



STATE OF WEST VIRGINIA  
OFFICE OF THE ATTORNEY GENERAL  
CHARLESTON 25305

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July 16, 1991

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The Honorable Gaston Caperton  
Governor  
State of West Virginia  
State Capitol  
Charleston, West Virginia 25305

Dear Governor Caperton:

Attached hereto is a copy of this office's opinion directed to Michael Smith, as Director of the State's Division of Personnel, regarding military leave benefits for state classified employees.

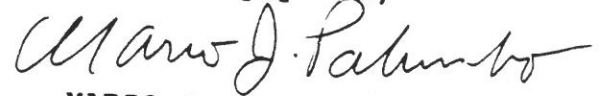
The request for the opinion by Mr. Smith specifically asked legal questions regarding the determination of benefits for "non-active duty" reservists, the determination of benefits for "activated" reservists and, most significantly, whether W. Va. Code § 15-1F-1, as amended by Enrolled Committee Substitute for House Bill 2834 during the 1991 legislative session, is effective from passage March 8, 1991, or is retroactive.

The latter question is quite significant as it relates to the benefits to which service personnel called out for Operation Desert Storm would be entitled.

As indicated, it is the legal opinion of this office that the absence of language in the amendment to the statute in question leads us to the inescapable conclusion that the statute is not retroactive. Since this may adversely affect the benefits of service personnel called to serve prior to March 8, 1991, I am pleased that you placed this issue on the agenda for the special session of the Legislature planned for this fall.

We, as state leaders, must rectify this gap in the law so that the patriotism displayed by our fellow citizens who served in the Persian Gulf conflict may be appropriately rewarded.

Very truly yours,



MARIO J. PALUMBO  
ATTORNEY GENERAL

cc: The Honorable Keith Burdette  
The Honorable Robert "Chuck" Chambers