

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 4100**

5 (By Delegates Staton, Browning, Beane, Manchin, Tabb, Howard
6 Wysong, Barker, Long, Caputo and G. White)

7 [Passed March 11, 2006; in effect ninety days from passage.]

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11 AN ACT to amend and reenact §7-7-1 and §7-7-4 of the Code of West
12 Virginia, 1931, as amended, all relating to salaries for
13 elected county officials; providing for a salary increase for
14 elected county officials; finding that additional duties have
15 been imposed on county officials which justify the increased
16 compensation to prosecuting attorneys generally; and providing
17 that a prosecuting attorney for a class VI county which
18 subsequently becomes a class V county may remain part-time and
19 compensated at the class VI county level.

20 *Be it enacted by the Legislature of West Virginia:*

21 That §7-7-1 and §7-7-4 of the Code of West Virginia, 1931, as
22 amended, be amended and reenacted, all to read as follows:

23 **ARTICLE 7. COMPENSATION OF ELECTED COUNTY OFFICIALS.**

24 **§7-7-1. Legislative findings and purpose.**

25 (a) The Legislature finds that it has, since the first day of
26 January, two thousand three, consistently and annually imposed upon

1 the county commissioners, sheriffs, county and circuit clerks,
2 assessors and prosecuting attorneys in each county board, new and
3 additional duties by the enactment of new provisions and amendments
4 to this code. The new and additional duties imposed upon the
5 aforesaid county officials by these enactments are such that they
6 would justify the increases in compensation as provided in section
7 four of this article, without violating the provisions of section
8 thirty-eight, article VI of the Constitution of West Virginia.

9 (b) The Legislature further finds that there are, from time to
10 time, additional duties imposed upon all county officials through
11 the acts of the Congress of the United States and that such acts
12 constitute new and additional duties for county officials and, as
13 such, justify the increases in compensation as provided by section
14 four of this article, without violating the provisions of section
15 thirty-eight, article VI of the Constitution of West Virginia.

16 (c) The Legislature further finds that there is a direct
17 correlation between the total assessed property valuations of a
18 county on which the salary levels of the county commissioners,
19 sheriffs, county and circuit clerks, assessors and prosecuting
20 attorneys are based, and the new and additional duties that each of
21 these officials is required to perform as they serve the best
22 interests of their respective counties. Inasmuch as the
23 reappraisal of the property valuations in each county has now been
24 accomplished, the Legislature finds that a change in classification
25 of counties by virtue of increased property valuations will occur
26 on an infrequent basis. However, it is the further finding of the

1 Legislature that when such change in classification of counties
2 does occur, that new and additional programs, economic
3 developments, requirements of public safety and the need for new
4 services provided by county officials all increase, that the same
5 constitute new and additional duties for county officials as their
6 respective counties reach greater heights of economic development,
7 as exemplified by the substantial increases in property valuations
8 and, as such, justify the increases in compensation provided in
9 section four of this article, without violating the provisions of
10 section thirty-eight, article VI of the Constitution of West
11 Virginia.

12 (d) The Legislature further finds and declares that the
13 amendments enacted to this article are intended to modify the
14 provisions of this article so as to cause the same to be in full
15 compliance with the provisions of the Constitution of West Virginia
16 and to be in full compliance with the decisions of the Supreme
17 Court of Appeals of West Virginia.

18 **§7-7-4. Compensation of elected county officials and county**
19 **commissioners for each class of county; effective**
20 **date.**

21 (a) (1) All county commissioners shall be paid compensation
22 out of the county treasury in amounts and according to the schedule
23 set forth in subdivision (2) of this subsection for each class of
24 county as determined by the provisions of section three of this
25 article: *Provided*, That as to any county having a tribunal in lieu

1 of a county commission, the county commissioners of the county may
2 be paid less than the minimum compensation limits of the county
3 commission for the particular class of such county.

