

1 **H. B. 4239**

2  
3 (By Delegates Morgan, Stephens, Staggers,  
4 Caputo and Eldridge)

5 [Introduced January 21, 2014; referred to the  
6 Committee on Political Subdivisions then Finance.]  
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9

10 A BILL to amend and reenact §7-7-1, §7-7-3, §7-7-4, §7-7-4a and  
11 §7-7-6b of the Code of West Virginia, 1931, as amended,  
12 relating to counties; reclassifying counties from ten classes  
13 to five classes; increasing the salaries of county  
14 commissioners and elected county officials; authorizing an  
15 automatic salary increase every two years; clarifying that the  
16 automatic salary increases only take effect with the new term  
17 of office; clarifying prosecuting attorneys' full-time and  
18 part-time compensation; and clarifying assessors' additional  
19 compensation classifications.

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

21 That §7-7-1, §7-7-3, §7-7-4, §7-7-4a and §7-7-6b of the Code  
22 of West Virginia, 1931, as amended, be amended and reenacted, all  
23 to read as follows:

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

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

2 (a) The Legislature finds that it has, since January 1, ~~2003~~  
3 2007, consistently and annually imposed upon the county  
4 commissioners, sheriffs, county and circuit clerks, assessors and  
5 prosecuting attorneys in each county board, new and additional  
6 duties by the enactment of new provisions and amendments to this  
7 code. The new and additional duties imposed upon ~~the aforesaid~~  
8 these county officials by these enactments are such that they would  
9 justify the increases in compensation as provided in section four  
10 of this article, without violating the provisions of section  
11 thirty-eight, article VI of the Constitution of West Virginia.

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

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

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

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

24 **§7-7-3. Classification of counties for purpose of determining**

1                   **compensation of elected county officials.**

2           (a) Effective July 1, ~~1996~~ 2014, and thereafter, for the  
 3 purpose of determining the compensation of elected county  
 4 officials, the counties of the State of West Virginia will be  
 5 grouped into ~~ten~~ five classes based on their assessed valuation of  
 6 property, all classes. These ~~ten~~ five classes and the minimum and  
 7 maximum valuation of property, all classes, established to  
 8 determine the classification of each county are as follows:

	Minimum Assessed	Maximum Assessed
	Valuation of Property	Valuation of Property
11 Class	All Classes	All Classes
12 <del>Class I</del>	<del>\$ 2,000,000,000</del>	<del>No Limit</del>
13 <del>Class II</del>	<del>\$ 1,500,000,000</del>	<del>\$ 1,999,999,999</del>
14 <del>Class III</del>	<del>\$ 1,000,000,000</del>	<del>\$ 1,499,999,999</del>
15 <del>Class IV</del>	<del>\$ 700,000,000</del>	<del>\$ 999,999,999</del>
16 <del>Class V</del>	<del>\$ 600,000,000</del>	<del>\$ 699,999,999</del>
17 <del>Class VI</del>	<del>\$ 500,000,000</del>	<del>\$ 599,999,999</del>
18 <del>Class VII</del>	<del>\$ 400,000,000</del>	<del>\$ 499,999,999</del>
19 <del>Class VIII</del>	<del>\$ 300,000,000</del>	<del>\$ 399,999,999</del>
20 <del>Class IX</del>	<del>\$ 200,000,000</del>	<del>\$ 299,999,999</del>
21 <del>Class X</del>	<del>\$ 0</del>	<del>\$ 199,999,999</del>
22 <u>Class I</u>	<u>\$ 8,000,000,000</u>	<u>No Limit</u>
23 <u>Class II</u>	<u>\$ 2,000,000,000</u>	<u>\$ 7,999,999,999</u>
24 <u>Class III</u>	<u>\$ 600,000,000</u>	<u>\$ 1,999,999,999</u>

1 <u>Class IV</u>	<u>\$ 400,000,000</u>	<u>\$ 599,999,999</u>
2 <u>Class V</u>	<u>\$-0-</u>	<u>\$ 399,999,999</u>

3 (b) The assessed valuation of property, all classes, that  
 4 shall be used as the base to determine the class of a county shall  
 5 be the assessed valuation of property, all classes, of the county  
 6 as certified by the county assessor, State Auditor and county clerk  
 7 prior to March 29, ~~1996~~ 2014.

8 (c) Prior to March 29, ~~1998~~ 2016, and each second year  
 9 thereafter, the county commission of each county, shall determine  
 10 if the assessed valuation of property, all classes, of the county,  
 11 as certified by the county assessor, State Auditor and county clerk  
 12 is within the minimum and maximum limits of a class above or below  
 13 the ~~class in which the county then is~~ the county's current  
 14 classification. If the county commission so determines, it shall  
 15 record the new classification of the county with the State Auditor  
 16 and State Tax Commissioner and record its action on its county  
 17 commission record.

