

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark In this Box

FILED

MAY -1 PM 12: 21

OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Division of Public Safety TITLE NUMBER: 81

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: V

TITLE OF RULE BEING PROPOSED: Contracted Police or Security Services

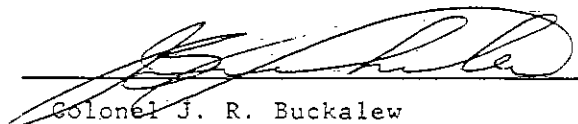
THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill 1

SECTION 64-6-4 (e), PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: May 1, 1992


Colonel J. R. Buckalew
Superintendent

2.50

WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF PUBLIC SAFETY
CHAPTER 15-2
SERIES V
FILING

Title: Contracted Police or Security Services

Section 1. General

1.1 Scope - This rule specifies the conditions under which members of the Division may perform extraordinary police or security services and governs the procedure to be followed in the employment of Division members.

1.2 Authority - West Virginia Code §15-2-18(b), effective July 5, 1989.

1.3 Filing Date -

1.4 Effective Date -

Section 2. For the purposes of this rule,

2.1 Superintendent means the Superintendent of the Division of Public Safety or his duly authorized agent.

2.2 Member means an employee of the Division, empowered under the provisions of West Virginia Code §15-2-12 with statewide law enforcement powers who has taken and subscribed to the oath of office as required by West Virginia Code §15-2-14.

2.3 Officer in Charge of Field Operations means that member of the Division designated by the Superintendent as the principal operational supervisor of the Field Operations Force.

2.4 Company Commander means that member of the Division designated by the Superintendent as the principal operational supervisor for a field operations company area.

2.5 Primary Communications Station means that Division facility that serves as a transmission and reception site for State Police radio traffic in a designated multi-county geographical area.

2.6 Extraordinary Police or Security Services/Contracted Police or Security Services means those services determined by the Superintendent to be in the public interest performed by a member of the Division pursuant to a contractual agreement with a public, quasi-public, military or private entity when the service is not prohibited by law and when the service would not have been otherwise performed by the Division.

2.7 Compensatory Day Off means that time off duty awarded to a member of the Division as compensation for working on a designated state or national holiday.

Section 3. Application for Contracted Police or Security Services

3.1 All requests for contracted police or security services must be made, in writing, to the Superintendent and shall explain the funding source and the authority under which the request is made.

3.2 The Superintendent will not grant approval for any contractual employment in circumstances involving labor disputes.

Section 4. Contract Guidelines

4.1 The Superintendent shall enter into a contract for all contracted police or security services as required by West Virginia Code §15-2-18(b).

4.2 All contacts shall contain provisions that the contractual employer agrees to hold harmless and indemnify the State of West Virginia, the Division of Public Safety, its officers and members from any liability arising from the contractual employment.

4.3 The total cost of the services and the number of hours contracted for shall not exceed those outlined in the contract unless new terms are subsequently agreed to, in writing, by both parties.

4.4 The Superintendent shall negotiate compensation rates for contracted services on a man-hour basis with additional consideration given for any extraordinary Division expenditures or costs.

4.5 The contractual employer shall pay for services rendered by the Division by check, made payable to the West Virginia State Police, within five (5) days of receipt of an itemized invoice.

Dept. of Public Safety
Division of Public Safety
Series V

4.6 West Virginia State Police personnel shall make all law enforcement decisions encountered by members during contractual employment and the contractual employer shall not dictate or influence the decisions.

4.7 In the event that Division members who are assigned to contractual employment are required to return to official duty in response to a public disaster or other emergency, neither the Division of Public Safety nor any of its officers or members are liable for any damages incurred as a result of the reassignment.

Section 5. Assignment of Members

5.1 The Officer In Charge of Field Operations shall coordinate the manpower recruitment and allocation for all approved requests for contractual services and negotiate minor contract provisions.

5.2 Members accepting contractual employment must be in the following duty status:

- a. Day Off Duty,
- b. Annual Leave
- c. Compensatory Day Off, or
- d. Holiday Off Duty;

Provided that a member may accept contractual employment on a regularly scheduled work day when a minimum of eight (8) hours exists between the regularly scheduled work shift and the contractual employment work shift.

5.3 Members may not accept any contractual employment when the accepting of such employment would interfere with the member's ability to perform the primary duties of a State Police officer.

5.4 Members who have been placed in the following duty status not eligible for participation in any contractual employment:

- a. Probationary Status,
- b. Active Suspension,
- c. Administrative Leave,

Dept. of Public Safety
Division of Public Safety
Series V

- d. Administrative or Light Duty due to a physical or mental condition,
- e. Sick Leave,
- f. Disability Leave, or
- g. Family Leave.

