WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5220

By Delegates Tully, Smith, Horst, Linville, Mallow, Sheedy, Hite, Brooks, Phillips, E. Pritt, and Longanacre

[Introduced January 26, 2024; Referred to the Committee on the Judiciary]

A BILL to amend and reenact §11-9-2a of the Code of West Virginia, 1931, as amended, relating to authorizing investigators of the criminal investigation in the criminal investigation division of the state Tax Division to carry firearms.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. CRIMES AND PENALTIES.

§11-9-2a. Criminal investigation division established; funding of same.

(a) *Criminal investigation division.* -- A criminal investigation division consisting of no more than 12 investigators, of which one investigator shall serve as division director, plus necessary support staff, all of whom are exempt from the classified service, is hereby established in the state Tax Division for the purpose of assuring compliance with laws and rules pertaining to the taxes, fees or credits administered under §11-10-1-*et seq.* of this code, including, but not limited to, the provisions of §47-20-1 *et seq*., , §47-21-1 *et seq*., and §47-23-1 *et seq.* of this code, but not including income taxes, imposed on individuals by §11-21-1 *et seq.* article of this code.

(b) *Special audits division.* -- A special audits division consisting of no more than eight tax examiners, plus necessary support staff, all of whom are covered by the classified service, is hereby established in the auditing section of the state Tax Division for purposes of assuring compliance with laws and rules pertaining to taxes, fees or credits administered under §11-10-1-*et seq.* of this code, including, but not limited to, the provisions of §47-20-1 *et seq.*, §47-21-1 *et seq.,* and §47-23-1 *et seq.* of this code, but not including income taxes imposed on individuals by §11-21-1 of this code.

(c) The Legislature hereby finds that the enforcement of the laws and rules pertaining to the taxes, fees or credits administered under §11-10-1 *et seq.* of this code, as are applicable to persons whose residence or principal place of business is outside of the State of West Virginia, requires greater efforts and investigation than required for resident persons subject thereto, and does further find that there is a greater rate of noncompliance with said laws and rules by nonresident persons. Therefore, the criminal investigation division and the special audits division created in subsections (a) and (b) of this section are hereby directed to expend a significant amount of their efforts to ensure compliance with the laws and rules pertaining to taxes, fees or credits administered under §11-10-1 *et seq.* of this code in accordance with the authority provided in this section, by persons whose residence or principal place of business is located outside the State of West Virginia.

(d) *Deposits of certain fees.* -- Charitable bingo fees imposed by §47-20-1 *et seq*. of this code; charitable raffle fees imposed by §47-21-1 *et seq*. of this code; and charitable raffle boards and games fees imposed by §47-21-1 *et seq*. of this code in an amount not to exceed the amount appropriated by the Legislature in any fiscal year shall be deposited in a special revenue account established in the Office of the Treasurer. The special revenue account shall be used to support compliance expenditures relating to the establishment, operation, maintenance and support of the criminal investigation division established in subsection (a) of this section and the special audits division established in subsection (b) of this section. The expenditures may include, but shall not be limited to, employee compensation, equipment, office supplies and travel expenses. On the last day of each fiscal year, unencumbered funds in the special revenue account in excess of $150,000 shall be transferred to the General Revenue Fund.

(e) *Investigators.* -- Investigators employed in the criminal investigation division shall have a background in accounting or law enforcement or related fields pursuant to §30-29-1 *et seq.* of this code, or its equivalent. Any investigator designated by the Tax Commissioner shall have all the lawful powers delegated to members of the division of public safety ~~except the power to carry firearms~~ and ~~shall have the authority to~~ may enforce the provisions of this article and the criminal provisions of any other article of this code to which this article applies, in any county or municipality of this state. The Tax Commissioner shall establish additional standards as he or she considers applicable or necessary. Any employee shall, before entering upon the discharge of his or her duties, execute a bond with security in the sum of $3,500, payable to the State of West Virginia, conditioned for the faithful performance of the employee's duties and the bond shall be approved as to form by the Attorney General and shall be filed with the Secretary of State for preservation in that office. The division of public safety, any county sheriff or deputy sheriff and any municipal police officer upon request by the Tax Commissioner is hereby authorized to assist the Tax Commissioner in enforcing the provisions of this article and any criminal penalty provision of any article of this code to which this article applies.

(f) Notwithstanding any provision of this code to the contrary, the criminal investigation division of the Tax Commissioner may allow, consistent with this section, an investigator employed or contracted by the board to carry a concealed firearm while performing his or her official duties.

(g) An investigator employed by the board or contracted by the criminal investigation division of the Tax Commissioner may carry a concealed firearm while performing his or her official duties solely for the purposes of defense of self or others if the investigator has:

(1) Been determined not to be prohibited from possessing a firearm under state or federal law;

(2) Obtained and maintains a concealed handgun license pursuant to §61-7-1 *et seq.* of this code; and

(3) Successfully completed a firearms training and certification program equivalent to that provided to officers attending an entry level law-enforcement certification course provided at the West Virginia State Police Academy. The investigator shall thereafter successfully complete an annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by legislative rule. The criminal investigation division of the Tax Commissioner may reimburse the investigator for the cost of the training and requalification.

(h) Neither the state, a political subdivision, an agency, nor an employee of the state acting in an official capacity may be held personally liable for an act of an investigator employed by the criminal investigation division of the Tax Commissioner if the act or omission was done in good faith while the investigator was performing official duties on behalf of the board.

~~(f)~~ (i) *Class A license plates.* -- Notwithstanding the provisions of §17A-3-1 *et seq.* of this code, upon application by the Tax Commissioner and payment of fees, the Commissioner of Motor Vehicles shall issue a maximum of 20 Class A license plates to be used on state owned or leased vehicles assigned to investigators employed in the criminal investigation division.

~~(g)~~ (j) *Reports.* -- On July 1, of each year, beginning in the year 1994, the Tax Commissioner shall present a written report to the joint committee on government operations on the division's compliance with the provisions of this section, including, but not limited to, activities of the divisions created by this section and disbursement of funding.

NOTE: The purpose of this bill is to authorize investigators of the criminal investigation in the criminal investigation division of the state Tax Division to carry firearms.

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