

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4462

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

PHILLIPS, DEAN, KELLY, WESTFALL, CANESTRARO AND

SUMMERS

[Introduced February 7, 2018; Referred

to the Committee on the Judiciary.]

1 A BILL 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 department of public safety to guard
3 private property.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. WEST VIRGINIA STATE POLICE.

**§15-2-18. Officers or members failure to ~~performing~~ perform duties; ~~for private persons~~
general penalty; providing extraordinary police or security services by contract.**

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

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

20 benefits. All requests for obtaining extraordinary police or security services shall be made to the
21 superintendent in writing and shall explain the funding source and the authority for making such
22 a request. No officer or member of the department shall be required to accept any assignment
23 made pursuant to this subsection. Every officer or member assigned to duty hereunder shall be
24 paid according to the hours and overtime hours actually worked notwithstanding that officer's or
25 member's status as exempt personnel under the Federal Labor Standards Act or applicable state
26 statutes. Every contract entered into under this subsection shall contain the provision that in the
27 event of public disaster or emergency where the reassignment to official duty of all officers and
28 members is required, neither the department nor any of its officers or members shall be liable for
29 any damages incurred as the result of the reassignment. Further, any entity contracting with the
30 department of public safety, an officer, or member under this section shall also agree as part of
31 that contract to hold harmless and indemnify the state, department of public safety and its
32 personnel from any liability arising out of employment under the contract. The superintendent is
33 authorized to promulgate legislative rules and regulations in accordance with chapter twenty-nine-
34 a of this code relating to the implementation of any contracts made under this subsection:
35 *Provided*, That said regulations shall expressly prohibit private employment of officers or
36 members in circumstances involving labor disputes. Notwithstanding any provision to this article
37 to the contrary, an officer or member may contract to work for a private person or entity during his
38 or her off duty hours: *Provided*, That any such contract work may not be a type prohibited by this
39 code or the rules of the agency on locations and nature of security services provided.

NOTE: The purpose of this bill is to authorize off-duty state troopers to accept employment to provide security services.

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