

H. B. 105

(By Mr. Speaker, (Mr. Miley) and Delegate Armstead)

[By Request of the Executive]

[Introduced March 14, 2014]

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9 A BILL to amend and reenact §7-7-1 and §7-7-4 of the Code of West
10 Virginia, 1931, as amended, all relating to authorizing an
11 increase in the salaries of county commissioners and elected
12 county officials; revising legislative findings; requiring the
13 State Auditor to consider certain factors when certifying
14 whether a county has an amount sufficient for payment of the
15 salary increases; providing that the State Auditor may not be
16 held liable for relying upon information and data provided by
17 a county commission in assessing a county's fiscal condition
18 or annual budget; requiring submission of a written request
19 for a salary increase; providing salary ranges for county
20 commissioners and other county officials for the time period
21 beginning July 1, 2014; and requiring certain prosecuting
22 attorneys to be devoted full-time to public duties.

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

24 That §7-7-1 and §7-7-4 of the Code of West Virginia, 1931, as

1 amended, be amended and reenacted, all to read as follows:

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

3 **§7-7-1. Legislative findings and purpose.**

4 (a) The Legislature finds that it has, since January 1, ~~2003~~
5 2007, consistently and annually imposed upon the county
6 commissioners, sheriffs, county and circuit clerks, assessors and
7 prosecuting attorneys in each county ~~board~~, new and additional
8 duties by the enactment of new provisions and amendments to this
9 code. The new and additional duties imposed upon the aforesaid
10 county officials by these enactments are such that they would
11 justify the increases in compensation as provided in section four
12 of this article, without violating the provisions of section
13 thirty-eight, article VI of the Constitution of West Virginia.

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

21 (c) The Legislature further finds that there is a direct
22 correlation between the total assessed property valuations of a
23 county on which the salary levels of the county commissioners,
24 sheriffs, county and circuit clerks, assessors and prosecuting

1 attorneys are based, and the new and additional duties that each of
2 these officials is required to perform as they serve the best
3 interests of their respective counties. Inasmuch as the
4 reappraisal of the property valuations in each county has now been
5 accomplished, the Legislature finds that a change in classification
6 of counties by virtue of increased property valuations will occur
7 on an infrequent basis. However, it is the further finding of the
8 Legislature that when such change in classification of counties
9 does occur, that new and additional programs, economic
10 developments, requirements of public safety and the need for new
11 services provided by county officials all increase, that the same
12 constitute new and additional duties for county officials as their
13 respective counties reach greater heights of economic development,
14 as exemplified by the substantial increases in property valuations
15 and, as such, justify the increases in compensation provided in
16 section four of this article, without violating the provisions of
17 section thirty-eight, article VI of the Constitution of West
18 Virginia.

19 (d) The Legislature further finds and declares that the
20 amendments enacted to this article are intended to modify the
21 provisions of this article so as to cause the same to be in full
22 compliance with the provisions of the Constitution of West Virginia
23 and to be in full compliance with the decisions of the Supreme
24 Court of Appeals of West Virginia.

1 **§7-7-4. Compensation of elected county officials and county**
2 **commissioners for each class of county; effective**
3 **date.**

4 (1) The increased salaries to be paid to the county
5 commissioners and the other elected county officials described in
6 this ~~subsection~~ section on and after July 1, ~~2006~~ 2014, are set out
7 in ~~subdivisions~~ subsections (5) and (7) of this ~~subsection~~ section.
8 Every county commissioner and elected county official in each
9 county, whose term of office commenced prior to or on or after July
10 1, ~~2006~~ 2014, shall receive the same annual salary by virtue of
11 legislative findings of extra duties as set forth in section one of
12 this article.

13 (2) Before the increased salaries, as set out in ~~subdivisions~~
14 subsections (5) and (7) of this ~~subsection~~ section, are paid to the
15 county commissioners and the elected county officials, the
16 following 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 1,~~
19 ~~2006,~~ fiscal condition of the county, considering costs, revenues,
20 liabilities, and significant trends of the same; maintenance
21 standards; and the commitment to the provision of county services
22 ~~has increased~~ sufficiently improved over the previous fiscal ~~year~~
23 years in so that there exists an amount sufficient for the payment
24 of the increase in the salaries set out in ~~subdivisions~~ subsections

1 (5) and (7) of this ~~subsection~~ section and the related employment
2 taxes: *Provided*, That the Auditor may not ~~approve the budget~~
3 provide the certification for the payment of the increase in the
4 salaries where any proposed annual county budget ~~containing~~
5 contains anticipated receipts which are unreasonably greater or
6 lesser than that of the previous year. For purposes of this
7 ~~subdivision~~ subsection, the term "receipts" does not include
8 unencumbered fund balance or federal or state grants: *Provided*,
9 That the Auditor shall not be held liable for relying upon
10 information and data provided by a county commission in assessing
11 the county's fiscal condition or a proposed annual county budget;
12 and

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

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

14 Any request for a salary increase shall use the following
15 language:

16 I [name of office holder] the duly elected [name of office] in
17 and for the County of [name of county], West Virginia, do hereby
18 request a salary increase pursuant to W. Va. Code §7-7-4, as
19 amended. This salary increase is effective July 1, 2014.