18 (d) The classification of each county ~~shall be~~ is subject to  
 19 review by the State Auditor. He or she shall determine if the  
 20 classification of each county is correct based on the final  
 21 assessed valuation of property, all classes, certified to him or  
 22 her by the county assessor, State Auditor and county clerk. If he  
 23 or she finds that a county is incorrectly classified, he or she  
 24 shall notify the county commission of that county promptly of his

1 or her finding and in any case shall notify the county prior to  
 2 June 30 of that current fiscal year. Any county commission so  
 3 notified shall correct its classification immediately and make any  
 4 necessary corrections in the salaries of its elected county  
 5 officials for the next fiscal year.

6 (e) Notwithstanding the provisions of this article, whenever  
 7 any other provision of this code refers to classifications of  
 8 counties for purposes of imposing any right, duty or  
 9 responsibility, the classification system set forth in subsection  
 10 (a) of this section shall be utilized for determining the  
 11 classification of a particular county.

12 **§7-7-4. Compensation of elected county officials and county**  
 13 **commissioners for each class of county; effective**  
 14 **date.**

15 (1) The increased salaries to be paid to the county  
 16 commissioners and the other elected county officials described in  
 17 this ~~subsection~~ section on and after July 1, ~~2006~~ 2014, are set out  
 18 in ~~subdivisions~~ subsections (5) and (7) of this ~~subsection~~ section.  
 19 Every county commissioner and elected county official in each  
 20 county, whose term of office commenced prior to, or on or after  
 21 July 1, ~~2006~~ 2014, shall receive the same annual salary by virtue  
 22 of the legislative findings of extra duties as set forth in section  
 23 one of this article.

24 (2) Before the increased salaries, as set out in ~~subdivisions~~

1 subsections (5) and (7) of this ~~subsection~~ section, are paid to the  
2 county commissioners and the elected county officials, the  
3 following requirements must be met:

4 (A) The Auditor has certified that the proposed annual county  
5 budget for the fiscal year beginning ~~the first days~~ of July 1,  
6 ~~2006~~ 2014, has increased over the previous fiscal year in an amount  
7 sufficient for the payment of the increase in the salaries, set out  
8 in ~~subdivisions~~ subsections (5) and (7) of this ~~subsection~~ section,  
9 and the related employment taxes: *Provided*, That the Auditor may  
10 not approve the budget certification for any proposed annual county  
11 budget containing anticipated receipts which are unreasonably  
12 greater or lesser than that of the previous year. For purposes of  
13 this ~~subdivision~~ subsection, the term "receipts" does not include  
14 unencumbered fund balance or federal or state grants; and

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

1 to the effective date of the increased salaries provided by this  
 2 ~~subsection~~ section until the person vacates the office or his or  
 3 her term of office expires, whichever first occurs.

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

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

13 (5) COUNTY COMMISSIONERS

14	————— Class I —————	\$36,960
15	————— Class II —————	\$36,300
16	————— Class III —————	\$35,640
17	————— Class IV —————	\$34,980
18	————— Class V —————	\$34,320
19	————— Class VI —————	\$28,380
20	————— Class VII —————	\$27,720
21	————— Class VIII —————	\$25,080
22	————— Class IX —————	\$24,420
23	————— Class X —————	\$19,800
24	————— <u>Class I</u> —————	<u>\$42,000</u>

1	<u>Class II</u>	<u>\$41,000</u>
2	<u>Class III</u>	<u>\$40,000</u>
3	<u>Class IV</u>	<u>\$31,000</u>
4	<u>Class V</u>	<u>\$28,000</u>

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

12 (7) OTHER ELECTED OFFICIALS

	County	Circuit	Prosecuting			
	Sheriff	Clerk	Assessor			
		Clerk	Attorney			
15	<del>Class I</del>	<del>\$44,880</del>	<del>\$55,440</del>	<del>\$55,440</del>	<del>\$44,880</del>	<del>\$ 96,600</del>
16	<del>Class II</del>	<del>\$44,220</del>	<del>\$54,780</del>	<del>\$54,780</del>	<del>\$44,220</del>	<del>\$ 94,400</del>
17	<del>Class III</del>	<del>\$43,890</del>	<del>\$53,460</del>	<del>\$53,460</del>	<del>\$43,890</del>	<del>\$ 92,200</del>
18	<del>Class IV</del>	<del>\$43,560</del>	<del>\$53,154</del>	<del>\$53,154</del>	<del>\$43,560</del>	<del>\$ 90,000</del>
19	<del>Class V</del>	<del>\$43,230</del>	<del>\$52,800</del>	<del>\$52,800</del>	<del>\$43,230</del>	<del>\$ 87,800</del>
20	<del>Class VI</del>	<del>\$42,900</del>	<del>\$49,500</del>	<del>\$49,500</del>	<del>\$42,900</del>	<del>\$ 59,400</del>
21	<del>Class VII</del>	<del>\$42,570</del>	<del>\$48,840</del>	<del>\$48,840</del>	<del>\$42,570</del>	<del>\$ 56,760</del>
22	<del>Class VIII</del>	<del>\$42,240</del>	<del>\$48,180</del>	<del>\$48,180</del>	<del>\$42,240</del>	<del>\$ 54,120</del>
23	<del>Class IX</del>	<del>\$41,910</del>	<del>\$47,520</del>	<del>\$47,520</del>	<del>\$41,910</del>	<del>\$ 50,160</del>
24	<del>Class X</del>	<del>\$38,280</del>	<del>\$42,240</del>	<del>\$42,240</del>	<del>\$38,280</del>	<del>\$ 46,200</del>

