

COMMITTEE SUBSTITUTE

FOR

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FOR

Senate Bill No. 379

(By Senators Miller, Blair, Boley, Cann, Cookman, Fitzsimmons,
Kirkendoll, Stollings, Snyder, Kessler (Mr. President) and
Plymale)

[Originating in the Committee on Finance;
reported February 21, 2014.]

A BILL to amend and reenact §7-7-3, §7-7-4 and §7-7-6b of the Code of West Virginia, 1931, as amended, all relating to counties; reclassifying counties from ten classes to five classes; authorizing an increase in the salaries of county commissioners and elected county officials; clarifying that the salary increases for county commissioners and elected county officials take effect with the new term of office; providing that the State

Auditor shall not be held liable for relying upon information and data provided by a county commission in certifying a county's annual budget; and clarifying assessors' additional compensation classifications.

Be it enacted by the Legislature of West Virginia:

That §7-7-3, §7-7-4 and §7-7-6b of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7. COMPENSATION OF ELECTED COUNTY OFFICIALS.

§7-7-3. Classification of counties for purpose of determining compensation of elected county officials.

1 (a) Effective July 1, 1996, and thereafter, for the purpose
2 of determining the compensation of elected county officials,
3 the counties of the State of West Virginia will be grouped
4 into ten classes based on their assessed valuation of property,
5 all classes. These ten classes and the minimum and
6 maximum valuation of property, all classes, established to
7 determine the classification of each county are as follows:

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8	Minimum Assessed	Maximum Assessed
9	Valuation of Property	Valuation of Property
10	All Classes	All Classes
11	Class I \$ 2,000,000,000	No Limit
12	Class II \$ 1,500,000,000	\$ 1,999,999,999
13	Class III \$ 1,000,000,000	\$ 1,499,999,999
14	Class IV \$ 700,000,000	\$ 999,999,999
15	Class V \$ 600,000,000	\$ 699,999,999
16	Class VI \$ 500,000,000	\$ 599,999,999
17	Class VII \$ 400,000,000	\$ 499,999,999
18	Class VIII \$ 300,000,000	\$ 399,999,999
19	Class IX \$ 200,000,000	\$ 299,999,999
20	Class X \$-0-	\$ 199,999,999

21 (b) Effective July 1, 2016, and thereafter, for the purpose
22 of determining the compensation of elected county officials,
23 the counties of the State of West Virginia will be grouped
24 into five classes based on their assessed valuation of
25 property. These five classes and the minimum and maximum
26 valuation of property, all classes, established to determine the
27 classification of each county are as follows:

28	<u>Minimum Assessed</u>	<u>Maximum Assessed</u>
29	<u>Valuation of Property</u>	<u>Valuation of Property</u>
30	<u>Class</u>	<u>All Classes</u>
31	<u>Class I</u>	<u>\$ 8,000,000,000</u>
32	<u>Class II</u>	<u>\$ 2,000,000,000</u>
33	<u>Class III</u>	<u>\$ 600,000,000</u>
34	<u>Class IV</u>	<u>\$ 400,000,000</u>
35	<u>Class V</u>	<u>\$-0-</u>

36 (1) Before the increased salaries to be paid to the county
37 commissioners and the other elected county officials
38 described in this subsection on and after July 1, 2016, are
39 paid to the county commissioners and the elected county
40 officials, the following requirements must be met:

41 (A) The Auditor has certified that the proposed annual
42 county budget for the fiscal year beginning July 1, 2016, has
43 increased over the previous fiscal year in an amount
44 sufficient for the payment of the increase in the salaries, and
45 the related employment taxes: *Provided*, That the Auditor
46 may not approve the budget certification for any proposed

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47 annual county budget containing anticipated receipts which
48 are unreasonably greater or lesser than that of the previous
49 year. For purposes of this subdivision, the term “receipts”
50 does not include unencumbered fund balance or federal or
51 state grants; and

52 (B) Each county commissioner or other elected official
53 described in this subsection in office on the effective date of
54 the increased salaries provided by this subsection who desires
55 to receive the increased salary has prior to that date filed in
56 the office of the clerk of the county commission his or her
57 written agreement to accept the salary increase. The salary
58 for the person who holds the office of county commissioner
59 or other elected official described in this subsection who fails
60 to file the written agreement as required by this paragraph
61 shall be the salary for that office in effect immediately prior
62 to the effective date of the increased salaries provided by this
63 subsection until the person vacates the office or his or her
64 term of office expires, whichever first occurs.

