

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1941



ENROLLED

COMMITTEE SUBSTITUTE FOR

HOUSE BILL No. 50

Originating in the Committee on the  
Judiciary

(By Mr. ....)



PASSED March 1, ..... 1941

In Effect from ..... Passage

#30

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COMMITTEE SUBSTITUTE FOR

**House Bill No. 50**

[Originating in the Committee on the Judiciary]

[Passed March 1, 1941; in effect from passage.]

AN ACT to amend and reenact section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter twenty-one, acts of the Legislature, regular session one thousand nine hundred and thirty-nine, relating to salaries of prosecuting attorneys; and to assistants and stenographers or clerks for prosecuting attorneys; and when the court may appoint attorney to prosecute.

**Article 7. Salaries: Deputies and Assistants and Their Salaries.**

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

That section six, article seven, chapter seven, of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter twenty-one, acts of the Legislature, regular session, one thousand nine hundred

thirty-nine, be amended and reenacted to read as follows:

Section 6. *Assistants and Stenographers for Prosecut-*  
2 *ing Attorney; Salaries; When Court May Appoint Attor-*  
3 *ney to Prosecute.*—Any prosecuting attorney may, with  
4 the assent of the county court of his county, entered of  
5 record, appoint one (and Ohio, Harrison, Kanawha, Fay-  
6 ette, Raleigh, Cabell and McDowell counties two each)  
7 practicing attorney to assist him in the discharge of his  
8 official duties for and during his term of office, and such  
9 assistant shall take the same oath and may perform the  
10 same duties as his principal; and he may be removed  
11 from office as such at any time by his principal; and  
12 further he may be removed from his office as such assist-  
13 ant by the circuit court of the county in which he is  
14 appointed, for any cause for which his principal might  
15 be so removed. The compensation of such assistant shall  
16 be paid by the principal, except in the counties of Bar-  
17 bour, Berkeley, Boone, Brooke, Cabell, Calhoun, Fayette,  
18 Harrison, Hancock, Kanawha, Lewis, Lincoln, Logan,  
19 Marion, Marshall, McDowell, Mercer, Mineral, Mingo,  
20 Monongalia, Nicholas, Ohio, Putnam, Raleigh, Randolph,

21 Summers, Taylor, Upshur, Wayne, Wetzel, Wood and Wy-  
22 oming, and in said counties the county court thereof shall  
23 allow annually to such assistants such compensation to be  
24 paid out of the county treasury as is deemed reasonable by  
25 the court; in Ohio county for the first assistant, three thou-  
26 sand dollars, and for the second assistant not to exceed two  
27 thousand four hundred dollars; in Kanawha county for  
28 the first assistant not less than four thousand nor more  
29 than five thousand dollars, and for the second assistant  
30 not less than four thousand nor more than five thousand  
31 dollars; in Cabell county not more than twenty-four  
32 hundred dollars for each assistant; in McDowell county  
33 not less than one thousand eight hundred dollars nor  
34 more than two thousand four hundred dollars for each  
35 assistant; in Marion county not less than two thou-  
36 sand nor more than three thousand dollars; in Raleigh  
37 county not more than three thousand dollars; in Mingo  
38 county not to exceed two thousand four hundred dollars;  
39 in Harrison, Logan and Mercer counties, not less than one  
40 thousand five hundred nor more than three thousand dol-  
41 lars; in Summers and Wood counties, not less than one

42 thousand nor more than two thousand dollars; in Fayette  
43 county for the first assistant, not less than two thousand  
44 four hundred nor more than three thousand two hundred  
45 dollars, and for the second assistant not to exceed one  
46 thousand eight hundred dollars; in Boone and Wyoming  
47 counties, not less than one thousand two hundred nor more  
48 than one thousand eight hundred dollars; in Barbour  
49 county, one thousand dollars; in Monongalia county, two  
50 thousand four hundred dollars; in Wayne county, one  
51 thousand five hundred dollars; in Berkeley county, not to  
52 exceed one thousand two hundred dollars; in Lewis, Lin-  
53 coln, Marshall, Mineral, Nicholas, Randolph and Upshur  
54 counties, not to exceed twelve hundred dollars; in Wetzel  
55 county, not less than six hundred nor more than nine hun-  
56 dred dollars; in Taylor county, not to exceed six hundred  
57 dollars; in Putnam and Calhoun counties, three hundred  
58 dollars. In each case such compensation shall include the  
59 compensation provided by law for such assistant's services  
60 as attorney for boards of education and other administra-  
61 tive boards and officers of the county.