4 (2) COUNTY COMMISSIONERS

5	Class I	\$20,000
6	Class II	\$15,500
7	Class III	\$14,000
8	Class IV	\$10,000
9	Class V	\$ 7,000
10	Class VI	\$ 4,000

11 (3) The compensation, set out in subdivision (2) of this
12 subsection, shall be paid on and after the first day of January,
13 one thousand nine hundred eighty-five, to each county commissioner.
14 Within each county, every county commissioner whose term of office
15 commenced prior to the first day of January, one thousand nine
16 hundred eighty-five, shall receive the same annual compensation as
17 commissioners commencing a term of office on or after that date by
18 virtue of the new duties imposed upon county commissioners pursuant
19 to the provisions of chapter fifteen, acts of the Legislature,
20 first extraordinary session, one thousand nine hundred
21 eighty-three.

22 (4) For the purpose of determining the compensation to be paid
23 to the elected county officials of each county, the compensations
24 for each office by class, set out in subdivision (5) of this
25 subsection, are established and shall be used by each county
26 commission in determining the compensation of each of their county

1 officials other than compensation of members of the county
2 commission.

3 (5) OTHER ELECTED OFFICIALS

4		County	Circuit		Prosecuting
5	Sheriff	Clerk	Clerk	Assessor	Attorney
6 Class I	\$24,200	\$31,300	\$31,300	\$24,200	\$41,500
7 Class II	\$24,200	\$28,000	\$28,000	\$24,200	\$39,500
8 Class III	\$24,200	\$28,000	\$28,000	\$24,200	\$30,000
9 Class IV	\$22,300	\$24,000	\$24,000	\$22,300	\$26,500
10 Class V	\$20,400	\$22,000	\$22,000	\$20,400	\$23,500
11 Class VI	\$17,200	\$17,200	\$17,200	\$17,200	\$17,000

12 (6) Any county clerk, circuit clerk, joint clerk of the county
13 commission and circuit court, if any, county assessor, sheriff and
14 prosecuting attorney of a Class I county, any assessor of a Class
15 II and Class III county, any sheriff of a Class II and Class III
16 county and any prosecuting attorney of a Class II county shall
17 devote full-time to his or her public duties to the exclusion of
18 any other employment: *Provided*, That any public official, whose
19 term of office begins when his or her county's classification
20 imposes no restriction on his or her outside activities, shall not
21 be restricted on his or her outside activities during the remainder
22 of the term for which he or she is elected. The compensation, set
23 out in subdivision (5) of this subsection, shall be paid on and
24 after the first day of January, one thousand nine hundred
25 eighty-five, to each elected county official.

26 (7) In the case of a county that has a joint clerk of the

1 county commission and circuit court, the compensation of the joint
2 clerk shall be fixed in an amount twenty-five percent higher than
3 the compensation would be fixed for the county clerk if it had
4 separate offices of county clerk and circuit clerk.

5 (8) The Legislature finds that the duties imposed upon county
6 clerks by the provisions of chapter sixty-four, acts of the
7 Legislature, regular session, one thousand nine hundred eighty-two,
8 and by chapter fifteen, acts of the Legislature, first
9 extraordinary session, one thousand nine hundred eighty-three,
10 constitute new and additional duties for county clerks and as such
11 justify the additional compensation provided in this section
12 without violating the provisions of section thirty-eight, article
13 VI of the Constitution of West Virginia.

14 (9) The Legislature further finds that the duties imposed upon
15 circuit clerks by the provisions of chapters sixty-one and one
16 hundred eighty-two, acts of the Legislature, regular session, one
17 thousand nine hundred eighty-one, and by chapter sixty, acts of the
18 Legislature, regular session, one thousand nine hundred
19 eighty-three, constitute new and additional duties for circuit
20 clerks and as such justify the additional compensation provided by
21 this section without violating the provisions of section
22 thirty-eight, article VI of the Constitution of West Virginia.

23 (b) (1) Prior to the primary election in the year one thousand
24 nine hundred ninety-two, and for the fiscal year beginning on the
25 first day of July, one thousand nine hundred ninety-two, or for any
26 subsequent fiscal year if the approval, set out in subdivision (2)

1 of this subsection, is not granted for any fiscal year, and at
2 least thirty days prior to the meeting to approve the county
3 budget, the commission shall provide notice to the public of the
4 date and time of the meeting and that the purpose of the meeting of
5 the county commission is to decide upon their budget certification
6 to the auditor.

