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SENATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

ENROLLED

SENATE BILL NO. 323

(By Senator Bowman & Blanton)

PASSED MARCH 9, 1995

In Effect 90 days from Passage

ENROLLED
Senate Bill No. 323

(BY SENATORS BOWMAN AND BLATNIK)

[Passed March 9, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the county commission of any Class III, IV or V county which will be reclassified as a Class II county to elect to maintain a part-time prosecuting attorney.

Be it enacted by the Legislature of West Virginia:

That section four, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 7. TRAINING PROGRAMS FOR COUNTY EMPLOYEES, ETC.;
COMPENSATION OF ELECTED COUNTY OFFICIALS;
COUNTY ASSISTANTS, DEPUTIES AND EMPLOYEES,
THEIR NUMBER AND COMPENSATION.**

§7-7-4. Compensation of elected county officials and county commissioners for each class of county; effective date.

- 1 (a) (1) All county commissioners shall be paid compen-
- 2 sation out of the county treasury in amounts and accord-
- 3 ing to the schedule hereafter set forth for each class of
- 4 county as determined by the provisions of section three
- 5 of this article: *Provided*, That as to any county having a

6 tribunal in lieu of a county commission, the county
 7 commissioners of the county may be paid less than the
 8 minimum compensation limits of the county commission
 9 for the particular class of such county.

10	Class I	\$ 20,000
11	Class II	\$ 15,500
12	Class III	\$ 14,000
13	Class IV	\$ 10,000
14	Class V	\$ 7,000
15	Class VI	\$ 4,000

16 The compensation hereinabove provided shall be paid
 17 on and after the first day of January, one thousand nine
 18 hundred eighty-five, to each county commissioner.
 19 Within each county, every county commissioner whose
 20 term of office commenced prior to the first day of
 21 January, one thousand nine hundred eighty-five, shall
 22 receive the same annual compensation as commissioners
 23 commencing a term of office on or after that date by
 24 virtue of the new duties imposed upon county commis-
 25 sioners pursuant to the provisions of chapter fifteen, acts
 26 of the Legislature, first extraordinary session, one
 27 thousand nine hundred eighty-three.

28 (2) For the purpose of determining the compensation to
 29 be paid to the elected county officials of each county, the
 30 following compensations for each county office by class
 31 are hereby established and shall be used by each county
 32 commission in determining the compensation of each of
 33 their county officials other than compensation of mem-
 34 bers of the county commission:

35	County	Circuit	Prosecuting
36	Sheriff	Clerk	Assessor Attorney

37	Class I	\$24,200	\$31,300	\$31,300	\$24,200	\$41,500
38	Class II	\$24,200	\$28,000	\$28,000	\$24,200	\$39,500
39	Class III	\$24,200	\$28,000	\$28,000	\$24,200	\$30,000
40	Class IV	\$22,300	\$24,000	\$24,000	\$22,300	\$26,500
41	Class V	\$20,400	\$22,000	\$22,000	\$20,400	\$23,500
42	Class VI	\$17,200	\$17,200	\$17,200	\$17,200	\$17,000

43 Any county clerk, circuit clerk, joint clerk of the
 44 county commission and circuit court, if any, county
 45 assessor, sheriff and prosecuting attorney of a Class I
 46 county, any assessor of a Class II and Class III county,
 47 any sheriff of a Class II and Class III county and any
 48 prosecuting attorney of a Class II county shall devote full
 49 time to his or her public duties to the exclusion of any
 50 other employment: *Provided*, That any public official,
 51 whose term of office begins when his or her county's
 52 classification imposes no restriction on his or her outside
 53 activities, shall not be restricted on his or her outside
 54 activities during the remainder of the term for which he
 55 or she is elected. The compensation hereinabove
 56 provided shall be paid on and after the first day of
 57 January, one thousand nine hundred eighty-five, to each
 58 elected county official.

