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SENATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003



# ENROLLED

## COMMITTEE SUBSTITUTE FOR House Bill No. 2799

(By Delegates Amores, Faircloth, Delong, Pino, Smirl, Stemple and Webster)



Passed March 8, 2003

In Effect from Passage

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**E N R O L L E D**

COMMITTEE SUBSTITUTE

FOR

**H. B. 2799**

(BY DELEGATES AMORES, FAIRCLOTH, DELONG, PINO,  
SMIRL, STEMPLE AND WEBSTER)

[Passed March 8, 2003; in effect from passage.]

AN ACT to amend article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fifty-one, relating to the West Virginia state police and the reemployment of recently retired troopers.

*Be it enacted by the Legislature of West Virginia:*

That article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section fifty-one, to read as follows:

**ARTICLE 2. WEST VIRGINIA STATE POLICE.**

**§15-2-51. State police reemployment.**

1 (a) The Legislature finds:

2 (1) That the West Virginia state police is currently suffering  
3 from an unacceptably high number of vacant trooper positions,  
4 and that given the time factors and expense associated with the  
5 hiring and training of personnel with no prior law-enforcement  
6 experience, it is in the interest of the state to reemploy recently  
7 retired troopers in order to fill vacant positions;

8 (2) That no pension rights of any kind shall accrue or attach  
9 pursuant to reemployment under this section;

10 (3) That the state police shall bear no responsibility for  
11 medical payments for work related injuries or illnesses of  
12 employees hired pursuant to this section, other than those  
13 commonly associated with state employees covered by work-  
14 ers' compensation.

15 (b) Notwithstanding any provision of this code to the  
16 contrary, any member of the West Virginia state police honor-  
17 ably retired pursuant to the provisions of section twenty-seven  
18 of this article between the first day of December, one thousand  
19 nine hundred ninety-seven and the first day of December, two  
20 thousand two, may, at the discretion of the superintendent and  
21 subject to executive order of the governor specifying circum-  
22 stances warranting such reemployment and establishing  
23 beginning and end dates for such reemployment, be reemployed  
24 subject to the provisions of this section.

25 (c) Notwithstanding any provision of this code to the  
26 contrary, any honorably retired member of the state police who  
27 qualifies for reemployment pursuant to the provisions of this  
28 section and who is not currently certified as a law-enforcement  
29 officer under section five, article twenty-nine, chapter thirty of  
30 this code may be deemed to have met the entry level law-  
31 enforcement recertification requirements of 149 CSR 215,  
32 Section 15.3, upon successful completion of a course of

33 instruction prescribed by the superintendent. Such course of  
34 instruction shall include at a minimum the following subject  
35 areas: Firearms training and certification, defensive driving,  
36 mechanics of arrest, law of arrest search and seizure, West  
37 Virginia motor vehicle law, criminal law update, and domestic  
38 crimes.

39 (d) Any member reemployed pursuant to the provisions of  
40 this section shall hold the nonsupervisory rank of corporal and  
41 shall receive the same compensation as a regularly enlisted  
42 member of the same rank. For purposes of determining length  
43 of service pursuant to section five of this article, any member  
44 reemployed pursuant to this section shall receive credit for all  
45 years of service accrued prior to their retirement, as well as  
46 service rendered after reemployment. Any member reemployed  
47 pursuant to this section shall exercise the same authority as a  
48 regularly enlisted member of the state police, shall wear the  
49 same uniform and insignia, shall be subject to the same oath,  
50 shall execute the same bond, shall exercise the same powers  
51 and shall be subject to the same limitations as a regularly  
52 enlisted member of the state police.

53 (e) Any member reemployed pursuant to the provisions of  
54 this section shall not be eligible for promotion or reclassifica-  
55 tion of any type, nor shall he or she be eligible for appointment  
56 to temporary rank pursuant to the provisions of section four of  
57 this article.

58 (f) Any reemployment offered subject to the provisions of  
59 this section shall be for a period not exceeding five years from  
60 the effective date of this section.

61 (g) Any retired member applying for reemployment under  
62 this section shall be required to pass such mental and physical  
63 examinations, and meet such other requirements as may be

64 provided for in rules promulgated by the superintendent  
65 pursuant to this section.

66 (h) Notwithstanding the provisions of section ten of this  
67 article, the superintendent shall make provisions for coverage  
68 of personnel employed pursuant to this section by the workers'  
69 compensation division, bureau of employment programs. In the  
70 event a member reemployed pursuant to this section sustains an  
71 illness or injury which is work related in origin, any cost  
72 associated with the treatment of same shall be defrayed in this  
73 manner and not from state police funds.

74 (i) In the event a work related illness or injury, as described  
75 within subsection (h) above, renders a member of the division  
76 employed pursuant to the provisions of this section permanently  
77 physically or mentally disabled, the provisions of subsections  
78 (a) and (b), section twenty-nine of this article shall apply, and  
79 the member's existing pension shall be recalculated as though  
80 the disabling event had occurred coincident with the member's  
81 original retirement. Any change in benefits resulting from this  
82 recalculation shall not be retroactive in nature. The provisions  
83 of subsection (c), section twenty-nine of this article shall not  
84 apply with respect to payments for medical, surgical, labora-  
85 tory, X-ray, hospital, ambulance and dental expenses and fees.  
86 Neither shall the provisions of this subsection apply in the event  
87 the member is disabled due to some cause or event which is  
88 determined not to be work related.

89 (j) Any individual reemployed pursuant to this section is  
90 not eligible to contribute to any pension plan administered by  
91 the consolidated public retirement board, nor may he or she  
92 establish or accrue any new pension eligibility pursuant to such  
93 reemployment.

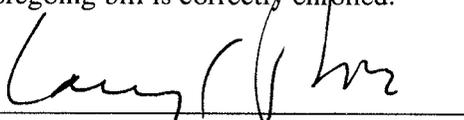
94 (k) Notwithstanding any provision of this code to the  
95 contrary, any member reemployed pursuant to this section shall

96 serve at the will and pleasure of the superintendent, and is  
97 subject to termination without cause. Any member reemployed  
98 pursuant to this section shall not be included in the classified  
99 service of the civil service system.

100 (l) Notwithstanding any provision of this code to the  
101 contrary, compensation paid to any member reemployed  
102 pursuant to this section shall be in addition to any retirement  
103 payments or pension benefits which he or she is already entitled  
104 to receive under section twenty-seven of this article.

105 (m) The provisions of this section shall terminate on the  
106 first day of April, two thousand four.

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

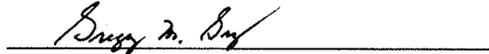
  
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Chairman, Senate Committee

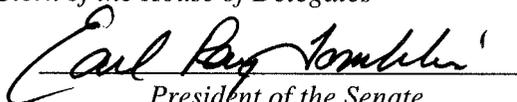
  
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Chairman House Committee

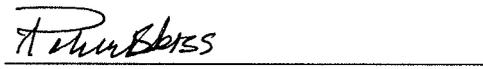
Originating in the House.

In effect from passage

  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 2<sup>ND</sup>  
day of April, 2003.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/25/03

Time 9:45 am