

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 339

BY SENATORS TRUMP, KESSLER, WOELFEL, PALUMBO,

ROMANO, PLYMALE AND YOST, *original sponsors*

[Passed March 12, 2016; in effect 90 days from
passage]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §4-2A-1, §4-2A-2 and §4-2A-3, all relating to establishing a judicial
3 compensation commission; establishing as an advisory commission to the Legislature;
4 setting responsibilities for commission; establishing membership of commission; setting
5 terms of service for appointed members; setting eligibility requirements for certain
6 commission members; providing that members of commission are ineligible for
7 appointment to state judicial position while serving on commission; providing for
8 reimbursement of expenses incurred in carrying out responsibilities of commission;
9 providing for filling of vacancies on commission; giving commission authority to make
10 salary recommendations for certain judicial officers to the Legislature; providing for
11 location of commission meetings; setting meeting notice requirements; directing election
12 of a chairperson; setting quorum requirements; permitting commission to request staff
13 assistance from Joint Committee on Government and Finance; permitting commission to
14 request assistance and information from administrative office of Supreme Court of
15 Appeals; requiring meetings be conducted pursuant to open meetings laws; directing
16 commission to study compensation structure for certain judicial officers for purposes of
17 preparing recommendations; setting forth required factors to be considered in making
18 recommendations regarding compensation; establishing certain dates for preparation and
19 submission of recommendations; providing for filing of commission reports and
20 recommendations with certain offices and entities; allowing a bill enacting commission's
21 salary recommendations to be introduced by the presiding officers of the Senate and
22 House of Delegates in the legislative session following receipt of report; providing for
23 continued study and preparation of recommendations by the commission if the
24 recommendations are not adopted; and providing that commission be adjourned for three
25 years if the complete recommendations of the commission are adopted by the Legislature.

Be it enacted by the Legislature of West Virginia:

26 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
27 article, designated §4-2A-1, §4-2A-2 and §4-2A-3, all to read as follows:

ARTICLE 2A. JUDICIAL COMPENSATION COMMISSION.

§4-2A-1. Judicial Compensation Commission established; membership.

1 (a) The Judicial Compensation Commission is hereby established as an advisory
2 commission to the West Virginia Legislature. The commission shall be responsible for studying
3 the compensation structure for justices of the Supreme Court of Appeals, circuit court judges,
4 family court judges, magistrates and any other judicial officer subject to election and which office
5 requires the judge to hold a professional license to serve in that position. The commission shall
6 also be responsible for determining and making recommendation as to the adequate
7 compensation for those positions to ensure that highly qualified persons will be attracted to serve
8 on the bench.

9 (b)The commission shall be comprised of the following five members:

10 (1) The Dean of the West Virginia University College of Law;

11 (2) Two individuals appointed by the President of the Senate; and

12 (3) Two individuals appointed by the Speaker of the House of Delegates.

13 (c) Any person appointed to serve on the commission pursuant to subdivisions (2) and (3),
14 subsection (b) of this section shall serve for four years: *Provided*, That no public employee,
15 elected public official, person receiving a pension from the State of West Virginia, member of the
16 West Virginia State Bar or officer of a state or county political party executive committee
17 established pursuant to W.Va. Code §3-1-9 may be appointed pursuant to subdivision (2) or (3)
18 subsection (b) of this section to serve on the commission. The initial appointments to the
19 commission shall be made by July 1, 2016. Upon expiration of any term, the person previously
20 appointed shall continue to serve until his or her successor is duly appointed and qualified to
21 serve on the commission.

22 (d) A member of the commission is not eligible for appointment to a state judicial position

23 as long as he or she is serving as a member of the commission.

24 (e) The members of the commission shall serve without compensation but shall be
25 reimbursed by the Joint Committee on Government and Finance for reasonable expenses
26 incurred in carrying out the responsibilities of the commission. Commission members shall be
27 reimbursed at the same rate established for public employees.

28 (f) In the event of a vacancy on the commission, the unexpired term shall be filled in the
29 same manner used to make the original appointment within sixty days of the vacancy.

