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
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.

(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: Beginning the first day of July, one thousand nine hundred ninety-nine, the executive director shall receive an annual salary of fifty-five thousand dollars. 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
(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 dis-
qualified prosecutor. The executive director of the insti-
tute shall, upon written request to the institute by any
circuit judge as a result of disqualification of the prosecu-
tor 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
attorney.

(g) 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
MONTHLY PREMIUMS

Assessed Valuation of Property

of All Classes in the County

<table>
<thead>
<tr>
<th>Category</th>
<th>Minimum</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>
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<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>
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<tr>
<td>I</td>
<td>$200,000,000</td>
<td>$299,999,000</td>
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</tr>
<tr>
<td>J</td>
<td>-0-</td>
<td>$199,999,000</td>
<td>$50</td>
</tr>
</tbody>
</table>

Upon receipt of a premium, grant, reimbursement or other funding source, excluding federal funds as provided in article two, chapter four of this code, the treasurer shall deposit the funds 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.

(h) The West Virginia prosecuting attorneys institute shall continue to exist until the first day of July, two thousand one, unless continued by an act of the Legislature. The institute shall annually by the first day of the regular legislative session provide the joint committee on government and finance with a report setting forth the
activities of the institute and suggestions for legislative action.

(i) Neither the institute nor its employees acting in their employment capacity shall engage in activities before governmental bodies which advocate positions on issues other than those issues consistent with the duties of the 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

Originating 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.................................................., 1999

Governor