

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2779

BY DELEGATES HAYNES, G.WARD, HARDY, MANDT,
HANNA, HAMRICK, WAMSLEY, LONGANACRE, J. PACK,
KESSINGER AND RILEY

[Introduced February 26, 2021; Referred to the
Committee on Finance]

1 A BILL to amend and reenact §15-2-18 of the Code of West Virginia, 1931, as amended, relating
 2 to allowing compensation paid to State Police personnel by virtue of contracts to be
 3 included in any formulation used to calculate an employee's benefits.

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~~ included in any formulation used
 18 to calculate an employee's benefits. All requests for obtaining extraordinary police or security
 19 services shall be made to the superintendent in writing and shall explain the funding source and

20 the authority for making the request. An officer or member of the State Police may not be required
21 to accept any assignment made pursuant to this subsection. Every officer or member assigned to
22 duty 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.

NOTE: The purpose of this bill is to allow compensation paid to State Police personnel by virtue of contracts to be included in any formulation used to calculate an employee's benefits.

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