7 (2) Upon submission by the county commission to the auditor of
8 a proposed annual budget which contains anticipated receipts into
9 the county's general revenue fund, less anticipated moneys from the
10 unencumbered fund balance, equal to anticipated receipts into the
11 county's general revenue fund, less anticipated moneys from the
12 unencumbered fund balance and any federal or state special grants,
13 for the immediately preceding fiscal year, plus such additional
14 amount as is necessary for payment of the increases in the salaries
15 set out in subdivisions (3) and (5) of this subsection, and related
16 employment taxes over that paid for the immediately preceding
17 fiscal year, and upon approval thereof by the auditor, which
18 approval shall not be granted for any proposed annual budget
19 containing anticipated receipts which are unreasonably greater or
20 lesser than that of the immediately preceding fiscal year, for the
21 purpose of determining the compensation to be paid to the elected
22 county officials of each county office by class are established and
23 shall be used by each county commission in determining the
24 compensation of each of their county officials: *Provided*, That as
25 to any county having a tribunal in lieu of a county commission, the
26 county commissioners of the county may be paid less than the

1 minimum compensation limits of the county commission for the
2 particular class of the county.

3 (3) COUNTY COMMISSIONERS

4	Class I	\$24,000
5	Class II	\$18,600
6	Class III	\$16,800
7	Class IV	\$12,000
8	Class V	\$ 8,400

9 (4) If the approval, set out in subdivision (2) of this
10 subsection, is granted, the compensation, set out in subdivision
11 (3) of this subsection, shall be paid on and after the first day of
12 January, one thousand nine hundred ninety-three, to each county
13 commissioner. Within each county, every county commissioner shall
14 receive the same annual compensation by virtue of the new duties
15 imposed upon county commissioners pursuant to the provisions of
16 chapter one hundred seventy-two, acts of the Legislature, second
17 regular session, one thousand nine hundred ninety and chapter five,
18 acts of the Legislature, third extraordinary session, one thousand
19 nine hundred ninety.

20 (5) OTHER ELECTED OFFICIALS

21		County	Circuit		Prosecuting
22		Sheriff	Clerk	Assessor	Attorney
23	Class I	\$29,040	\$37,560	\$29,040	\$59,500
24	Class II	\$29,040	\$33,600	\$29,040	\$59,500
25	Class III	\$29,040	\$33,600	\$29,040	\$36,000
26	Class IV	\$26,760	\$28,800	\$26,760	\$31,800

1 Class V	\$24,480	\$26,400	\$26,400	\$24,480	\$28,200
2 Class VI	\$24,480	\$26,400	\$26,400	\$24,480	\$28,200

3 (6) Any county clerk, circuit clerk, joint clerk of the county
4 commission and circuit court, if any, county assessor, sheriff and
5 prosecuting attorney of a Class I county, any assessor of a Class
6 II and Class III county, any sheriff of a Class II and Class III
7 county and any prosecuting attorney of a Class II county shall
8 devote full-time to his or her public duties to the exclusion of
9 any other employment: *Provided*, That any public official, whose
10 term of office begins when his or her county's classification
11 imposes no restriction on his or her outside activities, shall not
12 be restricted on his or her outside activities during the remainder
13 of the term for which he or she is elected. If the approval, set
14 out in subdivision (2) of this subsection, is granted, the
15 compensation, set out in subdivision (5) of this subsection, shall
16 be paid on and after the first day of January, one thousand nine
17 hundred ninety-three, to each elected county official.

18 (7) In the case of a county that has a joint clerk of the
19 county commission and circuit court, the compensation of the joint
20 clerk shall be fixed in an amount twenty-five percent higher than
21 the compensation would be fixed for the county clerk if it had
22 separate offices of county clerk and circuit clerk.

