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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2005

ENROLLED

Committee Substitute for

SENATE BILL NO. 498

(By Senator Bowman, et al)

PASSED April 8, 2005

In Effect July 1, 2005 Passage

FILED

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 498

(SENATORS BOWMAN, KESSLER, JENKINS, MCCABE,
DEMPSEY, MCKENZIE, BARNES,
UNGER AND PLYMALE, *original sponsors*.)

[Passed April 8, 2005; to take effect July 1, 2005.]

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.

1 (a) There is continued 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 continued the Executive Council of the West
9 Virginia Prosecuting Attorneys Institute which shall
10 consist of five prosecuting attorneys elected by the mem-
11 bership of the West Virginia Prosecuting Attorneys
12 Institute at its annual meeting and two persons appointed
13 annually by the County Commissioner's Association of
14 West Virginia. The Executive Council shall elect one
15 member of the Council to serve as Chairman of the Insti-
16 tute for a term of one year without compensation. The
17 Executive Council shall serve as the regular executive
18 body of the Institute.

19 (c) There is continued the position of Executive Director
20 of the West Virginia Prosecuting Attorneys Institute to be
21 employed by the Executive Council of the Institute. The
22 Executive Director of the West Virginia Prosecuting
23 Attorneys Institute shall serve at the will and pleasure of
24 the Executive Council of the Institute. The Executive
25 Director shall be licensed to practice law in the State of
26 West Virginia and shall devote full time to his or her
27 official duties and may not engage in the private practice
28 of law.

29 (d) The duties and responsibilities of the Institute, as
30 implemented by and through its Executive Council and its
31 Executive Director, shall include the following:

32 (1) The provision for special prosecuting attorneys to
33 pursue a criminal matter in any county upon the request

34 of a circuit court judge of that county and upon the
35 approval of the Executive Council;

36 (2) The establishment and implementation of general and
37 specialized training programs for prosecuting attorneys,
38 their staffs and, where determined practical by the Execu-
39 tive Council and Executive Director, all statutorily
40 authorized law-enforcement or investigative agencies of
41 the state or its political subdivisions;

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

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

49 (5) The establishment and implementation of uniform
50 reporting procedures for prosecuting attorneys and their
51 professional staffs in order to maintain and to provide
52 accurate and timely data and information relative to
53 criminal prosecutorial matters;

54 (6) The acceptance and expenditure of grants, moneys for
55 reimbursement of expenses, gifts and acceptance of
56 services from any public or private source;

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

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

62 (9) The recommendation to the Legislature or the
63 Supreme Court of Appeals of the State of West Virginia on
64 measures required, or procedural rules to be promulgated,
65 to make uniform the processing of juvenile cases in the
66 fifty-five counties of the state; and

67 (10) The development of a written handbook for prosecu-
68 tors and their assistants to use which delineates relevant
69 information concerning the elements of various crimes in
70 West Virginia and other information the Institute consid-
71 ers appropriate.

72 (e) Each prosecuting attorney is subject to appointment
73 by the Institute to serve as a special prosecuting attorney
74 in any county where the prosecutor for that county or his
75 or her office has been disqualified from participating in a
76 particular criminal case. The circuit judge of any county
77 of this state, who disqualifies the prosecutor or his or her
78 office from participating in a particular criminal case in
79 that county, shall seek the appointment by the Institute of
80 a special prosecuting attorney to substitute for the dis-
81 qualified prosecutor. The Executive Director of the
82 Institute shall, upon written request to the Institute by any
83 circuit judge as a result of disqualification of the prosecu-
84 tor or for other good cause shown, and upon approval of
85 the Executive Council, appoint a prosecuting attorney to
86 serve as a special prosecuting attorney. The special
87 prosecuting attorney appointed shall serve without any
88 further compensation other than that paid to him or her by
89 his or her county, except that he or she is entitled to be
90 reimbursed for his or her legitimate expenses associated
91 with travel, mileage and room and board from the county
92 to which he or she is appointed as a prosecutor. The
93 county commission in which county he or she is special
94 prosecutor is responsible for all expenses associated with
95 the prosecution of the criminal action. No person who is
96 serving as a prosecuting attorney or an assistant prosecut-
97 ing attorney of any county is required to take an addi-
98 tional oath when appointed to serve as a special prosecut-
99 ing attorney.

100 (f) The Executive Director of the Institute shall maintain
101 an appointment list that shall include the names of all
102 fifty-five prosecuting attorneys and that shall also include
103 the names of any assistant prosecuting attorney who

104 wishes to serve as a special prosecuting attorney upon the
 105 same terms and conditions as set forth in this section. The
 106 Executive Director of the Institute, with the approval of
 107 the Executive Council, shall appoint special prosecuting
 108 attorneys from the appointment list for any particular
 109 matter giving due consideration to the proximity of the
 110 proposed special prosecuting attorney’s home county to
 111 the county requesting a special prosecutor and giving due
 112 consideration to the expertise of the special prosecuting
 113 attorney.

114 (g) Each county commission shall pay, on a monthly
 115 basis, a special prosecution premium to the Treasurer of
 116 the state for the funding of the West Virginia Prosecuting
 117 Attorneys Institute. The monthly premiums shall be paid
 118 according to the following schedule:

119 **MONTHLY PREMIUMS**

120 Assessed Valuation of Property
 121 of All Classes in the County

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

133 (h) Upon receipt of a premium, grant, reimbursement or
 134 other funding source, excluding federal funds as provided
 135 in article two, chapter four of this code, the Treasurer shall
 136 deposit the funds into a special revenue fund to be known
 137 as the “West Virginia Prosecuting Attorneys Institute
 138 Fund”. All costs of operating the West Virginia Prosecut-

139 ing Attorneys Institute shall be paid from the West Vir-
140 ginia Prosecuting Attorneys Institute Fund upon proper
141 authorization by the Executive Council or by the Execu-
142 tive Director of the Institute and subject to annual appro-
143 priation by the Legislature of the amounts contained
144 within the Fund.

145 (i) The Institute shall annually, by the first day of the
146 regular Legislative session, provide the Joint Committee
147 on Government and Finance with a report setting forth the
148 activities of the Institute and suggestions for legislative
149 action.

150 (j) Neither the Institute nor its employees acting in their
151 employment capacity shall engage in activities before
152 governmental bodies which advocate positions on issues
153 other than those issues consistent with the duties of the
154 Institute set forth in subsection (d) of this section.

**§7-4-6a. West Virginia Prosecuting Attorneys Institute contin-
ued.**

1 Pursuant to the provisions of article ten, chapter four of
2 this code, the West Virginia Prosecuting Attorneys Insti-
3 tute shall continue to exist until the first day of July, two
4 thousand eight, unless sooner terminated, continued or
5 reestablished.

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

Chandy White
.....
Chairman Senate Committee

Robert Bay
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2005

Ronald Edwards
.....
Clerk of the Senate

Suzanne D. Bay
.....
Clerk of the House of Delegates

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

[Signature]
.....
Speaker House of Delegates

The within is approved this the 21st
Day of April, 2005.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 15 2005

Time 4:20 pm