5.5 The Company Commander of the area in which the contractual employment is to be performed shall ensure that sufficient supervisors are provided to properly supervise Division personnel and detail operations.

5.6 The Superintendent shall provide members assigned to contractual employment with Division vehicles for transportation to, during and from the location of the employment. The Officer In Charge of Field Operations may establish mileage limitations and/or assign multiple members to vehicles.

5.7 Members are in an off-duty status while traveling to and from the location of contractual employment unless specifically instructed otherwise by the Company Commander or Officer In Charge of Field Operations.

- a. Members en route to and returning from contractual employment will initiate any appropriate law enforcement action when a serious violation of the law or a life threatening situation is observed.

Section 6. Compensation

6.1 The Division Comptroller shall compute compensation for members on contractual employment at the rate specified by the contract regardless of the member's classification under the Fair Labor Standards Act. The Comptroller will deduct applicable state and federal taxes from the member's total contractual employment compensation.

6.2 The Comptroller will make no deduction of retirement contributions from contractual employment compensation and a member's retirement benefits will not be enhanced by participation in contractual employment. All other Division benefits will remain in force during contractual employment.

Section 7. Member Conduct

7.1 Members engaged in contractual employment are subject to the same rules, regulations, Division operational policy and procedures and code of conduct as on-duty members.

Bill Public Safety, Services ⁸¹⁻⁵

H. B. 4319

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the
Committee on Government Organization then the Judiciary)

1
2
3
4
5
6
7
8
9
10 A BILL to amend and reenact section four, article six, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of public safety to promulgate legislative rules
14 relating to contracted police or security services.

15 Be it enacted by the Legislature of West Virginia:

16 That section four, article six, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF PUBLIC SAFETY TO
20 PROMULGATE LEGISLATIVE RULES.

21 §64-6-4. Division of public safety.

22 (a) The legislative rules filed in the state register on the
23 twenty-third day of September, one thousand nine hundred
24 eighty-three, relating to the department of public safety

1 (general orders), are authorized with the amendment set forth
2 below:

3 Page 23, §9.10, remove the period at the end of the sentence
4 and add the words "or municipalities."

5 (b) The legislative rules filed in the state register on the
6 twenty-second day of June, one thousand nine hundred eighty-four,
7 modified by the department of public safety to meet the
8 objections of the legislative rule-making review committee and
9 refiled in the state register on the fifth day of December, one
10 thousand nine hundred eighty-four, relating to the department of
11 public safety (commission on drunk driving), are authorized.

12 (c) The legislative rules filed in the state register on the
13 ninth day of August, one thousand nine hundred ninety, modified
14 by the division of public safety to meet the objections of the
15 legislative rule-making review committee and refiled in the state
16 register on the twentieth day of December, one thousand nine
17 hundred ninety, relating to the division of public safety (West
18 Virginia state police career progression system), are authorized.

19 (d) The Legislature hereby authorizes and directs the
20 division of public safety to promulgate legislative rules
21 relating to the requirements and qualifications for official
22 inspection stations and the issuance of permits for the stations.
23 Such legislative rules, in establishing requirements and
24 qualifications for official inspection stations shall not require

1 bay doors at such stations to be greater than eight feet in
2 height.

3 (e) The legislative rules filed in the state register on the
4 twelfth day of August, one thousand nine hundred ninety-one,
5 modified by the division of public safety to meet the objections
6 of the legislative rule-making review committee and refiled in
7 the state register on the nineteenth day of November, one
8 thousand nine hundred ninety-one, relating to the division of
9 public safety (contracted police or security services), are
10 authorized.

11
12 NOTE: The purpose of this bill is to authorize the Division
13 of Public Safety to promulgate legislative rules relating to
14 contracted police or security services.

15
16 Strike-throughs indicate language that would be stricken from
17 the present law, and underscoring indicates new language that
18 would be added.



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

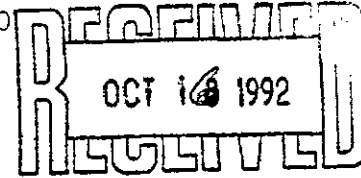
DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770



PLANNING & RESEARCH

TO: Trapper Bedwell

AGENCY: Division of Public Safety

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 15, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MFMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 5 TITLE: Division of Public Safety

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: TR Bedwell

TITLE OF PERSON SIGNING: Director Planning & Research

DATE: 10-29-92

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.