23 (8) Prior to the primary election in the year one thousand
24 nine hundred ninety-two, in the case of a Class III, Class IV or
25 Class V county which has a part-time prosecuting attorney, the
26 county commission may find that such facts and circumstances exist

1 that require the prosecuting attorney to devote full-time to his or
2 her public duties for the four-year term, beginning the first day
3 of January, one thousand nine hundred ninety-three. If the county
4 commission makes such a finding, it may by proper order adopted and
5 entered, require the prosecuting attorney who takes office on the
6 first day of January, one thousand nine hundred ninety-three, to
7 devote full-time to his or her public duties and the county
8 commission shall then compensate said prosecuting attorney at the
9 same rate of compensation as that of a prosecuting attorney in a
10 Class II county.

11 (9) For any county: (A) Which on and after the first day of
12 July, one thousand nine hundred ninety-four, is classified as a
13 Class II county; and (B) which prior to such date was classified
14 as a Class III, Class IV or Class V county and maintained a
15 part-time prosecuting attorney, the county commission may elect to
16 maintain the prosecuting attorney as a part-time prosecuting
17 attorney: *Provided*, That prior to the first day of January, one
18 thousand nine hundred ninety-six, the county commission shall make
19 a finding, by proper order and entered, whether to maintain a
20 full-time or part-time prosecuting attorney. The part-time
21 prosecuting attorney shall be compensated at the same rate of
22 compensation as that of a prosecuting attorney in the class for the
23 county prior to being classified as a Class II county.

24 (c) (1) Prior to the primary election in the year one thousand
25 nine hundred ninety-six, and for the fiscal year beginning on the
26 first day of July, one thousand nine hundred ninety-six, or for any

1 subsequent fiscal year if the approval, set out in subdivision (2)
2 of this subsection, is not granted for any fiscal year, and at
3 least thirty days prior to the meeting to approve the county
4 budget, the commission shall provide notice to the public of the
5 date and time of the meeting and that the purpose of the meeting of
6 the county commission is to decide upon their budget certification
7 to the auditor.

8 (2) Upon submission by the county commission to the auditor of
9 a proposed annual budget which contains anticipated receipts into
10 the county's general revenue fund, less anticipated moneys from the
11 unencumbered fund balance, equal to anticipated receipts into the
12 county's general revenue fund, less anticipated moneys from the
13 unencumbered fund balance and any federal or state special grants,
14 for the fiscal year beginning the first day of July, one thousand
15 nine hundred ninety-six, plus such additional amount as is
16 necessary for payment of the increases in the salaries set out in
17 subdivisions (3) and (6) of this subsection, and related employment
18 taxes over that paid for the immediately preceding fiscal year, and
19 upon approval thereof by the auditor, which approval shall not be
20 granted for any proposed annual budget containing anticipated
21 receipts which are unreasonably greater or lesser than that of the
22 immediately preceding fiscal year for the purpose of determining
23 the compensation to be paid to the elected county officials of each
24 county office by class are established and shall be used by each
25 county commission in determining whether county revenues are
26 sufficient to pay the compensation mandated herein for their county

1 officials: *Provided*, That as to any county having a tribunal in
2 lieu of a county commission, the county commissioners of the county
3 may be paid less than the minimum compensation limits of the county
4 commission for the particular class of the county: *Provided*,
5 *however*, That should there be an insufficient projected increase in
6 revenues to pay the increased compensation and related employment
7 taxes, then the compensation of that county's elected officials
8 shall remain at the level in effect at the time certification was
9 sought.

10 (3) COUNTY COMMISSIONERS

11	Class I	\$28,000
12	Class II	\$27,500
13	Class III	\$27,000
14	Class IV	\$26,500
15	Class V	\$26,000
16	Class VI	\$21,500
17	Class VII	\$21,000
18	Class VIII	\$19,000
19	Class IX	\$18,500
20	Class X	\$15,000

21 (4) The compensation, set out in subdivision (3) of this
22 subsection, shall be paid on and after the first day of January,
23 one thousand nine hundred ninety-seven, to each county
24 commissioner. Every county commissioner in each county, whose term
25 of office commenced prior to or on or after the first day of
26 January, one thousand nine hundred ninety-seven, shall receive the

1 same annual compensation by virtue of legislative findings of extra
2 duties as set forth in section one of this article.

