

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949

ENROLLED

Com. Sub. for

SENATE BILL No. 6

Originating in the
(By Mr. *Committee on*)
the Judiciary -

PASSED March 9 1949

In Effect July 1, 1949 Passage



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COMMITTEE SUBSTITUTE FOR

Senate Bill No. 6

(Originating in the Committee on the Judiciary)

[Passed March 9, 1949; in effect July 1, 1949.]

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 forty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-seven, 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 forty-seven, acts of the

Legislature, regular session, one thousand nine hundred forty-seven, 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 Ap-*
3 *point Attorney to Prosecute.*—Any prosecuting attorney
4 may, with the assent of the county court of his county,
5 entered of record, except as hereinafter provided, appoint
6 one (and Ohio county, three, and Harrison, Kanawha, Fay-
7 ette, Raleigh, Cabell and McDowell counties two each)
8 practicing attorney to assist him in the discharge of his of-
9 ficial duties for and during his term of office, and such as-
10 sistant shall take the same oath and may perform the same
11 duties as his principal; and he may be removed from office
12 as such at any time by his principal; and further he may be
13 removed 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, Marshall,
20 Mason, McDowell, Mercer, Mineral, Mingo, Monongalia,
21 Nicholas, Ohio, Putnam, Raleigh, Randolph, Summers,
22 Taylor, Upshur, Wayne, Webster, Wetzel, Wood and
23 Wyoming, and in the said counties the county court there-
24 of shall allow annually to such assistants such compen-
25 sation to be paid out of the county treasury as is deemed
26 reasonable by the court, except that in Hancock county
27 the salary of such assistant shall not be less than one
28 thousand two hundred dollars nor more than one thou-
29 sand eight hundred dollars; in Ohio county for the first
30 assistant, three thousand six hundred dollars, for the sec-
31 ond assistant three thousand dollars and for the third as-
32 sistant two thousand dollars; in Kanawha county for the
33 first assistant, not less than five thousand nor more than
34 six thousand dollars, and for the second assistant not less
35 than five thousand nor more than six thousand dollars; in
36 Cabell county for the first assistant four thousand dollars,
37 and for the second assistant three thousand dollars; in
38 McDowell county, not less than three thousand dollars
39 nor more than three thousand six hundred dollars for each

40 assistant; in Marion county, not less than three thousand
41 six hundred nor more than four thousand two hundred
42 dollars; in Raleigh county, four thousand two hundred dol-
43 lars; in Mingo county, not to exceed four thousand dollars;
44 in Harrison county, not less than one thousand five hun-
45 dred nor more than four thousand five hundred ⁰dollars; in
46 Mercer county, four thousand two hundred dollars; in
47 Summers and Wood counties, not less than one thousand
48 nor more than two thousand dollars; in Logan county, not
49 less than three thousand dollars nor more than three thou-
50 sand six hundred dollars; in Fayette county for the first as-
51 sistant, not less than three thousand six hundred nor more
52 than four thousand two hundred dollars, and for the sec-
53 ond assistant not to exceed two thousand eight hundred
54 dollars; in Boone and Wyoming counties, not less than one
55 thousand two hundred nor more than two thousand four
56 hundred dollars; in Barbour county, one thousand dollars;
57 in Monongalia county, three thousand dollars; in Wayne
58 county, two thousand five hundred dollars; in Berkeley
59 and Lincoln counties, not to exceed one thousand eight
60 hundred dollars; in Lewis, Marshall, Mineral, Nicholas and

61 Upshur counties, not to exceed twelve hundred dollars,
62 and in Randolph county not to exceed two thousand four
63 hundred dollars; in Webster and Wetzel counties, not less
64 than six hundred nor more than nine hundred dollars; in
65 Taylor county, not to exceed six hundred dollars; in Put-
66 nam county, one thousand two hundred dollars; and Cal-
67 houn county, three hundred dollars. In each case such com-
68 pensation shall include the compensation provided by law
69 for such assistant's services as attorney for boards of edu-
70 cation, and other administrative boards and officers of the
71 county.

