

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



# ENROLLED

HOUSE BILL No. 4690

(By ~~the~~ Delegates White + M. Burke)



Passed March 10, 1990

In Effect July 1, 1990 ~~Passage~~

**ENROLLED**  
**H. B. 4690**

(By DELEGATES WHITE AND M. BURKE)

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nine, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that sections four and five of said article be amended and reenacted to read as follows: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

- 1 The superintendent shall appoint, from the enlisted
- 2 membership of the department, a deputy superintendent
- 3 who shall hold the rank of lieutenant colonel and be next
- 4 in authority to the superintendent. The superintendent

5 shall appoint, from the enlisted membership of the  
6 department, the number of other officers and members  
7 he deems necessary to operate and maintain the  
8 executive offices, training school, scientific laboratory,  
9 keep records relating to crimes and criminals, coordi-  
10 nate traffic safety activities, maintain a system of  
11 supplies and accounting and perform other necessary  
12 services.

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

20 The superintendent may appoint from the member-  
21 ship of the department eleven principal supervisors who  
22 shall receive the compensation and hold the temporary  
23 rank of lieutenant colonel, major or captain at the will  
24 and pleasure of the superintendent. Such appointments  
25 shall be exempt from any eligibility requirements  
26 established by the career progression system. Any  
27 person appointed to a temporary rank under the  
28 provisions of this article shall retain his permanent rank  
29 or classification and shall remain eligible for promotion  
30 or reclassification if his permanent rank is below that  
31 of captain. Upon the termination of a temporary  
32 appointment by the superintendent, the member shall  
33 be entitled to the full rights and privileges of his  
34 permanent rank or classification and shall remain  
35 eligible for subsequent appointment to a temporary  
36 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.**

1 The superintendent shall establish within the depart-  
2 ment of public safety a system to provide for: The  
3 promotion of members to the supervisory ranks of  
4 sergeant, first sergeant, second lieutenant and first

5 lieutenant; the classification of nonsupervisory members  
 6 within the field operations force to the ranks of trooper,  
 7 senior trooper, trooper first class or corporal; the  
 8 classification of members assigned to the forensic  
 9 laboratory as criminalist I-VII; and the temporary  
 10 reclassification of members assigned to administrative  
 11 duties as administrative support specialist I-VIII.

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

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

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

32 Members shall receive annual salaries as follows:

33 ANNUAL SALARY SCHEDULE (BASE PAY)  
 34 SUPERVISORY AND NONSUPERVISORY RANKS

35	Cadet During Training . . . . .	\$1,600 Mo.	\$19,200
36	Cadet Trooper After Training	\$1,715 Mo.	20,580
37	Trooper Second Year . . . . .		20,976
38	Trooper Third Year . . . . .		21,300
39	Trooper Fourth & Fifth Year . . . . .		21,552
40	Senior Trooper . . . . .		23,352
41	Trooper First Class . . . . .		25,152
42	Corporal . . . . .		26,952
43	Sergeant . . . . .		30,552

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

50 ANNUAL SALARY SCHEDULE (BASE PAY)  
 51 ADMINISTRATION  
 52 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

61 ANNUAL SALARY SCHEDULE (BASE PAY)  
 62 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

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

81 In applying the foregoing salary schedule where  
 82 salary increases are provided for length of service,

83 members of the department in service at the time this  
84 article becomes effective shall be given credit for prior  
85 service and shall be paid such salaries as the same  
86 length of service will entitle them to receive under the  
87 provisions hereof.

88 The Legislature finds and declares that because of the  
89 unique duties of members of the department, it is not  
90 appropriate to apply the provisions of state wage and  
91 hour laws to them. Accordingly, members of the  
92 department of public safety are hereby excluded from  
93 the provisions of state wage and hour law. The express  
94 exclusion hereby enacted shall not be construed as any  
95 indication that such members were or were not here-  
96 tofore covered by said wage and hour law.

97 In lieu of any overtime pay they might otherwise have  
98 received under the wage and hour law, and in addition  
99 to their salaries and increases for length of service,  
100 members who have completed basic training and who  
101 are exempt from Federal Fair Labor Standards Act  
102 guidelines may receive supplemental pay as hereinafter  
103 provided.

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

118 The supplemental payment shall not exceed two  
119 hundred thirty-six dollars monthly. The superintendent  
120 and civilian employees of the department shall not be  
121 eligible for any such supplemental payments.

122 Each member of the department, except the superin-

123 tendent and civilian employees, shall execute, before  
124 entering upon the discharge of his duties, a bond with  
125 security in the sum of five thousand dollars payable to  
126 the state of West Virginia, conditioned upon the faithful  
127 performance of his or her duties, and such bond shall  
128 be approved as to form by the attorney general and to  
129 sufficiency by the governor.

130 Any member of the department who is called to  
131 perform active duty for training or inactive duty  
132 training in the national guard or any reserve component  
133 of the armed forces of the United States annually shall  
134 be granted upon request leave time not to exceed thirty  
135 calendar days for the purpose of performing such active  
136 duty for training or inactive duty training, and the time  
137 so granted shall not be deducted from any leave  
138 accumulated as a member of the department.

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

*Fredrick Z. Perser*  
Chairman Senate Committee

*Bernard V. Kelly*  
Chairman House Committee

Originating in the House.

Takes effect July 1, 1990.

*Paul E. Nelson*  
Clerk of the Senate

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

*Keen Sandtelle*  
President of the Senate

*Bob Call*  
Speaker of the House of Delegates

The within is approved this the 30<sup>th</sup> day of March, 1990.

*Gaston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/90

Time 3:58 pm

RECEIVED

1530 MAR 30 PM 5:04

OFFICE OF THE ATTORNEY  
GENERAL