one-a and nine, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that sections four and five of said article be amended and reenacted to read as follows:

ARTICLE 2. DIVISION OF PUBLIC SAFETY.

§15-2-4. Appointment of commissioned officers, noncommissioned officers, other members; temporary and permanent positions.

The superintendent shall appoint, from the enlisted membership of the department, a deputy superintendent who shall hold the rank of lieutenant colonel and be next in authority to the superintendent. The superintendent
shall appoint, from the enlisted membership of the department, the number of other officers and members he deems necessary to operate and maintain the executive offices, training school, scientific laboratory, keep records relating to crimes and criminals, coordinate traffic safety activities, maintain a system of supplies and accounting and perform other necessary services.

The ranks within the membership of the department shall be colonel, lieutenant colonel, major, captain, first lieutenant, second lieutenant, first sergeant, sergeant, corporal, trooper first class, senior trooper or trooper. Each such member while in uniform shall wear the insignia of rank as provided by law and departmental regulations.

The superintendent may appoint from the membership of the department eleven principal supervisors who shall receive the compensation and hold the temporary rank of lieutenant colonel, major or captain at the will and pleasure of the superintendent. Such appointments shall be exempt from any eligibility requirements established by the career progression system. Any person appointed to a temporary rank under the provisions of this article shall retain his permanent rank or classification and shall remain eligible for promotion or reclassification if his permanent rank is below that of captain. Upon the termination of a temporary appointment by the superintendent, the member shall be entitled to the full rights and privileges of his permanent rank or classification and shall remain eligible for subsequent appointment to a temporary rank.

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

The superintendent shall establish within the department of public safety a system to provide for: The promotion of members to the supervisory ranks of sergeant, first sergeant, second lieutenant and first
lieutenant; the classification of nonsupervisory members within the field operations force to the ranks of trooper, senior trooper, trooper first class or corporal; the classification of members assigned to the forensic laboratory as criminalist I-VII; and the temporary reclassification of members assigned to administrative duties as administrative support specialist I-VIII.

The superintendent shall, only in the initial implementation of this section, reclassify nonsupervisory members without benefit or requirement of a promotional or reclassification system as long as those reclassified meet the longevity requirements for advancement as follows: Trooper—less than three years; senior trooper—three years to eight years; trooper first class—nine years to fourteen years; corporal—more than fourteen years.

The superintendent is authorized to promulgate legislative rules in accordance with chapter twenty-nine-a of this code for the purpose of ensuring consistency, predictability and independent review of any system developed under the provisions of this section.

The superintendent shall provide to each member a written manual governing any system established under the provisions of this section and specific procedures shall be identified for the evaluation and testing of members for promotion or reclassification and the subsequent placement of any members on a promotional eligibility or reclassification recommendation list.

Members shall receive annual salaries as follows:

ANNUAL SALARY SCHEDULE (BASE PAY)

<table>
<thead>
<tr>
<th>Rank</th>
<th>Annual Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cadet During Training</td>
<td>$1,600 Mo.</td>
</tr>
<tr>
<td>Cadet Trooper After Training</td>
<td>$1,715 Mo.</td>
</tr>
<tr>
<td>Trooper Second Year</td>
<td>$20,976</td>
</tr>
<tr>
<td>Trooper Third Year</td>
<td>$21,300</td>
</tr>
<tr>
<td>Trooper Fourth &amp; Fifth Year</td>
<td>$21,552</td>
</tr>
<tr>
<td>Senior Trooper</td>
<td>$23,352</td>
</tr>
<tr>
<td>Trooper First Class</td>
<td>$25,152</td>
</tr>
<tr>
<td>Corporal</td>
<td>$26,952</td>
</tr>
<tr>
<td>Sergeant</td>
<td>$30,552</td>
</tr>
</tbody>
</table>
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44 First Sergeant.......................... 32,352
45 Second Lieutenant....................... 34,152
46 First Lieutenant......................... 35,952
47 Captain................................. 37,752
48 Major.................................. 39,552
49 Lieutenant Colonel...................... 41,352

ANNUAL SALARY SCHEDULE (BASE PAY)
ADMINISTRATION
SUPPORT SPECIALIST CLASSIFICATION

53 I........................................... 21,552
54 II.......................................... 23,352
55 III........................................ 25,152
56 IV.......................................... 26,952
57 V.......................................... 30,552
58 VI.......................................... 32,352
59 VII........................................ 34,152
60 VIII...................................... 35,952

ANNUAL SALARY SCHEDULE (BASE PAY)
CRIMINALIST CLASSIFICATION

63 I........................................... 21,552
64 II.......................................... 23,352
65 III........................................ 25,152
66 IV.......................................... 26,952
67 V.......................................... 30,552
68 VI.......................................... 32,352
69 VII........................................ 34,152

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 because of the
unique duties of members of the department, it is not
appropriate to apply the provisions of state wage and
hour laws to them. Accordingly, members of the
department of public safety are hereby excluded from
the provisions of state wage and hour law. The express
exclusion hereby enacted shall not be construed as any
indication that such members were or were not here-
tofofore 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 and who
are exempt from Federal Fair Labor Standards Act
guidelines may receive supplemental pay as hereinafter
provided.

The superintendent shall, within thirty days after the
effective date hereof, promulgate a rule to establish the
number of hours per month which shall constitute the
standard work month for the members of the depart-
ment. The rule 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. The rule 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 not exceed 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 superin-
tendent 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 performance of his or her duties, and such bond shall be approved as to form by the attorney general and to sufficiency by the governor.

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

Frederick L. Pipers
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect July 1, 1990.

Donald J. Kopp
Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 3rd day of March, 1990.

Governor