1	<u>Class I</u>	<u>\$51,000</u>	<u>\$63,000</u>	<u>\$63,000</u>	<u>\$51,000</u>	<u>\$109,000</u>
2	<u>Class II</u>	<u>\$50,000</u>	<u>\$62,000</u>	<u>\$62,000</u>	<u>\$50,000</u>	<u>\$108,000</u>
3	<u>Class III</u>	<u>\$49,000</u>	<u>\$61,000</u>	<u>\$61,000</u>	<u>\$49,000</u>	<u>\$105,000</u>
4	<u>Class IV</u>	<u>\$48,000</u>	<u>\$55,000</u>	<u>\$55,000</u>	<u>\$48,000</u>	<u>\$ 66,000</u>
5	<u>Class V</u>	<u>\$47,000</u>	<u>\$54,000</u>	<u>\$54,000</u>	<u>\$47,000</u>	<u>\$ 60,000</u>

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

15 (9) Beginning July 1, 2016, and every two years thereafter,  
 16 the county commissioners and the other elected county officials of  
 17 each county shall receive a salary increase equal to three percent  
 18 of the county commissioner's or elected county official's salary  
 19 during the preceding year so long as the requirements of subsection  
 20 (2) of this section are met: *Provided*, That the salary increase  
 21 does not take effect until the new term of office for the county  
 22 commissioner or elected county official.

23 **§7-7-4a. Authorizing the option of full-time status for part-time**  
 24 **prosecuting attorneys.**

1           (a) ~~On or before~~ After January 1, 2009, a county may not have  
2 a part-time prosecutor. The county commissions of counties in  
3 Class ~~VI~~ IV through ~~V~~ V shall ~~then~~ compensate all prosecuting  
4 attorneys that have changed to full-time by virtue of this section  
5 at the same rate of compensation established in section four of  
6 this article for a prosecuting attorney in a Class IV and V county:  
7 *Provided, That,* upon mutual agreement of the prosecuting attorney  
8 and the county commission, the prosecuting attorney may choose to  
9 remain a part-time prosecuting attorney.

10           (b) ~~If, after the first day of January, two thousand nine,~~  
11 during the course of a term of office, pursuant to subsection (a)  
12 of this section, any prosecutor who becomes full-time or chooses to  
13 remain part-time who believes that the responsibilities of his or  
14 her office either no longer requires a full-time position or  
15 believes that the duties of the part-time position have become  
16 full-time, may, by mutual agreement with the county commission,  
17 either return to part-time status or change to full-time status:  
18 *Provided, That,* if the decision to change to full-time or part-time  
19 status is made during an election year, the decision must be by  
20 mutual agreement between the county commission and the  
21 prosecutor-elect: *Provided, however, That* any prosecutor who  
22 returns to part-time status shall, thereafter, be compensated at  
23 the part-time rate of compensation set forth in section four of  
24 this article for a prosecuting attorney of his or her class county,

1 and any prosecutor that changes to full-time status shall,  
2 thereafter, be compensated at the same rate of compensation  
3 established for a prosecuting attorney in ~~a Class V county~~ his or  
4 her class county, as set forth in section four of this article.

5 (c) If ~~after the first day of January, two thousand nine,~~ any  
6 prosecutor or prosecutor-elect desires to change to full-time  
7 status and the county commission objects to such change due to an  
8 alleged financial condition of the county, then either party may  
9 request the State Auditor's office to examine the county's  
10 financial condition and certify whether or not there are sufficient  
11 funds to support a full-time position. The State Auditor shall  
12 then, within ninety days of such request, certify whether or not  
13 there are sufficient funds available to support a full-time  
14 prosecutor in the county. If the State Auditor certifies that  
15 there are sufficient funds available, then the prosecutor or  
16 prosecutor elect must be changed to full-time status and be  
17 compensated at the same rate of pay as a prosecutor in ~~a Class V~~  
18 ~~county~~ his or her class county, as set forth in section four of  
19 this article.

20 (d) Nothing in this section may be construed to prohibit a  
21 part-time prosecuting attorney from remaining part-time with the  
22 mutual agreement of the county commission.

23 **§7-7-6b. Additional compensation of assessors according to county**  
24 **classification.**

1 For the purpose of determining the additional compensation to  
2 be paid to the county assessor of each county for the additional  
3 duties provided by section six-a of this article, the following  
4 compensations for each county assessor by class, as provided in  
5 section three of this article, are ~~hereby~~ established and shall be  
6 used by each county commission in determining the compensation of  
7 each county assessor:

8 (1) For assessors in Class I - ~~V~~ III counties, inclusive,  
9 \$15,000;

10 (2) For assessors in Class ~~VI and VII~~ IV counties, \$10,000;  
11 and

12 (3) For assessors in Class ~~VIII and IX~~ V counties, \$9,000.

13 ~~for assessors in Class X counties, \$6,500.~~

NOTE: The purpose of this bill is to reduce the number of classes of counties from ten to five.

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