WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1998

ENROLLED

SENATE BILL NO. 239

(By Senator Wooton, et al)

PASSED February 20, 1998
In Effect Ninety Days From Passage
ENROLLED

Senate Bill No. 239

(By Senators Wooton, Ball, Bowman, Dittmar, Fanning, Hunter, Kessler, Oliverio, Ross, Schoonover, Snyder, White, Buckalew, Deem, Kimble and Scott)

[Passed February 20, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article four, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to establishment of the prosecuting attorneys institute; establishing the executive counsel; creating the position of executive director; establishing duties of institute and personnel; establishing dues structure for counties; and limitations on scope of lobbying activities.

Be it enacted by the Legislature of West Virginia:

That section six, article four, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 4. PROSECUTING ATTORNEY, REWARDS AND LEGAL ADVICE.

§7-4-6. West Virginia prosecuting attorneys institute.

(a) There is hereby created the West Virginia prosecuting attorneys institute, a public body whose membership shall consist of the fifty-five elected county prosecuting attorneys in the state. The institute shall meet at least once each calendar year and the presence of twenty-eight of the fifty-five prosecutors at any meeting constitutes a quorum for the conduct of the institute's business.

(b) There is hereby created the executive council of the West Virginia prosecuting attorneys institute which shall consist of five prosecuting attorneys elected by the membership of the West Virginia prosecuting attorneys institute at its annual meeting and two persons appointed annually by the county commissioner's association of West Virginia. The executive council shall elect one member of the council to serve as chairman of the institute for a term of one year without compensation. The executive council shall serve as the regular executive body of the institute.

(c) There is hereby created the position of executive director of the West Virginia prosecuting attorneys institute to be employed by the executive council of the institute. The executive director of the West Virginia prosecuting attorneys institute shall serve at the will and pleasure of the executive council of the institute at an annual salary of fifty thousand dollars per year. The executive director shall be licensed to practice law in the state of West Virginia and shall devote full time to his or her official duties and may not engage in the private practice of law.

(d) The duties and responsibilities of the institute, as implemented by and through its executive council and its executive director, shall include the following:

(1) To provide for special prosecuting attorneys to pursue a criminal matter in any county upon the request
of a circuit court judge of that county and upon the approval of the executive council;

(2) To establish and to implement general and specialized training programs for prosecuting attorneys and their professional staffs;

(3) To provide materials for prosecuting attorneys and their professional staffs, including legal research, technical assistance and technical and professional publications;

(4) To compile and disseminate information on behalf of prosecuting attorneys and their professional staffs on current developments and changes in the law and the administration of criminal justice;

(5) To establish and to implement uniform reporting procedures for prosecuting attorneys and their professional staffs in order to maintain and to provide accurate and timely data and information relative to criminal prosecutorial matters;

(6) To accept and expend funds, grants and gifts and accept services from any public or private source;

(7) To enter into agreements and contracts with public or private agencies or educational institutions;

(8) To identify experts and other resources for use by prosecutors in criminal matters;

(9) To make recommendations to the Legislature or the supreme court of appeals of the state of West Virginia on measures required, or procedural rules to be promulgated, to make uniform the processing of juvenile cases in the fifty-five counties of the state; and

(10) To develop a written handbook for prosecutors and their assistants to use which delineates relevant information concerning the elements of various crimes in West Virginia and other information as the institute deems appropriate.
(e) Each prosecuting attorney is subject to appointment by the institute to serve as a special prosecuting attorney in any county where the prosecutor for that county or his or her office has been disqualified from participating in a particular criminal case. The circuit judge of any county of this state, who disqualifies the prosecutor or his or her office from participating in a particular criminal case in that county, shall seek the appointment by the institute of a special prosecuting attorney to substitute for the disqualified prosecutor. The executive director of the institute shall, upon written request to the institute by any circuit judge as a result of disqualification of the prosecutor or for other good cause shown, and upon approval of the executive council, appoint a prosecuting attorney to serve as a special prosecuting attorney. The special prosecuting attorney appointed shall serve without any further compensation other than that paid to him or her by his or her county, except that he or she is entitled to be reimbursed for his or her legitimate expenses associated with travel, mileage and room and board from the county to which he or she is appointed as a prosecutor. The county commission in which county he or she is special prosecutor is responsible for all expenses associated with the prosecution of the criminal action.