3 (5) For the purpose of determining the compensation to be paid
4 to the elected county officials of each county, the compensations
5 for each county office by class, set out in subdivision (6) of this
6 subsection, are established and shall be used by each county
7 commission in determining the compensation of each of their county
8 officials other than compensation of members of the county
9 commission.

10 (6) OTHER ELECTED OFFICIALS

		County	Circuit		Prosecuting
	Sheriff	Clerk	Clerk	Assessor	Attorney
11 Class I	\$34,000	\$42,000	\$42,000	\$34,000	\$76,000
12 Class II	\$33,500	\$41,500	\$41,500	\$33,500	\$74,000
13 Class III	\$33,250	\$40,500	\$40,500	\$33,250	\$72,000
14 Class IV	\$33,000	\$40,250	\$40,250	\$33,000	\$70,000
15 Class V	\$32,750	\$40,000	\$40,000	\$32,750	\$68,000
16 Class VI	\$32,500	\$37,500	\$37,500	\$32,500	\$45,000
17 Class VII	\$32,250	\$37,000	\$37,000	\$32,250	\$43,000
18 Class VIII	\$32,000	\$36,500	\$36,500	\$32,000	\$41,000
19 Class IX	\$31,750	\$36,000	\$36,000	\$31,750	\$38,000
20 Class X	\$29,000	\$32,000	\$32,000	\$29,000	\$35,000

21 (7) The compensation, set out in subdivision (6) of this
22 subsection, shall be paid on and after the first day of January,
23 one thousand nine hundred ninety-seven, to each elected county
24 official. Any county clerk, circuit clerk, joint clerk of the
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1 county commission and circuit court, if any, county assessor or
2 sheriff of a Class I through Class V county, inclusive, any
3 assessor or any sheriff of a Class VI through Class IX county,
4 inclusive, shall devote full-time to his or her public duties to
5 the exclusion of any other employment: *Provided*, That any public
6 official, whose term of office begins when his or her county's
7 classification imposes no restriction on his or her outside
8 activities, shall not be restricted on his or her outside
9 activities during the remainder of the term for which he or she is
10 elected.

11 (8) In the case of a county that has a joint clerk of the
12 county commission and circuit court, the compensation of the joint
13 clerk shall be fixed in an amount twenty-five percent higher than
14 the compensation would be fixed for the county clerk if it had
15 separate offices of county clerk and circuit clerk.

16 (9) Any prosecuting attorney of a Class I through Class V
17 county, inclusive, shall devote full-time to his or her public
18 duties to the exclusion of any other employment: *Provided*, That
19 any county which under the prior provisions of this section was
20 classified as a Class II county and elected to maintain a part-time
21 prosecutor may continue to maintain a part-time prosecutor, until
22 such time as the county commission, on request of the part-time
23 prosecutor, approves and makes a finding, by proper order entered,
24 that the prosecuting attorney shall devote full-time to his or her
25 public duties. The county commission shall then compensate said
26 prosecuting attorney at the same rate of compensation as that of a

1 prosecuting attorney in a Class V county: *Provided, however,* That
2 any county which under the prior provisions of this section was
3 classified as a Class II county and which did not elect to maintain
4 a part-time prosecutor shall maintain a full-time prosecuting
5 attorney and shall compensate said prosecuting attorney at the same
6 rate of compensation as that of a prosecuting attorney in a Class
7 V county: *Provided further,* That, until the first day of January,
8 two thousand one, when a vacancy occurs in the office of
9 prosecuting attorney prior to the end of a term, the county
10 commission of a Class IV or Class V county may elect to allow the
11 position to become part-time for the end of that term, and
12 thereafter the position of prosecuting attorney shall become
13 full-time.

14 (d) (1) The increased salaries to be paid to the county
15 commissioners and the other elected county officials described in
16 this subsection on and after the first day of July, two thousand
17 two, are set out in subdivisions (5) and (7) of this subsection.
18 Every county commissioner and elected county official in each
19 county, whose term of office commenced prior to or on or after the
20 first day of July, two thousand two, shall receive the same annual
21 salary by virtue of legislative findings of extra duties as set
22 forth in section one of this article.