72 In any case in which it would, in the opinion of the court,
73 be improper for the prosecuting attorney and his assistant
74 (if he has one), to act, or if the prosecuting attorney and
75 his assistant be unable to act, such court shall appoint some
76 competent practicing attorney to prosecute such cases; and
77 upon the performance of the service for which he was ap-
78 pointed; the court shall certify that fact, with its opinion
79 of what would be a reasonable allowance to such attorney
80 for the service rendered, to the county court of the county,
81 and such sum, when allowed by the county court, shall be

82 paid out of the county treasury: *Provided*, That nothing in
83 this section shall be construed to prohibit the employment
84 by any person of a competent attorney or attorneys to as-
85 sist in the prosecution of any person or corporation
86 charged with crime.

87 In each of the counties herein named, except Harrison,
88 Cabell, Wayne and Fayette and including Greenbrier,
89 Hampshire, Pocahontas, Putnam, Ritchie and Upshur, the
90 prosecuting attorney may employ a stenographer for his
91 office at a salary, payable out of the county treasury, of
92 not less than nine hundred nor more than two thousand
93 dollars per annum; except, the annual salary of such ste-
94 nographer in Barbour, Pocahontas and Taylor counties
95 shall not exceed one thousand two hundred dollars; in
96 Calhoun, Putnam and Upshur counties, shall not exceed
97 nine hundred dollars; in Hampshire and Ritchie counties
98 shall not be less than one thousand dollars nor more than
99 twelve hundred dollars; in Berkeley and Lewis counties,
100 shall not be less than six hundred dollars, nor exceed one
101 thousand five hundred dollars; in Monongalia county, shall
102 be two thousand one hundred dollars; in Boone county,

103 shall be one thousand eight hundred dollars; and in Brax-
104 ton county, shall be twelve hundred twenty dollars; in
105 Webster county, shall be nine hundred dollars; in Gilmer
106 county, shall not exceed nine hundred dollars: *Provided*,
107 That in each of the last two named counties the prosecut-
108 ing attorney may not employ a stenographer except with
109 the consent of the county court entered of record.

110 In the county of Jefferson the prosecuting attorney may
111 employ a stenographer for his office at a salary of not more
112 than one thousand dollars per annum, payable out of the
113 county treasury to be fixed by the said prosecuting at-
114 torney of said county of Jefferson.

115 In the county of Harrison, the prosecuting attorney may
116 employ two stenographers for his office at a salary for each
117 stenographer of not less than nine hundred nor more than
118 two thousand dollars per annum, payable out of the
119 county treasury.

120 In the county of Cabell the prosecuting attorney may
121 employ two stenographers for his office, one at a salary of
122 two thousand four hundred dollars per year and one at

123 a salary of one thousand two hundred dollars per year,
124 payable out of the county treasury.

125 In the county of Clay, the prosecuting attorney may em-
126 ploy a clerk or stenographer for his office at a salary of one
127 thousand two hundred dollars per annum, payable out of
128 the county treasury; except, that in lieu of the appoint-
129 ment of such clerk or stenographer, the prosecuting attor-
130 ney may employ a practicing attorney of said county as
131 his assistant at a salary of not less than one thousand nor
132 more than one thousand five hundred dollars per annum,
133 payable out of the county treasury.

134 In the counties of Mingo and Preston, the prosecuting at-
135 torney may employ one stenographer for his office at a
136 salary not to exceed three thousand six hundred dollars
137 per annum for the county of Mingo and one thousand
138 eight hundred dollars per annum for the county of Pres-
139 ton, payable out of the county treasury.

140 In the county of Jackson, the prosecuting attorney may
141 employ one stenographer or clerk for his office at a salary
142 of not to exceed nine hundred dollars per annum, payable
143 out of the county treasury.

