Senate Bill 358

By Senators Weld, Clements, Cline, and Swope

[Passed February 21, 2019; in effect 90 days from passage]
WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

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BY SENATORS WELD, CLEMENTS, CLINE, AND SWOPE

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AN ACT to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended, relating to exempting from the Purchasing Division purchases made by the Director of the Division of Protective Services for equipment to maintain security at state facilities.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2D. DIVISION OF PROTECTIVE SERVICES.

§15-2D-3. Duties and powers of the director and officers.

(a) The director is responsible for the control and supervision of the division. The director and any officer of the division specified by the director may carry designated weapons and have the same powers of arrest and law enforcement in Kanawha County as members of the West Virginia State Police as set forth in §15-2-12(b) and §15-2-12(d) of this code. The director and designated officers shall also have such powers throughout the State of West Virginia in investigating and performing law-enforcement duties for offenses committed on the Capitol Complex or related to the division's security and protection duties at the Capitol Complex and throughout the state relating to offenses and activities occurring on any property owned, leased, or operated by the State of West Virginia when undertaken at the request of the agency occupying the property: Provided, That nothing in this article shall be construed as to obligate the director or the division to provide, or be responsible for providing, security at state facilities outside the Capitol Complex.

(b) Any officer of the division shall be certified as a law-enforcement officer by the Governor’s Committee on Crime, Delinquency, and Correction or may be conditionally employed as a law-enforcement officer until certified in accordance with the provisions of §30-29-5 of this code.

(c) The director may:

(1) Employ necessary personnel, all of whom shall be classified exempt, assign them the duties necessary for the efficient management and operation of the division, and specify members who may carry, without license, weapons designated by the director;
(2) Contract for security and other services;

(3) Purchase equipment as necessary to maintain security at the Capitol Complex and other state facilities as may be determined by the Secretary of the Department of Military Affairs and Public Safety. The provisions of §5A-3-3 of this code do not apply to purchases made pursuant to this subdivision;

(4) Establish and provide standard uniforms, arms, weapons, and other enforcement equipment authorized for use by members of the division and shall provide for the periodic inspection of the uniforms and equipment. All uniforms, arms, weapons, and other property furnished to members of the division by the State of West Virginia is and remains the property of the state;

(5) Appoint security officers to provide security on premises owned or leased by the State of West Virginia;

(6) Upon request by the Superintendent of the West Virginia State Police, provide security for the Speaker of the House of Delegates, the President of the Senate, the Governor, or a justice of the Supreme Court of Appeals;

(7) Gather information from a broad base of employees at and visitors to the Capitol Complex to determine their security needs and develop a comprehensive plan to maintain and improve security at the Capitol Complex based upon those needs; and

(8) Assess safety and security needs and make recommendations for safety and security at any proposed or existing state facility as determined by the Secretary of the Department of Military Affairs and Public Safety, upon request of the secretary of the department to which the facility is or will be assigned: Provided, That records of such assessments, and any other records determined by the Secretary of the Department of Military Affairs and Public Safety to compromise the safety and security at any proposed or existing state facility, are not public records and are not subject to disclosure in response to a Freedom of Information Act request under §29B-1-1 et seq. of this code.
(d) The director shall:

(1) On or before July 1, 1999, propose legislative rules for promulgation in accordance with the provisions of §29A-3-1 et seq. of this code. The rules shall, at a minimum, establish ranks and the duties of officers within the membership of the division.

(2) On or before July 1, 1999, enter into an interagency agreement with the Secretary of the Department of Military Affairs and Public Safety and the Secretary of the Department of Administration, which delineates their respective rights and authorities under any contracts or subcontracts for security personnel. A copy of the interagency agreement shall be delivered to the Governor, the President of the Senate, and the Speaker of the House of Delegates, and a copy shall be filed in the office of the Secretary of State and shall be a public record.

(3) Deliver a monthly status report to the Speaker of the House of Delegates and the President of the Senate.

(4) Require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol Complex, or who have access to sensitive or critical information, to have its employees submit to a fingerprint-based state and federal background inquiry through the state repository, and require a new employee who is employed to provide services on the grounds or in the building of the Capitol Complex to submit to an employment eligibility check through E-verify.

(i) After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol Complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol Complex for purposes of verifying compliance with this section.

(ii) All current service providers shall, within 90 days of the amendment and reenactment of this section by the 80th Legislature, ensure that all of its employees who are providing services on the grounds or in the buildings of the Capitol Complex or who have access to sensitive or
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critical information submit to a fingerprint-based state and federal background inquiry through the
state repository.

(iii) Any contract entered into, amended, or renewed by an agency or entity of state
government with a service provider shall contain a provision reserving the right to prohibit specific
employees thereof from accessing sensitive or critical information or to be present at the Capitol
Complex based upon results addressed from a criminal background check.

(iv) For purposes of this section, the term "service provider" means any person or
company that provides employees to a state agency or entity of state government to work on the
grounds or in the buildings that make up the Capitol Complex or who have access to sensitive or
critical information.

(v) In accordance with the provisions of Public Law 92-544 the criminal background check
information will be released to the Director of the Division of Protective Services.

(5) Be required to provide his or her approval prior to the installation of any and all
electronic security systems purchased by any state agency which are designed to connect to the
division’s command center.

(e) Effective July 1, 2017, the Director of Security and security officers of the Department
of Arts, Culture, and History shall be made part of, and be under the supervision and direction of,
the Division of Protective Services. Security for all Capitol Complex properties of the Department
of Arts, Culture, and History shall be the responsibility of the Division of Protective Services.
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.

In effect 90 days 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 1st Day of March, 2019.

Governor
PRESENTED TO THE GOVERNOR

MAR 01 2019

Time 10:00 AM