65 (2) If there is an insufficient projected increase in
66 revenues to pay the increased salaries and the related
67 employment taxes, then the salaries of that county's elected
68 officials and commissioners shall remain at the level in effect
69 at the time certification was sought.

70 **(b)** (c) The assessed valuation of property, all classes, that
71 shall be used as the base to determine the class of a county
72 shall be the assessed valuation of property, all classes, of the
73 county as certified by the county assessor, State Auditor and
74 county clerk prior to March 29, 1996.

75 **(c)** (d) Prior to March 29, 1998, and each second year
76 thereafter, the county commission of each county shall
77 determine if the assessed valuation of property, all classes, of
78 the county, as certified by the county assessor, State Auditor
79 and county clerk is within the minimum and maximum limits
80 of a class above or below the ~~class in which the county then~~
81 is county's current classification. If the county commission
82 so determines, it shall record the new classification of the
83 county with the State Auditor and State Tax Commissioner
84 and record its action on its county commission record.

85 ~~(d)~~ (e) The classification of each county ~~shall be~~ is
86 subject to review by the State Auditor. He or she shall
87 determine if the classification of each county is correct based
88 on the final assessed valuation of property, all classes,
89 certified to him or her by the county assessor, State Auditor
90 and county clerk. If he or she finds that a county is
91 incorrectly classified, he or she shall notify the county
92 commission of that county promptly of his or her finding and
93 in any case shall notify the county prior to June 30 of that
94 current fiscal year. Any county commission so notified shall
95 correct its classification immediately and make any necessary
96 corrections in the salaries of its elected county officials for
97 the next fiscal year.

98 ~~(e)~~ (f) Notwithstanding the provisions of this article,
99 whenever any other provision of this code refers to
100 classifications of counties for purposes of imposing any right,
101 duty or responsibility, the classification system set forth in
102 subsection (a) of this section shall be utilized for determining
103 the classification of a particular county.

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

1 (†) (a) The increased salaries to be paid to the county
2 commissioners and the other elected county officials
3 described in this ~~subsection~~ section on and after July 1, 2006,
4 are set out in ~~subdivisions (5) and (7)~~ subsections (j) and (l)
5 of this ~~subsection~~ section. Every county commissioner and
6 elected county official in each county, whose term of office
7 commenced prior to, or on or after July 1, 2006, shall receive
8 the same annual salary by virtue of the legislative findings of
9 extra duties as set forth in section one of this article.

10 (b) On or after July 1, 2016, the salaries to be paid to the
11 county commissioners and the other elected county officials
12 described in this section are set out in subsections (c), (d) and
13 (e) of this section: *Provided*, That the salaries set out in
14 subsections (c), (d) and (e) shall not take effect until the
15 county commissioners' or elected county officials' new term
16 of office.

17 (c) COUNTY COMMISSIONERS

18	<u>Class I</u>	<u>\$42,000</u>
19	<u>Class II</u>	<u>\$41,000</u>
20	<u>Class III</u>	<u>\$40,000</u>
21	<u>Class IV</u>	<u>\$31,000</u>
22	<u>Class V</u>	<u>\$28,000</u>

23 (d) OTHER ELECTED OFFICIALS

24		<u>County</u>	<u>Circuit</u>		<u>Prosecuting</u>
25	<u>Sheriff</u>	<u>Clerk</u>	<u>Clerk</u>	<u>Assessor</u>	<u>Attorney</u>
26	<u>Class I</u>	<u>\$51,000</u>	<u>\$63,000</u>	<u>\$63,000</u>	<u>\$51,000</u> <u>\$109,000</u>
27	<u>Class II</u>	<u>\$50,000</u>	<u>\$62,000</u>	<u>\$62,000</u>	<u>\$50,000</u> <u>\$108,000</u>
28	<u>Class III</u>	<u>\$49,000</u>	<u>\$61,000</u>	<u>\$61,000</u>	<u>\$49,000</u> <u>\$105,000</u>
29	<u>Class IV</u>	<u>\$48,000</u>	<u>\$55,000</u>	<u>\$55,000</u>	<u>\$48,000</u> <u>\$ 95,000</u>
30	<u>Class V</u>	<u>\$47,000</u>	<u>\$54,000</u>	<u>\$54,000</u>	<u>\$47,000</u> <u>\$ 93,000</u>