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

148 In the counties of Hardy and Grant, the prosecuting at-
149 torney may employ one stenographer or clerk for his of-
150 fice at a salary not to exceed seven hundred twenty dol-
151 lars per annum, payable out of the county treasury as
152 salaries of county officials are paid.

153 In the county of Wyoming, the prosecuting attorney may
154 employ one stenographer at a salary to be fixed by the
155 county court and payable out of the treasury of said coun-
156 ty, and in the counties of Mason and Roane the prosecuting
157 attorney may employ one stenographer at a salary of not
158 less than eleven hundred dollars nor more than fifteen
159 hundred dollars per annum, payable out of the treasury of
160 said county.

161 In the county of Kanawha the prosecuting attorney may
162 employ one stenographer at a salary not to exceed three
163 thousand dollars per annum to be fixed by the county
164 court and payable out of the treasury of said county.

165 In the county of Hancock, the prosecuting attorney may
166 employ one stenographer at a salary of not more than two
167 thousand four hundred dollars per annum, payable out of
168 the treasury of said county.

169 In the county of Wayne, the prosecuting attorney may
170 employ one stenographer at a salary of not less than twen-
171 ty-four hundred dollars nor more than twenty-seven hun-
172 dred dollars per annum, to be fixed by the county court
173 and payable out of the treasury of the county.

174 In the county of Randolph the prosecuting attorney may
175 employ one stenographer at a salary of not less than one
176 thousand five hundred dollars per annum and not more
177 than two thousand dollars per annum to be fixed by the
178 county court and payable out of the treasury of said county.

179 In the county of Fayette the prosecuting attorney may
180 employ one stenographer at a salary of not to exceed
181 twenty-four hundred dollars per year to be fixed by the
182 county court and payable out of the treasury of said
183 county.

184 In the county of McDowell, the prosecuting attorney
185 may employ one stenographer at a salary of not less than

186 one thousand five hundred dollars nor more than two
187 thousand four hundred dollars per year to be fixed by the
188 county court and payable out of the treasury of such
189 county.

190 The prosecuting attorney may employ a clerk or a
191 stenographer for his office in the counties of Tyler,
192 Wetzel and Marshall at an annual salary not to exceed
193 the following: In the county of Tyler, nine hundred dol-
194 lars; in the county of Wetzel, eighteen hundred dollars;
195 in the county of Marshall, eighteen hundred dollars, pay-
196 able out of the treasury of the respective counties.

197 In the county of Lincoln, the prosecuting attorney may
198 employ one stenographer or clerk for his office at a sal-
199 ary of not to exceed the sum of two thousand two hundred
200 dollars per annum, payable out of the county treasury.

201 In the county of Logan, the prosecuting attorney may
202 employ one stenographer for his office at a salary of not
203 to exceed the sum of two thousand seven hundred dol-
204 lars per annum, payable out of the county treasury.

205 In the county of Marion, the prosecuting attorney may
206 employ one stenographer at a salary not to exceed two

207 thousand four hundred dollars per annum, payable out
208 of the county treasury.

209 In the county of Raleigh, the prosecuting attorney may
210 employ one stenographer at a salary not to exceed three
211 thousand dollars per annum, payable out of the county
212 treasury.

213 In the county of Ohio, the prosecuting attorney may
214 employ one stenographer for his office at a salary of not
215 to exceed two thousand four hundred dollars per annum,
216 payable out of the county treasury.

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

Joseph L. McMan

Chairman Senate Committee

W. B. Rauter

Chairman House Committee

Originated in the Senate.

Takes effect *July 1, 1949* passage.

Howard Myers

Clerk of the Senate

Joseph

Clerk of the House of Delegates

W. B. Rauter

President of the Senate

W. B. Rauter

Speaker House of Delegates

The within *APPROVED* this the *14th*
day of *MARCH*, 1949.

Okey L. Patton

Governor.



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

MAR 15 1949
D. PITT O'BRIEN,
SECRETARY OF STATE