23 (2) Before the increased salaries, as set out in subdivisions
24 (5) and (7) of this subsection, are paid to the county
25 commissioners and the elected county officials, the following
26 requirements must be met:

1 (A) The auditor has certified that the proposed annual county
2 budget for the fiscal year beginning the first days of July, two
3 thousand two, has increased over the previous fiscal year in an
4 amount sufficient for the payment of the increase in the salaries,
5 set out in subdivisions (5) and (7) of this subsection, and the
6 related employment taxes: *Provided*, That the auditor may not
7 approve the budget certification for any proposed annual county
8 budget containing anticipated receipts which are unreasonably
9 greater or lesser than that of the previous year. For purposes of
10 this subdivision, the term "receipts" does not include unencumbered
11 fund balance or federal or state grants; and

12 (B) Each county commissioner or other elected official
13 described in this subsection in office on the effective date of the
14 increased salaries provided by this subsection who desires to
15 receive the increased salary has prior to that date filed in the
16 office of the clerk of the county commission his or her written
17 agreement to accept the salary increase. The salary for the person
18 who holds the office of county commissioner or other elected
19 official described in this subsection who fails to file the written
20 agreement as required by this paragraph shall be the salary for
21 that office in effect immediately prior to the effective date of
22 the increased salaries provided by this subsection until the person
23 vacates the office or his or her term of office expires, whichever
24 first occurs.

25 (3) If there is an insufficient projected increase in revenues
26 to pay the increased salaries and the related employment taxes,

1 then the salaries of that county's elected officials and
2 commissioners shall remain at the level in effect at the time
3 certification was sought.

4 (4) In any county having a tribunal in lieu of a county
5 commission, the county commissioners of that county may be paid
6 less than the minimum salary limits of the county commission for
7 that particular class of the county.

8 (5) COUNTY COMMISSIONERS

9	Class I	\$30,800
10	Class II	\$30,250
11	Class III	\$29,700
12	Class IV	\$29,150
13	Class V	\$28,600
14	Class VI	\$23,650
15	Class VII	\$23,100
16	Class VIII	\$20,900
17	Class IX	\$20,350
18	Class X	\$16,500

19 (6) For the purpose of determining the salaries to be paid to
20 the elected county officials of each county, the salaries for each
21 county office by class, set out in subdivision (7) of this
22 subsection, are established and shall be used by each county
23 commission in determining the salaries of each of their county
24 officials other than salaries of members of the county commission.

25 (7) OTHER ELECTED OFFICIALS

26	County	Circuit	Prosecuting
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	Sheriff	Clerk	Clerk	Assessor	Attorney
1					
2 Class I	\$37,400	\$46,200	\$46,200	\$37,400	\$83,600
3 Class II	\$36,850	\$45,650	\$45,650	\$36,850	\$81,400
4 Class III	\$36,575	\$44,550	\$44,550	\$36,575	\$79,200
5 Class IV	\$36,300	\$44,295	\$44,295	\$36,300	\$77,000
6 Class V	\$36,025	\$44,000	\$44,000	\$36,025	\$74,800
7 Class VI	\$35,750	\$41,250	\$41,250	\$35,750	\$49,500
8 Class VII	\$35,475	\$40,700	\$40,700	\$35,475	\$47,300
9 Class VIII	\$35,200	\$40,150	\$40,150	\$35,200	\$45,100
10 Class IX	\$34,925	\$39,600	\$39,600	\$34,925	\$41,800
11 Class X	\$31,900	\$35,200	\$35,200	\$31,900	\$38,500

12 (8) Any county clerk, circuit clerk, joint clerk of the county
13 commission and circuit court, if any, county assessor or sheriff of
14 a Class I through Class V county, inclusive, any assessor or any
15 sheriff of a Class VI through Class IX county, inclusive, shall
16 devote full-time to his or her public duties to the exclusion of
17 any other employment: *Provided*, That any public official, whose
18 term of office begins when his or her county's classification
19 imposes no restriction on his or her outside activities, may not be
20 restricted on his or her outside activities during the remainder of
21 the term for which he or she is elected.

