

# WEST VIRGINIA CODE: §7-7-4A

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

(a) On or before the first day of January, two thousand nine, a county may not have a part-time prosecutor. The county commissions of counties in Class VI through X shall then compensate all prosecuting attorneys that have changed to full-time by virtue of this section at the same rate of compensation established for a prosecuting attorney in a Class V county: Provided, That, upon mutual agreement of the prosecuting attorney and the county commission, the prosecuting attorney may choose to remain a part-time prosecuting attorney.

(b) If, after the first day of January, two thousand nine, during the course of a term of office, pursuant to subsection (a) of this section, any prosecutor who becomes full-time or chooses to remain part-time who believes that the responsibilities of his or her office either no longer requires a full-time position or believes that the duties of the part-time position have become full-time, may, by mutual agreement with the county commission, either return to part-time status or change to full-time status: Provided, That, if the decision to change to full-time or part-time status is made during an election year, the decision must be by mutual agreement between the county commission and the prosecutor-elect: Provided, however, That any prosecutor who returns to part-time status shall, thereafter, be compensated at the rate of compensation set forth in section four of this article for a prosecuting attorney of his or her class county and any prosecutor that changes to full-time status shall, thereafter, be compensated at the same rate of compensation established for a prosecuting attorney in a Class V county.

(c) If, after the first day of January, two thousand nine, any prosecutor or prosecutor-elect desires to change to full-time status and the county commission objects to such change due to an alleged financial condition of the county, then either party may request the State Auditor's office to examine the county's financial condition and certify whether or not there are sufficient funds to support a full-time position. The State Auditor shall then, within ninety days of such request, certify whether or not there are sufficient funds available to support a full-time prosecutor in the county. If the State Auditor certifies that there are sufficient funds available, then the prosecutor or prosecutor elect must be changed to full-time status and be compensated at the same rate of pay as a prosecutor in a Class V county.

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