

Senate Bill No. 396

(By Senators Laird, Miller, Nohe, Yost, Williams and Kessler
(Acting President))

[Introduced February 2, 2011; referred to the Committee on
Government Organization; and then to the Committee on the
Judiciary.]

A BILL to amend and reenact §15-10-4 of the Code of West Virginia,
1931, as amended, relating to the elimination of the
requirement that mutual aid agreements between law-enforcement
entities be renewed and filed annually in order to have
effect.

Be it enacted by the Legislature of West Virginia:

That §15-10-4 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

**§15-10-4. Cooperation between law-enforcement agencies and other
groups of state or local law-enforcement officers.**

(a) The head of any law-enforcement agency, the head of any
campus police or the head of the rangers of the Hatfield-McCoy
Regional Recreational Authority, as those terms are defined in
section three of this article, may temporarily provide assistance

1 and cooperation to another agency of the state criminal justice
2 system or to a federal law-enforcement agency in investigating
3 crimes or possible criminal activity if requested to do so in
4 writing by the head of another law-enforcement agency or federal
5 law-enforcement agency. Such assistance may also be provided upon
6 the request of the head of the law-enforcement agency or federal
7 law-enforcement agency without first being reduced to writing in
8 emergency situations involving the imminent risk of loss of life or
9 serious bodily injury. The assistance may include, but is not
10 limited to, entering into a multijurisdictional task force
11 agreement to integrate federal, state, county and municipal law-
12 enforcement agencies or other groups of state or local law-
13 enforcement officers, or any combination thereof, for the purpose
14 of enhancing interagency coordination, intelligence gathering,
15 facilitating multijurisdictional investigations, providing criminal
16 justice enforcement personnel of the law-enforcement agency to work
17 temporarily with personnel of another agency, including in an
18 undercover capacity, and making available equipment, training,
19 technical assistance and information systems for the more efficient
20 investigation, apprehension and adjudication of persons who violate
21 the criminal laws of this state or the United States and to assist
22 the victims of such crimes. When providing the assistance under
23 the provisions of this article, a head of a law-enforcement agency
24 shall comply with all applicable statutes, ordinances, rules,
25 policies or guidelines officially adopted by the state or the
26 governing body of the city or county by which he or she is employed

1 and any conditions or restrictions included therein.

2 (b) While temporarily assigned to work with another law-
3 enforcement agency or agencies, criminal justice enforcement
4 personnel and other state and local law-enforcement officers shall
5 have the same jurisdiction, powers, privileges and immunities,
6 including those relating to the defense of civil actions, as such
7 criminal justice enforcement personnel would enjoy if actually
8 employed by the agency to which they are assigned, in addition to
9 any corresponding or varying jurisdiction, powers, privileges and
10 immunities conferred by virtue of their continued employment with
11 the assisting agency.

12 (c) While assigned to another agency or to a
13 multijurisdictional task force, criminal justice enforcement
14 personnel and other state and local law-enforcement officers shall
15 be subject to the lawful operational commands of the superior
16 officers of the agency or task force to which they are assigned,
17 but for personnel and administrative purposes including
18 compensation, ~~they~~ and shall remain under the control of the
19 assisting agency. These assigned personnel shall continue to be
20 covered by all employee rights and benefits provided by the
21 assisting agency, including workers' compensation, to the same
22 extent as though such personnel were functioning within the normal
23 scope of their duties.

24 ~~(d) No request or agreement between the heads of law-~~
25 ~~enforcement agencies, the heads of campus police or the head of the~~
26 ~~rangers of the Hatfield-McCoy regional recreation authority, made~~

1 ~~or entered into pursuant to the provisions of this article shall~~
2 ~~remain in force and effect for a period of more than twelve months~~
3 ~~unless renewed in writing by the parties thereto nor shall any No~~
4 request or agreement made or entered into pursuant to the
5 provisions of this article have force or effect until a copy of
6 said request or agreement is filed with the office of the circuit
7 clerk of the county or counties in which the law-enforcement
8 agencies, the campus police, or the Hatfield-McCoy Regional
9 Recreation Authority rangers involved operate. Upon filing, the
10 requests or agreements may be sealed subject to disclosure pursuant
11 to an order of a circuit court directing disclosure for good cause.
12 Nothing in this article ~~shall be construed to limit~~ limits the
13 authority of the head of a law-enforcement agency, the head of
14 campus police or the head of the rangers of the Hatfield-McCoy
15 Regional Recreation Authority to withdraw from any agreement at any
16 time. The agreements between the heads of law-enforcement
17 agencies, the heads of campus police or the head of the rangers of
18 the Hatfield-McCoy Regional Recreation Authority, made or entered
19 into pursuant to the provisions of this article, remain in full
20 force and effect until revoked, in writing, by a party to the
21 agreement or until there is a new head or director of a signatory
22 agency.

23 (e) Nothing contained in this article ~~shall be construed so as~~
24 ~~to grant, increase, decrease~~ grants, increases or decreases or in
25 any manner ~~affect~~ affects the civil service protection or the
26 applicability of civil service laws ~~as~~ to any criminal justice

1 enforcement personnel or ~~as~~ to any state or local law-enforcement
2 officer or agency operating under the authority of this article.
3 ~~nor shall this article in any way reduce or increase~~ Nothing
4 contained in this article reduces or increases the jurisdiction or
5 authority of any criminal justice enforcement personnel or of any
6 state or local law-enforcement officer or agency except as
7 specifically provided herein.

8 (f) Nothing contained in this article ~~shall be construed so as~~
9 ~~to authorize~~ authorizes the permanent consolidation or merger or
10 the elimination of operations of participating federal, state,
11 county municipal law-enforcement agencies, or other groups of state
12 and local law-enforcement officers, the head campus police or the
13 head of the rangers of the Hatfield-McCoy Regional Recreation
14 Authority.

NOTE: The purpose of this bill is to eliminate the requirement that multijurisdictional, mutual aid agreements be renewed and filed annually in order to remain effective.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.