

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

House Bill 4462

BY DELEGATES BYRD, HOLLEN, FOLK, CRISS, ROBINSON, PHILLIPS,

DEAN, KELLY, WESTFALL, CANESTRARO AND SUMMERS

[Passed March 8, 2018; in effect ninety days from passage.]

1 AN ACT to amend and reenact §15-2-18 of the Code of West Virginia, 1931, as amended, relating
2 to allowing off duty members and officers of the State Police to contract to work for a
3 private person or entity during off duty hours as long as the type of the contract work does
4 not violate State Police rules as to location or nature.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-18. Officers or members failure to perform duties; general penalty; providing extraordinary police or security services by contract.

1 (a) Any officer or member of the State Police who demands or receives from any person,
2 firm or corporation any money or other thing of value as a consideration for the performance of,
3 or the failure to perform, his or her duties under the rules of the superintendent and the provisions
4 of this article, is guilty of a felony, and, upon conviction thereof, shall be imprisoned in a
5 correctional facility for not less than one nor more than five years, and any such officer or member
6 of the State Police who violates any other provisions of this article, for which no other penalty is
7 expressly provided, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not
8 less than \$25 nor more than \$200, or confined in jail for not more than four months, or both fined
9 and confined.

10 (b) Notwithstanding any other provision of this article to the contrary, the superintendent
11 may contract with public, quasi-public, military, or private entities to provide extraordinary police
12 or security services by the State Police when it is determined by the superintendent to be in the
13 public interest. The superintendent shall assign the personnel, equipment, or facilities he or she
14 considers necessary and the State Police shall be reimbursed for the wages, overtime wages,
15 benefits, and costs of providing the contract services as negotiated between the parties. The
16 compensation paid to State Police personnel by virtue of contracts provided for in this section
17 shall be paid from a special account and shall be excluded from any formulation used to calculate
18 an employee's benefits. All requests for obtaining extraordinary police or security services shall

19 be made to the superintendent in writing and shall explain the funding source and the authority
20 for making the request. An officer or member of the State Police may not be required to accept
21 any assignment made pursuant to this subsection. Every officer or member assigned to duty
22 under this section shall be paid according to the hours and overtime hours actually worked
23 notwithstanding that officer's or member's status as exempt personnel under the Federal Labor
24 Standards Act or applicable state statutes. Every contract entered into under this subsection shall
25 contain the provision that in the event of public disaster or emergency where the reassignment to
26 official duty of all officers and members is required, neither the State Police nor any of its officers
27 or members are liable for any damages incurred as the result of the reassignment. Further, any
28 entity contracting with the State Police, an officer, or member under this section shall also agree
29 as part of that contract to hold harmless and indemnify the state, State Police and its personnel
30 from any liability arising out of employment under the contract. The superintendent may propose
31 legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code, relating to the
32 implementation of any contracts made under this subsection: *Provided*, That the rules shall
33 expressly prohibit private employment of officers or members in circumstances involving labor
34 disputes. Notwithstanding any provision of this article to the contrary, an officer or member may
35 contract to work for a private person or entity during his or her off duty hours: *Provided, however*,
36 That the contract work may not be a type prohibited by this code or the rules of the State Police
37 on the locations and the nature of services provided.

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

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

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day of, 2018.

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Governor