WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

ENROLLED

Committee Substitute for

SENATE BILL NO. 395

(By Senator Buckhew)

PASSED March 9, 1995
In Effect 90 days from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 399

(SENATOR BUCKALEW, original sponsor)

[Passed March 9, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact section twelve, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to mission of the division of public safety; powers of the superintendent, officers and members; patrol of turnpike; sale of surplus property; and use of generated funds.

Be it enacted by the Legislature of West Virginia:

That section twelve, 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. DIVISION OF PUBLIC SAFETY.

§15-2-12. Mission of the division; powers of superintendent, officers and members; patrol of turnpike.

1 (a) The West Virginia division of public safety shall have the mission of statewide enforcement of criminal and traffic laws with emphasis on providing basic enforcement and citizen protection from criminal
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5 depredation throughout the state and maintaining the safety of the state's public streets, roads and highways.

7 (b) The superintendent and each of the officers and members of the division are hereby empowered:

9 (1) To make arrests anywhere within the state of any persons charged with the violation of any law of this state, or of the United States, and when a witness to the perpetration of any offense or crime, or to the violation of any law of this state, or of the United States, to make arrests without warrant; to arrest and detain any persons suspected of the commission of any felony or misdemeanor whenever a complaint is made and a warrant is issued thereon for the arrest, and the person arrested shall be immediately brought before the proper tribunal for examination and trial in the county where the offense for which the arrest has been made was committed;

21 (2) To serve criminal process issued by any court or magistrate anywhere within this state: Provided, That they may not serve civil process; and

24 (3) To cooperate with local authorities in detecting crime and in apprehending any person or persons engaged in or suspected of the commission of any crime, misdemeanor or offense against the law of this state, or of the United States, or of any ordinance of any municipality in this state; and to take affidavits in connection with any application to the division of highways, division of motor vehicles and division of public safety of West Virginia for any license, permit or certificate that may be lawfully issued by these divisions of state government.

34 (c) Members of the division of public safety are hereby designated as forest patrolmen and game and fish wardens throughout the state to do and perform any duties and exercise any powers of forest patrolmen and game and fish wardens, and may apprehend and bring before any court or magistrate having jurisdiction of these matters, anyone violating any of the provisions of
chapters twenty, sixty and sixty-one of this code. The division of public safety is at any time subject to the call of the West Virginia alcohol beverage control commissioner to aid in apprehending any person violating any of the provisions of chapter sixty of this code. They shall serve and execute warrants for the arrest of any person and warrants for the search of any premises issued by any properly constituted authority, and shall exercise all of the powers conferred by law upon a sheriff. They may not serve any civil process or exercise any of the powers of such officer in civil matters.

(d) Any member of the division of public safety knowing or having reason to believe that any person has violated the law may make complaint in writing before any court or officer having jurisdiction and procure a warrant for the offender, execute the warrant and bring the person before the proper tribunal having jurisdiction. The member shall make return on all warrants to the tribunals and his or her official title shall be “member of the division of public safety”. Members of the division of public safety may execute any summons or process issued by any tribunal having jurisdiction requiring the attendance of any person as a witness before the tribunal and make return thereon as provided by law. Any return by a member of the division of public safety showing the manner of executing the warrant or process has the same force and effect as if made by a sheriff.

(e) Each member of the division of public safety, when called by the sheriff of any county, or when directed by the governor by proclamation, has full power and authority within the county, or within the territory defined by the governor, to direct and command absolutely the assistance of any sheriff, deputy sheriff, chief of police, policeman, game and fish warden and peace officer of the state, or of any county or municipality therein, or of any able-bodied citizen of the United States, to assist and aid in accomplishing the purposes
expressed in this article. When called, any officer or person is, during the time his or her assistance is required, for all purposes a member of the division of public safety and subject to all the provisions of this article.

(f) The superintendent may also assign members of the division to perform police duties on any turnpike or toll road, or any section of any turnpike or toll road, operated by the West Virginia parkways, economic development and tourism authority: Provided, That the authority shall reimburse the division of public safety for salaries paid to the members and shall either pay directly or reimburse the division for all other expenses of the group of members in accordance with actual or estimated costs determined by the superintendent.

(g) The division of public safety may develop proposals for a comprehensive county or multicounty plan on the implementation of an enhanced emergency service telephone system and may cause a public meeting on the proposals, all as set forth in section six-a, article six, chapter twenty-four of this code.

(h) The superintendent may also assign members of the division to administer tests for the issuance of commercial drivers' licenses, operator and junior operator licenses as provided for in section seven, article two, chapter seventeen-b of this code: Provided, That the division of motor vehicles shall reimburse the division of public safety for salaries and employee benefits paid to the members, and shall either pay directly or reimburse the division for all other expenses of the group of members in accordance with actual costs determined by the superintendent.

(i) The superintendent shall be reimbursed by the division of motor vehicles for salaries and employee benefits paid to members of the division of public safety and shall either be paid directly or reimbursed by the division of motor vehicles for all other expenses of the
group of members in accordance with actual costs
determined by the superintendent, for services per-
formed by the members relating to the duties and
obligations of the division of motor vehicles set forth in
chapters seventeen, seventeen-a, seventeen-b, seventeen-
c and seventeen-d of this code.

(j) By the first day of July, one thousand nine hundred
ninety-three, the superintendent shall establish a
network to implement reports of the disappearance of
children by local law-enforcement agencies to local
school division superintendents and the state registrar of
vital statistics. The network shall be designed to estab-
lish cooperative arrangements between local law-en-
forcement agencies and local school divisions concerning
reports of missing children and notices to law-enforce-
ment agencies of requests for copies of the cumulative
records and birth certificates of missing children. The
network shall also establish a mechanism for reporting
the identities of all missing children to the state registrar
of vital statistics.

(k) The superintendent may at his or her discretion and
upon the written request of the West Virginia alcohol
beverage control commissioner assist the commissioner
in the coordination and enforcement of article sixteen,
chapter eleven of this code and chapter sixty of this
code.

(l) Notwithstanding the provisions of article one-a,
chapter twenty of this code, the superintendent of the
division of public safety may sell any surplus real
property to which the division of public safety or its
predecessors retain title, and deposit the net proceeds
into a special revenue account to be utilized for the
purchase of additional real property and for repairs to or
construction of detachment offices or other facilities
required by the division of public safety. There is hereby
created a special revolving fund in the state treasury
which shall be designated as the “surplus real property
The fund shall consist of all money received from the sale of surplus real property owned by the division of public safety. Moneys deposited in the fund shall only be available for expenditure upon appropriation by the Legislature. Provided, That amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this subsection may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature.

(m) Notwithstanding any other provision of this code, the agency for surplus property is hereby empowered to transfer funds generated from the sale of vehicles, other equipment and commodities belonging to the division of public safety to a special revenue account within the division of public safety entitled the division of public safety surplus transfer account. Moneys deposited in the fund shall only be available for expenditure upon appropriation by the Legislature. Provided, That amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this subsection may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. Any funds transferred to this account may be utilized by the superintendent to defray the cost of normal operating needs of the division.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 21st day of March, 1995.

Governor