59 In the case of a county that has a joint clerk of the
 60 county commission and circuit court, the compensation
 61 of the joint clerk shall be fixed in an amount twenty-five
 62 percent higher than the compensation would be fixed for
 63 the county clerk if it had separate offices of county clerk
 64 and circuit clerk.

65 The Legislature finds, as a fact, that the duties imposed
 66 upon county clerks by the provisions of chapter sixty-
 67 four, acts of the Legislature, regular session, one thou-
 68 sand nine hundred eighty-two, and by chapter fifteen,
 69 acts of the Legislature, first extraordinary session, one
 70 thousand nine hundred eighty-three, constitute new and
 71 additional duties for county clerks and as such justify

72 the additional compensation provided in this section
73 without violating the provisions of section thirty-eight,
74 article VI of the constitution of West Virginia.

75 The Legislature further finds as a fact that the duties
76 imposed upon circuit clerks by the provisions of chapters
77 sixty-one and one hundred eighty-two, acts of the
78 Legislature, regular session, one thousand nine hundred
79 eighty-one, and by chapter sixty, acts of the Legislature,
80 regular session, one thousand nine hundred eighty-three,
81 constitute new and additional duties for circuit clerks
82 and as such justify the additional compensation provided
83 by this section without violating the provisions of section
84 thirty-eight, article VI of the constitution of West
85 Virginia.

86 (b) Prior to the primary election in the year one thou-
87 sand nine hundred ninety-two, and for the fiscal year
88 beginning on the first day of July, one thousand nine
89 hundred ninety-two, or for any subsequent fiscal year if
90 the approval set out herein is not granted for any fiscal
91 year, and at least thirty days prior to the meeting to
92 approve the county budget, the commission shall provide
93 notice to the public of the date and time of the meeting
94 and that the purpose of the meeting of the county
95 commission is to decide upon their budget certification
96 to the tax department. Upon submission by the county
97 commission to the chief inspector division of the depart-
98 ment of tax and revenue of a proposed annual budget
99 which contains anticipated receipts into the county's
100 general revenue fund, less anticipated moneys from the
101 unencumbered fund balance, equal to anticipated
102 receipts into the county's general revenue fund, less
103 anticipated moneys from the unencumbered fund
104 balance and any federal or state special grants, for the
105 immediately preceding fiscal year, plus such additional
106 amount as is necessary for payment of the increases in
107 the salaries set out herein and related employment taxes
108 over that paid for the immediately preceding fiscal year,
109 and upon approval thereof by the chief inspector, which

110 approval shall not be granted for any proposed annual
 111 budget containing anticipated receipts which are unrea-
 112 sonably greater or lesser than that of the immediately
 113 preceding fiscal year, for the purpose of determining the
 114 compensation to be paid to the elected county officials of
 115 each county office by class are hereby established and
 116 shall be used by each county commission in determining
 117 the compensation of each of their county officials:
 118 *Provided*, That as to any county having a tribunal in lieu
 119 of a county commission, the county commissioners of the
 120 county may be paid less than the minimum compensation
 121 limits of the county commission for the particular class
 122 of the county.

123 COUNTY COMMISSIONERS

124	Class I	\$ 24,000
125	Class II	\$ 18,600
126	Class III	\$ 16,800
127	Class IV	\$ 12,000
128	Class V	\$ 8,400

129 If the approval set out hereinabove is granted, the
 130 compensation hereinabove provided shall be paid on and
 131 after the first day of January, one thousand nine hundred
 132 ninety-three, to each county commissioner. Within each
 133 county, every county commissioner shall receive the
 134 same annual compensation by virtue of the new duties
 135 imposed upon county commissioners pursuant to the
 136 provisions of chapter one hundred seventy-two, acts of
 137 the Legislature, second regular session, one thousand
 138 nine hundred ninety, and chapter five, acts of the
 139 Legislature, third extraordinary session, one thousand
 140 nine hundred ninety.