62 In any case in which it would, in the opinion of the court,

63 be improper for the prosecuting attorney and his assistant  
64 (if he has one) to act; or if the prosecuting attorney and  
65 his assistant be unable to act, such court shall appoint  
66 some competent practicing attorney to prosecute such case,  
67 and upon the performance of the service for which he was  
68 appointed, the court shall certify that fact, with its opinion  
69 of what would be a reasonable allowance to such attorney  
70 for the service rendered, to the county court of the county  
71 and such sum, or a different sum, when allowed by the  
72 county court, shall be paid out of the county treasury:  
73 *Provided*, That nothing in this section shall be construed  
74 to prohibit the employment by any person of a competent  
75 attorney or attorneys to assist in the prosecution of any  
76 person or corporation charged with crime.

77 In each of the counties herein named except Harrison,  
78 and including Greenbrier, Lewis, Hampshire, Pocahontas,  
79 Preston, Putnam, Ritchie, Roane and Upshur, the prose-  
80 cuting attorney may employ a stenographer for his office  
81 at a salary payable out of the county treasury of not less  
82 than nine hundred nor more than two thousand dollars  
83 per annum; except, the annual salary of such stenog-

84 rapher in Barbour, Lewis, Pocahontas, Preston and Taylor  
85 counties shall not exceed one thousand two hundred  
86 dollars; in Upshur and Calhoun counties shall not exceed  
87 nine hundred dollars; in Hampshire, Roane and Monroe  
88 counties shall not exceed six hundred dollars; in Berkeley  
89 county shall not be less than six hundred dollars nor  
90 exceed one thousand two hundred dollars; in Putnam  
91 and Ritchie counties shall be seven hundred dollars; in  
92 Boone county shall be one thousand two hundred dollars;  
93 and in Braxton county shall be seven hundred and  
94 twenty dollars; in Webster county shall be six hundred  
95 dollars; in Jefferson county shall not exceed nine hun-  
96 dred dollars; *Provided*, That in each of the last two  
97 named counties the prosecuting attorney may not em-  
98 ploy a stenographer except with the consent of the county  
99 court entered of record.

100 In the county of Harrison the prosecuting attorney  
101 may employ two stenographers for his office at a salary  
102 for each stenographer of not less than nine hundred  
103 nor more than one thousand two hundred dollars per  
104 annum, payable out of the county treasury.

105 In the counties of Clay and Wetzel the prosecuting  
106 attorney may employ a clerk or a stenographer for his  
107 office at a salary of one thousand two hundred dollars  
108 per annum, payable out of the county treasury.

109 In the county of Mingo the prosecuting attorney may  
110 employ one stenographer for his office at a salary not to  
111 exceed one thousand five hundred dollars per annum,  
112 payable out of the county treasury.

113 In the county of Jackson the prosecuting attorney may  
114 employ one stenographer or clerk for his office at a  
115 salary of six hundred dollars per annum, payable out  
116 of the county treasury.

Enr. Com. Sub. for H. B. No. 50] 8

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*C. H. McKeown*  
Chairman Senate Committee

*Leon Rice*  
Chairman House Committee

Originated in the *House of Delegates*

Takes effect *from* ..... passage.

*A. Hale Watkins*  
Clerk of the Senate

*J. J. J. J.*  
Clerk of the House of Delegates

*Byrd B. Roush*  
President of the Senate

*Malcolm R. Arnold*  
Speaker House of Delegates

The within *approved* this the *13<sup>th</sup>*  
day of *March*, 1941.

*Matthew Mansley*  
Governor.

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Filed in the office of the Secretary of State  
of West Virginia. **MAR 13 1941**  
Wm. S. O'RPIEN,  
Secretary of State