

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



ENROLLED

SENATE BILL No. 76

(By Mr. Winters & McKeown)



PASSED March 8, 1947

In Effect Ninety days from Passage



76

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Senate Bill No. 76

(By MR. WINTERS and MR. McKOWN)

[Passed March 8, 1947; in effect ninety days 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 last amended and reenacted by chapter thirty-six, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to assistants and stenographers or clerks for prosecuting attorneys; salaries; and when the court may appoint attorney to prosecute.

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 thirty-six, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

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

Section 6. *Assistants, Stenographers and Clerks for*
2 *Prosecuting Attorney; Salaries; When Court May Appoint*
3 *Attorney to Prosecute.*—Any prosecuting attorney may,
4 with the assent of the county court of his county, entered
5 of record, except as hereinafter provided, appoint one
6 (and Ohio, Harrison, Kanawha, Fayette, Raleigh, Cabell
7 and McDowell counties two each) practicing attorney to
8 assist him in the discharge of his official duties for and
9 during his term of office, and such assistant shall take
10 the same oath and may perform the same duties as his
11 principal; and he may be removed from office as such
12 at any time by his principal; and further he may be re-
13 moved from his office as such assistant by the circuit
14 court of the county in which he is appointed, for any
15 cause for which his principal might be removed. The
16 compensation of such assistant shall be paid by the prin-
17 cipal, except in the counties of Barbour, Berkeley, Boone,
18 Brooke, Cabell, Calhoun, Clay, Fayette, Harrison, Han-
19 cock, Kanawha, Lewis, Lincoln, Logan, Marion, Mar-
20 shall, Mason, McDowell, Mercer, Mineral, Mingo, Monon-
21 galia, Nicholas, Ohio, Putnam, Raleigh, Randolph, Sum-

22 mers, Taylor, Upshur, Wayne, Webster, Wetzel, Wood and
23 Wyoming, and in said counties the county court thereof
24 shall allow annually to such assistants such compensation
25 to be paid out of the county treasury as is deemed reason-
26 able by the court, except that in Hancock county the sal-
27 ary of such assistant shall not be less than one thousand
28 two hundred dollars nor more than one thousand eight
29 hundred dollars; in Ohio county for the first assistant, three
30 thousand dollars, and for the second assistant not to exceed
31 two thousand four hundred dollars; in Kanawha county
32 for the first assistant, not less than five thousand and not
33 more than six thousand dollars, and for the second as-
34 sistant not less than five thousand nor more than six
35 thousand dollars; in Cabell county for the first assistant,
36 not less than twenty-four hundred and not more than
37 thirty-six hundred dollars, and for the second assistant
38 not more than twenty-four hundred dollars; in McDowell
39 county, not less than three thousand dollars nor more
40 than three thousand six hundred dollars for each assist-
41 ant; in Marion county, not less than three thousand nor
42 more than three thousand six hundred dollars; in Raleigh

43 county, not more than three thousand dollars; in Mingo
44 county, not to exceed three thousand dollars; in Harrison
45 county, not less than one thousand five hundred nor more
46 than four thousand five hundred dollars; in Mercer county,
47 four thousand two hundred dollars; in Summers and Wood
48 counties, not less than one thousand nor more than two
49 thousand dollars; in Logan county, not less than three
50 thousand dollars nor more than three thousand six hun-
51 dred dollars; in Fayette county for the first assistant, not
52 less than three thousand six hundred nor more than four
53 thousand two hundred dollars, and for the second assistant
54 not to exceed two thousand eight hundred dollars; in Boone
55 and Wyoming counties, not less than one thousand two
56 hundred nor more than two thousand four hundred dol-
57 lars; in Barbour county, one thousand dollars; in Mononga-
58 lia county, two thousand four hundred dollars; in Wayne
59 county, two thousand five hundred dollars; in Berkeley
60 county, not to exceed one thousand eight hundred dollars;
61 in Lewis, Lincoln, Marshall, Mason, Mineral, Nicholas and
62 Upshur counties, not to exceed twelve hundred dollars, and
63 in Randolph county not to exceed one thousand five hun-

64 dred dollars; in Webster and Wetzel counties, not less
65 than six hundred nor more than nine hundred dollars;
66 in Taylor county, not to exceed six hundred dollars; in
67 Putnam and Calhoun counties, three hundred dollars. In
68 each case such compensation shall include the compen-
69 sation provided by law for such assistant's services as
70 attorney for boards of education and other administra-
71 tive boards and officers of the county.

72 In any case in which it would, in the opinion of the
73 court, be improper for the prosecuting attorney and his
74 assistant (if he has one) to act, or if the prosecuting at-
75 torney and his assistant be unable to act, such court shall
76 appoint some competent practicing attorney to prosecute
77 such cases; and upon the performance of the service for
78 which he was appointed, the court shall certify that fact,
79 with its opinion of what would be a reasonable allowance
80 to such attorney for the service rendered, to the county
81 court of the county, and such sum, or a different sum,
82 when allowed by the county court, shall be paid out of
83 the county treasury: *Provided*, That nothing in this sec-
84 tion shall be construed to prohibit the employment by

85 any person of a competent attorney or attorneys to assist
86 in the prosecution of any person or corporation charged
87 with crime.