(f) The executive director of the institute shall maintain an appointment list that shall include the names of all fifty-five prosecuting attorneys and that shall also include the names of any assistant prosecuting attorney who wishes to serve as a special prosecuting attorney upon the same terms and conditions as set forth in this section. The executive director of the institute, with the approval of the executive council, shall appoint special prosecuting attorneys from the appointment list for any particular matter giving due consideration to the proximity of the proposed special prosecuting attorney's home county to the county requesting a special prosecutor and giving due consideration to the expertise of the special prosecuting
Commencing on the first day of July, one thousand nine hundred ninety-six, each county commission shall pay, on a monthly basis, a special prosecution premium to the treasurer of the state for the funding of the West Virginia prosecuting attorneys institute. The monthly premiums shall be paid according to the following schedule:

**MONTHLY PREMIUMS**

<table>
<thead>
<tr>
<th>Category</th>
<th>Minimum Assessed Valuation of Property of All Classes in the County</th>
<th>Maximum</th>
<th>Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>$1,500,000,000</td>
<td>Unlimited</td>
<td>$400</td>
</tr>
<tr>
<td>B</td>
<td>$1,000,000,000</td>
<td>$1,499,999,000</td>
<td>$375</td>
</tr>
<tr>
<td>C</td>
<td>$ 800,000,000</td>
<td>$ 999,999,000</td>
<td>$350</td>
</tr>
<tr>
<td>D</td>
<td>$ 700,000,000</td>
<td>$ 799,999,000</td>
<td>$325</td>
</tr>
<tr>
<td>E</td>
<td>$ 600,000,000</td>
<td>$ 699,999,000</td>
<td>$300</td>
</tr>
<tr>
<td>F</td>
<td>$ 500,000,000</td>
<td>$ 599,999,000</td>
<td>$250</td>
</tr>
<tr>
<td>G</td>
<td>$ 400,000,000</td>
<td>$ 499,999,000</td>
<td>$200</td>
</tr>
<tr>
<td>H</td>
<td>$ 300,000,000</td>
<td>$ 399,999,000</td>
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</tr>
<tr>
<td>I</td>
<td>$ 200,000,000</td>
<td>$ 299,999,000</td>
<td>$100</td>
</tr>
<tr>
<td>J</td>
<td>-0-</td>
<td>$ 199,999,000</td>
<td>$ 50</td>
</tr>
</tbody>
</table>

Upon receipt of a premium, the treasurer shall deposit the premium into a special revenue fund to be known as the “West Virginia Prosecuting Attorneys Institute Fund”. All costs of operating the West Virginia prosecuting attorneys institute shall be paid from the West Virginia prosecuting attorneys institute fund upon proper authorization by the executive council or by the executive director of the institute and subject to annual appropriation by the Legislature of the amounts contained within the fund.

The West Virginia prosecuting attorneys institute shall continue to exist until the first day of July, two
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138 thousand one, unless continued by an act of the Legislature. The institute shall annually by the first day of the
139 regular legislative session provide the joint committee on
140 government and finance with a report setting forth the
141 activities of the institute and suggestions for legislative
142 action.
143
144 (i) Neither the institute nor its employees acting in their
145 employment capacity shall engage in activities before
146 governmental bodies which advocate positions on issues
147 other than those issues consistent with the duties of the
148 institute set forth in subsection (d) of this section.
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 .................................. this the ................................

day of .................................., 1998.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/2/98
Time 3:11 PM