141 OTHER ELECTED OFFICIALS

142	County	Circuit	Prosecuting
143	Sheriff	Clerk	Assessor Attorney

144	Class I	\$29,040	\$37,560	\$37,560	\$29,040	\$59,500
145	Class II	\$29,040	\$33,600	\$33,600	\$29,040	\$59,500
146	Class III	\$29,040	\$33,600	\$33,600	\$29,040	\$36,000
147	Class IV	\$26,760	\$28,800	\$28,800	\$26,760	\$31,800
148	Class V	\$24,480	\$26,400	\$26,400	\$24,480	\$28,200
149	Class VI	\$24,480	\$26,400	\$26,400	\$24,480	\$28,200

150 Any county clerk, circuit clerk, joint clerk of the
151 county commission and circuit court, if any, county
152 assessor, sheriff and prosecuting attorney of a Class I
153 county, any assessor of a Class II and Class III county,
154 any sheriff of a Class II and Class III county and any
155 prosecuting attorney of a Class II county shall devote full
156 time to his or her public duties to the exclusion of any
157 other employment: *Provided*, That any public official,
158 whose term of office begins when his or her county's
159 classification imposes no restriction on his or her outside
160 activities, shall not be restricted on his or her outside
161 activities during the remainder of the term for which he
162 or she is elected. If the approval set out hereinabove is
163 granted, the compensation hereinabove provided shall be
164 paid on and after the first day of January, one thousand
165 nine hundred ninety-three, to each elected county
166 official.


167 In the case of a county that has a joint clerk of the
168 county commission and circuit court, the compensation
169 of the joint clerk shall be fixed in an amount twenty-five
170 percent higher than the compensation would be fixed for
171 the county clerk if it had separate offices of county clerk
172 and circuit clerk.

173 Prior to the primary election in the year one thousand
174 nine hundred ninety-two, in the case of a Class III, Class
175 IV or Class V county which has a part-time prosecuting
176 attorney, the county commission may find that such facts
177 and circumstances exist that require the prosecuting
178 attorney to devote full time to his or her public duties for

179 the four-year term, beginning the first day of January,
180 one thousand nine hundred ninety-three. If the county
181 commission makes such a finding, it may by proper order
182 adopted and entered, require the prosecuting attorney
183 who takes office on the first day of January, one
184 thousand nine hundred ninety-three, to devote full time
185 to his or her public duties and the county commission
186 shall then compensate said prosecuting attorney at the
187 same rate of compensation as that of a prosecuting
188 attorney in a Class II county.

189 For any county: (1) Which on and after the first day of
190 July, one thousand nine hundred ninety-four, is
191 classified as a Class II county; and (2) which prior to
192 such date was classified as a Class III, Class IV or Class
193 V county and maintained a part-time prosecuting
194 attorney, the county commission may elect to maintain
195 the prosecuting attorney as a part-time prosecuting
196 attorney: *Provided*, That prior to the first day of
197 January, one thousand nine hundred ninety-six, the
198 county commission shall make a finding, by proper order
199 and entered, whether to maintain a full-time or part-
200 time prosecuting attorney. The part-time prosecuting
201 attorney shall be compensated at the same rate of
202 compensation as that of a prosecuting attorney in the
203 class for the county prior to being classified as a Class II
204 county.

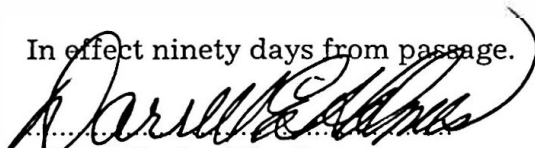
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

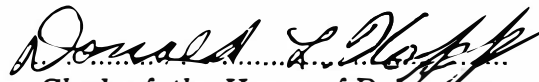

.....
Chairman Senate Committee



.....
Chairman House Committee


Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved this the 21st
day of March, 1995.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/17/95

Time 3:22 pm