§4-2A-2. Commission meetings; where held; how conducted.

1 (a) The commission shall meet in Charleston, West Virginia, at the place and time
2 designated by the chairperson with at least ten days' written notice to the members of the
3 commission.

4 (b) The commission shall meet at the call of the chairperson or at the request of a majority
5 of the members.

6 (c) For purposes of calling the first meeting, the Dean of the West Virginia University
7 College of Law shall serve as the initial chairperson. At its first meeting, the members of the
8 commission will select a chairperson. In the event that the member selected to serve as
9 chairperson ceases to be a member of the commission, the Dean of West Virginia University
10 College of Law shall serve as the chairperson for purposes of calling the next meeting.

11 (d) A majority of the commission members shall constitute a quorum.

12 (e) The commission shall meet as often as is necessary to conduct a thorough review of
13 judicial compensation and prepare the report and recommendations provided for in section three
14 of this article.

15 (f) In furtherance of its duties, the commission may request staff assistance from the Joint
16 Committee on Government and Finance. The Commission may additionally seek assistance and
17 information from the administrative office of the Supreme Court of Appeals as may be necessary
18 in the collection of data and research.

19 (g) All meetings of the commission and all business conducted by the commission shall
20 be subject to the open meetings provisions of article nine-a, chapter six of this code.

**§4-2A-3. Judicial Compensation Commission reports and recommendations; legislative
action.**

1 (a) During any time it is convened, the commission shall study the compensation structure
2 for justices of the Supreme Court of Appeals, circuit court judges, family court judges, magistrates
3 and any other judicial officer subject to election and which office requires the judge to hold a
4 professional license to serve in that position for purposes of making a recommendation
5 concerning appropriate compensation for those judicial officers.

6 (b) In recommending the appropriate salaries of the state's judicial officers, the
7 commission shall consider the following factors:

- 8 (1) The skill and experience required of the particular judgeship at issue;
- 9 (2) The value of comparable service performed by justices and judges, as determined by
10 reference to judicial compensation in other states and in the federal government;
- 11 (3) The value of comparable service performed in the private sector including, but not
12 limited to, private judging, arbitration, and mediation;
- 13 (4) The compensation of attorneys in the private sector;
- 14 (5) The cost of living;
- 15 (6) The compensation presently received by other public officials in the state;
- 16 (7) The level of overall compensation adequate to attract the most highly qualified
17 individuals in the state, from a diversity of life and professional experiences, to serve the judiciary
18 without unreasonable hardship and with judicial independence unaffected by financial concerns;
19 and
- 20 (8) Any other information the commission may find relevant in its mission to determine the
21 appropriate compensation for the state's judicial officers.

22 (c) The commission shall prepare and submit its first report containing its

23 recommendations no later than September 1, 2017. The commission shall then prepare and
24 submit subsequent reports on or before September 1 of each year thereafter, except during those
25 years that the commission is adjourned pursuant to the provisions of subsection (f) of this section.

26 (d) The commission shall send a copy of its recommendations to the Governor, the Joint
27 Committee on Government and Finance, the Chief Justice of the Supreme Court of Appeals and
28 the Administrative Director of the Supreme Court of Appeals.

29 (e) In the immediate legislative session following the year in which a recommendation is
30 received from the commission, a bill adopting the salary recommendations made by the
31 commission may be introduced by the presiding officer in both the Senate and the House of
32 Delegates.

33 (f) The commission shall continue to meet and prepare updated recommendations in
34 accordance with the following schedule:

35 (1) If the bill introduced pursuant to subsection (e) of this section is enacted adopting the
36 complete recommendations of the commission, the commission shall then be adjourned for three
37 years from the effective date of the increase.

38 (2) If the bill introduced pursuant to subsection (e) of this section is not enacted or, if that
39 bill is enacted, but adopts salaries less than those which were recommended by the commission,
40 the commission shall continue to meet annually to prepare updated recommendations to provide
41 to the parties identified in subsection (d) of this section.