31 Any county clerk, circuit clerk, county assessor or sheriff of
32 a Class I through Class III county, inclusive, any assessor or
33 any sheriff of a Class IV through Class V county, inclusive,

34 shall devote full time to his or her public duties to the
35 exclusion of any other employment: *Provided*, That any
36 public official, whose term of office begins when his or her
37 county's classification imposes no restriction on his or her
38 outside activities, may not be restricted on his or her outside
39 activities during the remainder of the term for which he or
40 she is elected.

41 (e) Notwithstanding provisions of the code to this
42 contrary, on or after July 1, 2016, any prosecutor that is
43 employed by a county on a part-time basis shall be paid a
44 salary of \$57,500.

45 ~~(2)~~ (f) Before the increased salaries, as set out in
46 subdivisions (5) and (7) of this subsection, are paid to the
47 county commissioners and the elected county officials, the
48 following requirements must be met:

49 ~~(A)~~ (1) The Auditor has certified that the proposed annual
50 county budget for the fiscal year ~~beginning the first days of~~

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51 ~~July 1, 2006~~, has increased over the previous fiscal year in an
52 amount sufficient for the payment of the increase in the
53 salaries, ~~set out in subdivisions (5) and (7) of this subsection~~
54 and the related employment taxes: *Provided*, That the
55 Auditor may not approve the budget certification for any
56 proposed annual county budget containing anticipated
57 receipts which are unreasonably greater or lesser than that of
58 the previous year. For purposes of this ~~subsection~~
59 subsection, the term “receipts” does not include
60 unencumbered fund balance or federal or state grants:
61 *Provided, however*, That the Auditor shall not be held liable
62 for relying upon information and data provided by a county
63 commission in certifying that county’s annual budget; and
64 ~~(B)~~ (2) Each county commissioner or other elected
65 county official, described in this ~~subsection~~ section, in office
66 on the effective date of the increased salaries provided by this
67 ~~subsection~~ section, who desires to receive the increased
68 salary has, prior to that date, filed in the office of the clerk of

69 the county commission his or her written agreement to accept
70 the salary increase. The salary for the person who holds the
71 office of county commissioner or other elected county
72 official, described in this ~~subsection~~ section, who fails to file
73 the written agreement as required by this paragraph, ~~shall be~~
74 is the salary for that office in effect immediately prior to the
75 effective date of the increased salaries provided by this
76 ~~subsection~~ section until the person vacates the office or his or
77 her term of office expires, whichever first occurs.

78 (3) (g) If there is an insufficient projected increase in
79 revenues to pay the increased salaries and the related
80 employment taxes, then the salaries of that county's elected
81 officials and commissioners shall remain at the level in effect
82 at the time certification was sought.

83 (4) (h) In any county having a tribunal in lieu of a county
84 commission, the county commissioners of that county may be
85 paid less than the minimum salary limits of the county
86 commission for that particular class of the county.

87 ~~(5)~~ (i) COUNTY COMMISSIONERS

88	Class I	\$36,960
89	Class II	\$36,300
90	Class III	\$35,640
91	Class IV	\$34,980
92	Class V	\$34,320
93	Class VI	\$28,380
94	Class VII	\$27,720
95	Class VIII	\$25,080
96	Class IX	\$24,420
97	Class X	\$19,800

98 ~~(6)~~ (j) For the purpose of determining the salaries to be
99 paid to the elected county officials of each county, the
100 salaries for each county office by class, set out in ~~subdivision~~
101 ~~(7)~~ subsection (l) of this ~~subsection~~ section, are established
102 and shall be used by each county commission in determining
103 the salaries of each of their county officials other than
104 salaries of members of the county commission.