22 (9) In the case of a county that has a joint clerk of the
23 county commission and circuit court, the salary of the joint clerk
24 shall be fixed in an amount twenty-five percent higher than the
25 salary would be fixed for the county clerk if it had separate
26 offices of county clerk and circuit clerk.

1 (10) Any prosecuting attorney of a Class I through Class V
2 county, inclusive, shall devote full-time to his or her public
3 duties to the exclusion of any other employment: *Provided, That*
4 any county which under the prior provisions of this section was
5 classified as a Class II county and elected to maintain a part-time
6 prosecutor may continue to maintain a part-time prosecutor, until
7 such time as the county commission, on request of the part-time
8 prosecutor, approves and makes a finding, by proper order entered,
9 that the prosecuting attorney shall devote full-time to his or her
10 public duties. The county commission shall then compensate said
11 prosecutor at the same salary as that of a prosecuting attorney in
12 a Class V county: *Provided, however, That* any county which under
13 the prior provisions of this section was classified as a Class II
14 county and which did not elect to maintain a part-time prosecutor
15 shall maintain a full-time prosecuting attorney and shall
16 compensate said prosecuting attorney at the same salary as that of
17 a prosecuting attorney in a Class V county: *Provided further,*
18 *That,* until the first day of January, two thousand three, when a
19 vacancy occurs in the office of prosecuting attorney prior to the
20 end of a term, the county commission of a Class IV or Class V
21 county may elect to allow the position to become part-time for the
22 end of that term and thereafter the position of prosecuting
23 attorney shall become full-time: *And provided further, That* a
24 prosecuting attorney for a Class VI county which subsequently
25 becomes a Class V county on or before the first day of July, two
26 thousand ten, may continue as a part-time attorney, and continue to

1 be compensated at the Class VI county level, until such time as
2 determined by the prosecuting attorney and the county commission
3 that a full-time prosecuting attorney is needed.

4 (e) (1) The increased salaries to be paid to the county
5 commissioners and the other elected county officials described in
6 this subsection on and after the first day of July, two thousand
7 six, are set out in subdivisions (5) and (7) of this subsection.
8 Every county commissioner and elected county official in each
9 county, whose term of office commenced prior to or on or after the
10 first day of July, two thousand six, shall receive the same annual
11 salary by virtue of legislative findings of extra duties as set
12 forth in section one of this article.

13 (2) Before the increased salaries, as set out in subdivisions
14 (5) and (7) of this subsection, are paid to the county
15 commissioners and the elected county officials, the following
16 requirements must be met:

17 (A) The auditor has certified that the proposed annual county
18 budget for the fiscal year beginning the first days of July, two
19 thousand six, has increased over the previous fiscal year in an
20 amount sufficient for the payment of the increase in the salaries,
21 set out in subdivisions (5) and (7) of this subsection, and the
22 related employment taxes: *Provided*, That the auditor may not
23 approve the budget certification for any proposed annual county
24 budget containing anticipated receipts which are unreasonably
25 greater or lesser than that of the previous year. For purposes of
26 this subdivision, the term "receipts" does not include unencumbered

1 fund balance or federal or state grants; and

2 (B) Each county commissioner or other elected official
3 described in this subsection in office on the effective date of the
4 increased salaries provided by this subsection who desires to
5 receive the increased salary has prior to that date filed in the
6 office of the clerk of the county commission his or her written
7 agreement to accept the salary increase. The salary for the person
8 who holds the office of county commissioner or other elected
9 official described in this subsection who fails to file the written
10 agreement as required by this paragraph shall be the salary for
11 that office in effect immediately prior to the effective date of
12 the increased salaries provided by this subsection until the person
13 vacates the office or his or her term of office expires, whichever
14 first occurs.

15 (3) If there is an insufficient projected increase in revenues
16 to pay the increased salaries and the related employment taxes,
17 then the salaries of that county's elected officials and
18 commissioners shall remain at the level in effect at the time
19 certification was sought.

