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STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 601

(By Senator KESSLER, ET AL)



PASSED MARCH 13, 1999
In Effect NINETY DAYS FROM Passage

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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 601

(SENATORS KESSLER, MITCHELL AND CHAFIN, *original sponsors*)

[Passed March 13, 1999; 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 the West Virginia prosecuting attorneys institute generally; increasing the salary of the executive director of the West Virginia prosecuting attorneys institute; and permitting the deposit of monies from grants, reimbursements or other funding sources into the West Virginia prosecuting attorneys institute fund.

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.

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

8 (b) There is hereby created the executive council of the
9 West Virginia prosecuting attorneys institute which shall
10 consist of five prosecuting attorneys elected by the mem-
11 bership of the West Virginia prosecuting attorneys insti-
12 tute at its annual meeting and two persons appointed
13 annually by the county commissioner's association of West
14 Virginia. The executive council shall elect one member of
15 the council to serve as chairman of the institute for a term
16 of one year without compensation. The executive council
17 shall serve as the regular executive body of the institute.

18 (c) There is hereby created the position of executive
19 director of the West Virginia prosecuting attorneys
20 institute to be employed by the executive council of the
21 institute. The executive director of the West Virginia
22 prosecuting attorneys institute shall serve at the will and
23 pleasure of the executive council of the institute at an
24 annual salary of fifty thousand dollars per year: Begin-
25 ning the first day of July, one thousand nine hundred
26 ninety-nine, the executive director shall receive an annual
27 salary of fifty-five thousand dollars. The executive
28 director shall be licensed to practice law in the state of
29 West Virginia and shall devote full time to his or her
30 official duties and may not engage in the private practice
31 of law.

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

35 (1) To provide for special prosecuting attorneys to pursue
36 a criminal matter in any county upon the request of a

37 circuit court judge of that county and upon the approval
38 of the executive council;

39 (2) To establish and to implement general and special-
40 ized training programs for prosecuting attorneys and their
41 professional staffs;

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

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

49 (5) To establish and to implement uniform reporting
50 procedures for prosecuting attorneys and their profes-
51 sional staffs in order to maintain and to provide accurate
52 and timely data and information relative to criminal
53 prosecutorial matters;

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

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

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

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

65 (10) To develop a written handbook for prosecutors and
66 their assistants to use which delineates relevant informa-
67 tion concerning the elements of various crimes in West
68 Virginia and other information as the institute deems
69 appropriate.

70 (e) Each prosecuting attorney is subject to appointment
71 by the institute to serve as a special prosecuting attorney
72 in any county where the prosecutor for that county or his

73 or her office has been disqualified from participating in a
74 particular criminal case. The circuit judge of any county
75 of this state, who disqualifies the prosecutor or his or her
76 office from participating in a particular criminal case in
77 that county, shall seek the appointment by the institute of
78 a special prosecuting attorney to substitute for the dis-
79 qualified prosecutor. The executive director of the insti-
80 tute shall, upon written request to the institute by any
81 circuit judge as a result of disqualification of the prosecu-
82 tor or for other good cause shown, and upon approval of
83 the executive council, appoint a prosecuting attorney to
84 serve as a special prosecuting attorney. The special
85 prosecuting attorney appointed shall serve without any
86 further compensation other than that paid to him or her by
87 his or her county, except that he or she is entitled to be
88 reimbursed for his or her legitimate expenses associated
89 with travel, mileage and room and board from the county
90 to which he or she is appointed as a prosecutor. The
91 county commission in which county he or she is special
92 prosecutor is responsible for all expenses associated with
93 the prosecution of the criminal action.

94 (f) The executive director of the institute shall maintain
95 an appointment list that shall include the names of all
96 fifty-five prosecuting attorneys and that shall also include
97 the names of any assistant prosecuting attorney who
98 wishes to serve as a special prosecuting attorney upon the
99 same terms and conditions as set forth in this section. The
100 executive director of the institute, with the approval of the
101 executive council, shall appoint special prosecuting
102 attorneys from the appointment list for any particular
103 matter giving due consideration to the proximity of the
104 proposed special prosecuting attorney's home county to
105 the county requesting a special prosecutor and giving due
106 consideration to the expertise of the special prosecuting
107 attorney.

108 (g) Commencing on the first day of July, one thousand
109 nine hundred ninety-six, each county commission shall
110 pay, on a monthly basis, a special prosecution premium to
111 the treasurer of the state for the funding of the West
112 Virginia prosecuting attorneys institute. The monthly

113 premiums shall be paid according to the following schedule:

114 **MONTHLY PREMIUMS**

115 Assessed Valuation of Property

116 of All Classes in the County

117 Category	Minimum	Maximum	Premium
118 A	\$1,500,000,000	Unlimited	\$400
119 B	\$1,000,000,000	\$1,499,999,000	\$375
120 C	\$ 800,000,000	\$ 999,999,000	\$350
121 D	\$ 700,000,000	\$ 799,999,000	\$325
122 E	\$ 600,000,000	\$ 699,999,000	\$300
123 F	\$ 500,000,000	\$ 599,999,000	\$250
124 G	\$ 400,000,000	\$ 499,999,000	\$200
125 H	\$ 300,000,000	\$ 399,999,000	\$150
126 I	\$ 200,000,000	\$ 299,999,000	\$100
127 J	-0-	\$ 199,999,000	\$ 50

128 Upon receipt of a premium, grant, reimbursement or
 129 other funding source, excluding federal funds as provided
 130 in article two, chapter four of this code, the treasurer shall
 131 deposit the funds into a special revenue fund to be known
 132 as the "West Virginia prosecuting attorneys institute
 133 fund". All costs of operating the West Virginia prosecut-
 134 ing attorneys institute shall be paid from the West Virginia
 135 prosecuting attorneys institute fund upon proper authori-
 136 zation by the executive council or by the executive director
 137 of the institute and subject to annual appropriation by the
 138 Legislature of the amounts contained within the fund.

139 (h) The West Virginia prosecuting attorneys institute
 140 shall continue to exist until the first day of July, two
 141 thousand one, unless continued by an act of the Legisla-
 142 ture. The institute shall annually by the first day of the
 143 regular legislative session provide the joint committee on
 144 government and finance with a report setting forth the

145 activities of the institute and suggestions for legislative
146 action.

147 (i) Neither the institute nor its employees acting in their
148 employment capacity shall engage in activities before
149 governmental bodies which advocate positions on issues
150 other than those issues consistent with the duties of the
151 institute set forth in subsection (d) of this section.

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

Randy Johnson
.....
Chairman Senate Committee

John F. Smith
.....
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Russell Johnson
.....
Clerk of the Senate

Gregory W. Boy
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

John
.....
Speaker House of Delegates

The within.....*approved*..... this the *2nd*
Day of.....*April*....., 1999

Jeff Anderson
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/99

Time 10:54 am