88 In each of the counties herein named, except Harrison
89 and Fayette and including Greenbrier, Lewis, Hampshire,
90 Pocahontas, Putnam, Ritchie, Roane and Upshur, the pros-
91 ecuting attorney may employ a stenographer for his office
92 at a salary, payable out of the county treasury, of not less
93 than nine hundred nor more than two thousand dollars per
94 annum; except, the annual salary of such stenographer in
95 Barbour, Lewis, Pocahontas, Taylor and Roane counties
96 shall not exceed one thousand two hundred dollars; in
97 Calhoun, Putnam, Ritchie and Upshur counties, shall not
98 exceed nine hundred dollars; in Hampshire county shall
99 not be less than one thousand dollars nor more than twelve
100 hundred dollars; in Berkeley county, shall not be less than
101 six hundred dollars nor exceed one thousand five hundred
102 dollars; in Boone county, shall be one thousand eight hun-
103 dred dollars; and in Braxton county, shall be twelve hun-
104 dred twenty dollars; in Webster county, shall be nine hun-
105 dred dollars; in Jefferson, Tyler and Gilmer counties, shall

106 not exceed nine hundred dollars: *Provided*, That in each
107 of the last four named counties the prosecuting attorney
108 may not employ a stenographer except with the consent of
109 the county court entered of record.

110 In the county of Harrison, the prosecuting attorney may
111 employ two stenographers for his office at a salary for
112 each stenographer of not less than nine hundred nor more
113 than one thousand two hundred dollars per annum, pay-
114 able out of the county treasury.

115 In the counties of Clay and Wetzel, the prosecuting
116 attorney may employ a clerk or stenographer for his
117 office at a salary of one thousand two hundred dollars
118 per annum, payable out of the county treasury; except,
119 that in the county of Clay, in lieu of the appointment of
120 such clerk or stenographer, the prosecuting attorney may
121 employ a practicing attorney of said county as his assist-
122 ant at a salary of not less than one thousand nor more
123 than one thousand five hundred dollars per annum, pay-
124 able out of the county treasury.

125 In the counties of Mingo and Preston, the prosecuting
126 attorney may employ one stenographer for his office at

127 a salary not to exceed two thousand four hundred dollars
128 per annum for the county of Mingo and one thousand
129 eight hundred dollars per annum for the county of Pres-
130 ton, payable out of the county treasury.

131 In the county of Jackson, the prosecuting attorney may
132 employ one stenographer or clerk for his office at a sal-
133 ary of six hundred dollars per annum, payable out of the
134 county treasury.

135 In the county of Mercer, the prosecuting attorney may
136 employ one stenographer or clerk for his office at a salary
137 of not to exceed the sum of two thousand four hundred
138 dollars per annum, payable out of the county treasury.

139 In the counties of Hardy and Grant, the prosecuting
140 attorney may employ one stenographer or clerk for his
141 office with the consent of the county court, at a salary
142 not to exceed five hundred dollars per annum, payable
143 out of the county treasury as salaries of county officials
144 are paid. The amount of said salary for one thousand
145 nine hundred forty-five for Hardy and Grant counties,
146 shall be fixed by the county court of each of said counties
147 at its first regular meeting after the effective date of this

148 act and annually thereafter at its first regular meeting
149 in each year.

150 In the counties of Mason and Wyoming, the prosecuting
151 attorney may employ one stenographer at a salary to be
152 fixed by the county court and payable out of the treasury
153 of said county.

154 In the county of Kanawha the prosecuting attorney
155 may employ one stenographer at a salary not to exceed
156 two thousand five hundred dollars per annum to be fixed
157 by the county court and payable out of the treasury of
158 said county.

159 In the county of Hancock the prosecuting attorney may
160 employ one stenographer at a salary of not more than
161 two thousand four hundred dollars per annum, payable
162 out of the treasury of said county.

163 In the county of Randolph the prosecuting attorney
164 may employ one stenographer at a salary of not less than
165 one thousand five hundred dollars per annum and not
166 more than two thousand dollars per annum to be fixed
167 by the county court and payable out of the treasury of
168 said county.

169 In the county of Fayette the prosecuting attorney may
170 employ one stenographer at a salary of not to exceed
171 twenty-four hundred dollars per year to be fixed by the
172 county court and payable out of the treasury of said
173 county.

174 In the county of McDowell, the prosecuting attorney
175 may employ one stenographer at a salary of not less than
176 one thousand five hundred dollars nor more than two
177 thousand four hundred dollars per year to be fixed by
178 the county court and payable out of the treasury of such
179 county.

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

Forest L. McNeer
Chairman Senate Committee

R. L. Matthews
Chairman House Committee

Originated in the Senate

Takes effect Thirty days from passage.

Howard Myers
Clerk of the Senate

Samuel
Clerk of the House of Delegates

Arnold M. Vickers
President of the Senate

John E. Amos
Speaker House of Delegates

The within approved this the 13
day of March, 1947.

Blair M. Modaw
Governor.



Filed in the Office of the Secretary of State
of West Virginia.

MAR 13 1947
WM. S. CUMEN,
SECRETARY OF STATE