105 ~~(7)~~ (k) OTHER ELECTED OFFICIALS

106		County	Circuit		Prosecuting
107		Sheriff	Clerk	Clerk	Assessor Attorney
108	Class I	\$44,880	\$55,440	\$55,440	\$44,880 \$ 96,600
109	Class II	\$44,220	\$54,780	\$54,780	\$44,220 \$ 94,400
110	Class III	\$43,890	\$53,460	\$53,460	\$43,890 \$ 92,200
111	Class IV	\$43,560	\$53,154	\$53,154	\$43,560 \$ 90,000
112	Class V	\$43,230	\$52,800	\$52,800	\$43,230 \$ 87,800
113	Class VI	\$42,900	\$49,500	\$49,500	\$42,900 \$ 59,400
114	Class VII	\$42,570	\$48,840	\$48,840	\$42,570 \$ 56,760
115	Class VIII	\$42,240	\$48,180	\$48,180	\$42,240 \$ 54,120
116	Class IX	\$41,910	\$47,520	\$47,520	\$41,910 \$ 50,160
117	Class X	\$38,280	\$42,240	\$42,240	\$38,280 \$ 46,200

118 ~~(8)~~ (l) Any county clerk, circuit clerk, county assessor or
 119 sheriff of a Class I through Class V county, inclusive, any
 120 assessor or any sheriff of a Class VI through Class IX county,
 121 inclusive, shall devote full-time to his or her public duties to
 122 the exclusion of any other employment: *Provided*, That any

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123 public official, whose term of office begins when his or her
124 county's classification imposes no restriction on his or her
125 outside activities, may not be restricted on his or her outside
126 activities during the remainder of the term for which he or
127 she is elected.

**§7-7-6b. Additional compensation of assessors according to
county classification.**

1 (a) For the purpose of determining the additional
2 compensation to be paid to the county assessor of each
3 county for the additional duties provided by section six-a of
4 this article, the following compensations for each county
5 assessor by class, as provided in section three of this article,
6 are hereby established and shall be used by each county
7 commission in determining the compensation of each county
8 assessor: For assessors in Class I - V counties, inclusive,
9 \$15,000; for assessors in Class VI and VII counties, \$10,000;
10 for assessors in Class VIII and IX counties, \$9,000; and for
11 assessors in Class X counties, \$6,500.

12 (b) Beginning July 1, 2016, for the purpose of
13 determining the additional compensation to be paid to the
14 county assessor of each county for the additional duties
15 provided by section six-a of this article, the following
16 compensations for each county assessor by class, as provided
17 in section three of this article, are established and shall be
18 used by each county commission in determining the
19 compensation of each county assessor:

20 (1) For assessors in Class I - III counties, inclusive,
21 \$15,000;

22 (2) For assessors in Class IV counties, \$10,000; and

23 (3) For assessors in Class V counties, \$9,000.

24 (c) Before the increased salaries to be paid to the county
25 assessors described in this subsection on and after July 1,
26 2016, are paid to the county assessors, the following
27 requirements must be met:

28 (1) The Auditor has certified that the proposed annual
29 county budget for the fiscal year beginning July 1, 2016, has
30 increased over the previous fiscal year in an amount

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31 sufficient for the payment of the increase in the salaries, and
32 the related employment taxes: *Provided*, That the Auditor
33 may not approve the budget certification for any proposed
34 annual county budget containing anticipated receipts which
35 are unreasonably greater or lesser than that of the previous
36 year. For purposes of this subdivision, the term “receipts”
37 does not include unencumbered fund balance or federal or
38 state grants; and

39 (2) Each county assessor described in this subsection in
40 office on the effective date of the increased salaries provided
41 by this subsection who desires to receive the increased salary
42 has prior to that date filed in the office of the clerk of the
43 county assessor his or her written agreement to accept the
44 salary increase. The salary for the person who holds the
45 office of county assessor described in this subsection who
46 fails to file the written agreement as required by this
47 paragraph shall be the salary for that office in effect
48 immediately prior to the effective date of the increased
49 salaries provided by this subsection until the person vacates

50 the office or his or her term of office expires, whichever first
51 occurs.

52 (3) If there is an insufficient projected increase in
53 revenues to pay the increased salaries and the related
54 employment taxes, then the salaries of that county's elected
55 officials and assessors shall remain at the level in effect at the
56 time certification was sought.