ENROLLED

Committee Substitute for

SENATE BILL NO. 498

(By Senator Bowman, et al)

PASSED April 8, 2005

In Effect July 1, 2005 Passage
AN ACT to amend and reenact §7-4-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §7-4-6a, all relating to the West Virginia Prosecuting Attorneys Institute; clarifying the scope of responsibility of the Institute to include services to the entire staff of prosecutors; authorizing the Institute to train state and local law-enforcement and investigative personnel; allowing the Institute to accept moneys for reimbursement of expenses; and continuation of the West Virginia Prosecuting Attorneys Institute.

Be it enacted by the Legislature of West Virginia:

That §7-4-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §7-4-6a, all to read as follows:
ARTICLE 4. PROSECUTING ATTORNEY, REWARDS AND LEGAL ADVICE.

§7-4-6. West Virginia Prosecuting Attorneys Institute.

(a) There is continued 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 continued 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 continued 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. 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) The provision 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) The establishment and implementation of general and
specialized training programs for prosecuting attorneys,
their staffs and, where determined practical by the Execu-
tive Council and Executive Director, all statutorily
authorized law-enforcement or investigative agencies of
the state or its political subdivisions;

(3) The provision of materials for prosecuting attorneys
and their staffs, including legal research, technical assis-
tance and technical and professional publications;

(4) The compilation and dissemination of information on
behalf of prosecuting attorneys and their staffs on current
developments and changes in the law and the administra-
tion of criminal justice;

(5) The establishment and implementation of 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) The acceptance and expenditure of grants, moneys for
reimbursement of expenses, gifts and acceptance of
services from any public or private source;

(7) The entering into of agreements and contracts with
public or private agencies, groups, organizations or
educational institutions;

(8) The identification of experts and other resources for
use by Prosecutors in criminal matters;

(9) The recommendation 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
The development of 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 the Institute considers 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. No person who is serving as a prosecuting attorney or an assistant prosecuting attorney of any county is required to take an additional oath when appointed to serve as a special prosecuting attorney.

(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) 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 Assessment Value</th>
<th>Maximum Assessment Value</th>
<th>Premium</th>
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</tr>
<tr>
<td>B</td>
<td>$1,000,000,000</td>
<td>$1,499,999,000</td>
<td>$375</td>
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<tr>
<td>C</td>
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<tr>
<td>D</td>
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<td>F</td>
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<tr>
<td>J</td>
<td>-0-</td>
<td>$199,999,000</td>
<td>$50</td>
</tr>
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</table>

(h) 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 Prosecut-

(i) 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.

(j) 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.

§7-4-6a. West Virginia Prosecuting Attorneys Institute continued.

Pursuant to the provisions of article ten, chapter four of
this code, the West Virginia Prosecuting Attorneys Insti-
tute shall continue to exist until the first day of July, two
thousand eight, unless sooner terminated, continued or
reestablished.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 2005

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 April 2005.

Governor