20 [Signature of office holder]

21 [Date]

22 (3) If the Auditor has failed to certify that there is ~~an~~
23 ~~insufficient projected increase in revenues to pay the increased an~~
24 amount sufficient for the payment of the increase in the salaries

1 and the related employment taxes pursuant to this section, then the
 2 salaries of that county's elected officials and commissioners shall
 3 remain at the level in effect at the time 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) Prior to July 1, 2014:

9 COUNTY COMMISSIONERS

10	Class I	\$36,960
11	Class II	\$36,300
12	Class III	\$35,640
13	Class IV	\$34,980
14	Class V	\$34,320
15	Class VI	\$28,380
16	Class VII	\$27,720
17	Class VIII	\$25,080
18	Class IX	\$24,420
19	Class X	\$19,800

20 After June 30, 2014:

21 COUNTY COMMISSIONERS

22	<u>Class I</u>	<u>\$41,395</u>
23	<u>Class II</u>	<u>\$40,656</u>
24	<u>Class III</u>	<u>\$39,917</u>

1	<u>Class IV</u>	<u>\$39,178</u>
2	<u>Class V</u>	<u>\$38,438</u>
3	<u>Class VI</u>	<u>\$31,786</u>
4	<u>Class VII</u>	<u>\$31,046</u>
5	<u>Class VIII</u>	<u>\$28,090</u>
6	<u>Class IX</u>	<u>\$27,350</u>
7	<u>Class X</u>	<u>\$22,176</u>

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

14 (7) Prior to July 1, 2014:

15	OTHER ELECTED OFFICIALS				
16		County	Circuit		Prosecuting
17		Sheriff	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

1	Class VIII	\$42,240	\$48,180	\$48,180	\$42,240	\$ 54,120
2	Class IX	\$41,910	\$47,520	\$47,520	\$41,910	\$ 50,160
3	Class X	\$38,280	\$42,240	\$42,240	\$38,280	\$ 46,200

4 After June 30, 2014:

5 OTHER ELECTED OFFICIALS

6		<u>County</u>	<u>Circuit</u>		<u>Prosecuting</u>
7		<u>Sheriff</u>	<u>Clerk</u>	<u>Assessor</u>	<u>Attorney</u>
8	<u>Class I</u>	<u>\$50,266</u>	<u>\$62,093</u>	<u>\$50,266</u>	<u>\$108,192</u>
9	<u>Class II</u>	<u>\$49,526</u>	<u>\$61,354</u>	<u>\$49,526</u>	<u>\$105,728</u>
10	<u>Class III</u>	<u>\$49,157</u>	<u>\$59,875</u>	<u>\$49,157</u>	<u>\$103,264</u>
11	<u>Class IV</u>	<u>\$48,787</u>	<u>\$59,532</u>	<u>\$48,787</u>	<u>\$100,800</u>
12	<u>Class V</u>	<u>\$48,418</u>	<u>\$59,136</u>	<u>\$48,418</u>	<u>\$98,336</u>
13	<u>Class VI</u>	<u>\$48,048</u>	<u>\$55,440</u>	<u>\$48,048</u>	<u>\$66,528</u>
14	<u>Class VII</u>	<u>\$47,678</u>	<u>\$54,701</u>	<u>\$47,678</u>	<u>\$63,571</u>
15	<u>Class VIII</u>	<u>\$47,309</u>	<u>\$53,962</u>	<u>\$47,309</u>	<u>\$60,614</u>
16	<u>Class IX</u>	<u>\$46,939</u>	<u>\$53,222</u>	<u>\$46,939</u>	<u>\$56,179</u>
17	<u>Class X</u>	<u>\$42,874</u>	<u>\$47,309</u>	<u>\$42,874</u>	<u>\$51,744</u>

18 (8) Any county clerk, circuit clerk, county assessor,
19 prosecuting attorney or sheriff of a Class I through Class V
20 county, inclusive, any assessor or any sheriff of a Class VI
21 through Class IX county, inclusive, shall devote full-time to his
22 or her public duties to the exclusion of any other employment:
23 *Provided*, That any public official, whose term of office begins
24 when his or her county's classification imposes no restriction on

1 his or her outside activities, may not be restricted on his or her
2 outside activities during the remainder of the term for which he or
3 she is elected.

NOTE: The purpose of this bill is to authorize an increase in the salaries of county commissioners and elected county officials.

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