20 (4) In any county having a tribunal in lieu of a county
21 commission, the county commissioners of that county may be paid
22 less than the minimum salary limits of the county commission for
23 that particular class of the county.

24 (5) COUNTY COMMISSIONERS

25	Class I	\$36,960
26	Class II	\$36,300

1	Class III	\$35,640
2	Class IV	\$34,980
3	Class V	\$34,320
4	Class VI	\$28,380
5	Class VII	\$27,720
6	Class VIII	\$25,080
7	Class IX	\$24,420
8	Class X	\$19,800

9 (6) For the purpose of determining the salaries to be paid to
10 the elected county officials of each county, the salaries for each
11 county office by class, set out in subdivision (7) of this
12 subsection, are established and shall be used by each county
13 commission in determining the salaries of each of their county
14 officials other than salaries of members of the county commission.

15 (7) OTHER ELECTED OFFICIALS

	County	Circuit	Prosecuting	
	Sheriff	Clerk	Assessor	
	Clerk	Assessor	Attorney	
18 Class I	\$44,880	\$55,440	\$44,880	\$ 96,600
19 Class II	\$44,220	\$54,780	\$44,220	\$ 94,400
20 Class III	\$43,890	\$53,460	\$43,890	\$ 92,200
21 Class IV	\$43,560	\$53,154	\$43,560	\$ 90,000
22 Class V	\$43,230	\$52,800	\$43,230	\$ 87,800
23 Class VI	\$42,900	\$49,500	\$42,900	\$ 59,400
24 Class VII	\$42,570	\$48,840	\$42,570	\$ 56,760
25 Class VIII	\$42,240	\$48,180	\$42,240	\$ 54,120
26 Class IX	\$41,910	\$47,520	\$41,910	\$ 50,160

1 Class X \$38,280 \$42,240 \$42,240 \$38,280 \$ 46,200

2 (8) Any county clerk, circuit clerk, joint clerk of the county
3 commission and circuit court, if any, county assessor or sheriff of
4 a Class I through Class V county, inclusive, any assessor or any
5 sheriff of a Class VI through Class IX county, inclusive, shall
6 devote full-time to his or her public duties to the exclusion of
7 any other employment: *Provided*, That any public official, whose
8 term of office begins when his or her county's classification
9 imposes no restriction on his or her outside activities, may not be
10 restricted on his or her outside activities during the remainder of
11 the term for which he or she is elected.

12 (9) In the case of a county that has a joint clerk of the
13 county commission and circuit court, the salary of the joint clerk
14 shall be fixed in an amount twenty-five percent higher than the
15 salary would be fixed for the county clerk if it had separate
16 offices of county clerk and circuit clerk.

17 (10) Any prosecuting attorney of a Class I through Class V
18 county, inclusive, shall devote full-time to his or her public
19 duties to the exclusion of any other employment: *Provided*, That
20 any county which under the prior provisions of this section was
21 classified as a Class II county and elected to maintain a part-time
22 prosecutor may continue to maintain a part-time prosecutor, until
23 such time as the county commission, on request of the part-time
24 prosecutor, approves and makes a finding, by proper order entered,
25 that the prosecuting attorney shall devote full-time to his or her
26 public duties. The county commission shall then compensate said

1 prosecutor at the same salary as that of a prosecuting attorney in
2 a Class V county: *Provided, however,* That any county which under
3 the prior provisions of this section was classified as a Class II
4 county and which did not elect to maintain a part-time prosecutor
5 shall maintain a full-time prosecuting attorney and shall
6 compensate said prosecuting attorney at the same salary as that of
7 a prosecuting attorney in a Class V county: *And provided further,*
8 That a prosecuting attorney for a Class VI county which
9 subsequently becomes a Class V county on or before the first day of
10 July, two thousand ten, may continue as a part-time attorney, and
11 continue to be compensated at the Class VI county level, until such
12 time as determined by the prosecuting attorney and the county
13 commission that a full-time prosecuting attorney is needed.