WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

ENROLLED

SENATE BILL NO. 323

(By Senators Douglass; Enrlick)

PASSED ________ 1995
In Effect 90 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 compensation out of the county treasury in amounts and according to the schedule hereafter set forth for each class of county as determined by the provisions of section three of this article: Provided, That as to any county having a
tribunal in lieu of a county commission, the county
commissioners of the county may be paid less than the
minimum compensation limits of the county commission
for the particular class of such county.

<table>
<thead>
<tr>
<th>Class</th>
<th>Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>$20,000</td>
</tr>
<tr>
<td>II</td>
<td>$15,500</td>
</tr>
<tr>
<td>III</td>
<td>$14,000</td>
</tr>
<tr>
<td>IV</td>
<td>$10,000</td>
</tr>
<tr>
<td>V</td>
<td>$7,000</td>
</tr>
<tr>
<td>VI</td>
<td>$4,000</td>
</tr>
</tbody>
</table>

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

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

<table>
<thead>
<tr>
<th>Office</th>
<th>County</th>
<th>Circuit</th>
<th>Prosecuting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sheriff</td>
<td>Clerk</td>
<td>Clerk</td>
<td>Assessor</td>
</tr>
<tr>
<td>Clerk</td>
<td>Attorney</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Class</td>
<td>Compensation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>----------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>I</td>
<td>$24,200 $31,300 $31,300 $24,200 $41,500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>II</td>
<td>$24,200 $28,000 $28,000 $24,200 $39,500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>III</td>
<td>$24,200 $28,000 $28,000 $24,200 $30,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>IV</td>
<td>$22,300 $24,000 $24,000 $22,300 $26,500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>V</td>
<td>$20,400 $22,000 $22,000 $20,400 $23,500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>VI</td>
<td>$17,200 $17,200 $17,200 $17,200 $17,200 $17,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

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

The Legislature finds, as a fact, that the duties imposed upon county clerks by the provisions of chapter sixty-four, acts of the Legislature, regular session, one thousand nine hundred eighty-two, and by chapter fifteen, acts of the Legislature, first extraordinary session, one thousand nine hundred eighty-three, constitute new and additional duties for county clerks and as such justify
the additional compensation provided in this section without violating the provisions of section thirty-eight, article VI of the constitution of West Virginia.

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

(b) Prior to the primary election in the year one thousand nine hundred ninety-two, and for the fiscal year beginning on the first day of July, one thousand nine hundred ninety-two, or for any subsequent fiscal year if the approval set out herein is not granted for any fiscal year, and at least thirty days prior to the meeting to approve the county budget, the commission shall provide notice to the public of the date and time of the meeting and that the purpose of the meeting of the county commission is to decide upon their budget certification to the tax department. Upon submission by the county commission to the chief inspector division of the department of tax and revenue of a proposed annual budget which contains anticipated receipts into the county's general revenue fund, less anticipated moneys from the unencumbered fund balance, equal to anticipated receipts into the county's general revenue fund, less anticipated moneys from the unencumbered fund balance and any federal or state special grants, for the immediately preceding fiscal year, plus such additional amount as is necessary for payment of the increases in the salaries set out herein and related employment taxes over that paid for the immediately preceding fiscal year, and upon approval thereof by the chief inspector, which
approval shall not be granted for any proposed annual
budget containing anticipated receipts which are unreas-
sonably greater or lesser than that of the immediately
preceding fiscal year, for the purpose of determining the
compensation to be paid to the elected county officials of
each county office by class are hereby established and
shall be used by each county commission in determining
the compensation of each of their county officials:
Provided, That as to any county having a tribunal in lieu
of a county commission, the county commissioners of the
county may be paid less than the minimum compensation
limits of the county commission for the particular class
of the county.

COUNTY COMMISSIONERS

<table>
<thead>
<tr>
<th>Class</th>
<th>Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>$24,000</td>
</tr>
<tr>
<td>II</td>
<td>$18,600</td>
</tr>
<tr>
<td>III</td>
<td>$16,800</td>
</tr>
<tr>
<td>IV</td>
<td>$12,000</td>
</tr>
<tr>
<td>V</td>
<td>$ 8,400</td>
</tr>
</tbody>
</table>

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

OTHER ELECTED OFFICIALS

<table>
<thead>
<tr>
<th>Official</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Clerk</td>
</tr>
<tr>
<td>Circuit Clerk</td>
</tr>
<tr>
<td>Sheriff</td>
</tr>
<tr>
<td>Clerk</td>
</tr>
<tr>
<td>Clerk</td>
</tr>
<tr>
<td>Assessor</td>
</tr>
<tr>
<td>Attorney</td>
</tr>
</tbody>
</table>
Any county clerk, circuit clerk, joint clerk of the county commission and circuit court, if any, county assessor, sheriff and prosecuting attorney of a Class I county, any assessor of a Class II and Class III county, any sheriff of a Class II and Class III county and any prosecuting attorney of a Class II county shall devote full time to his or her public duties to the exclusion of any other employment: Provided, That any public official, whose term of office begins when his or her county's classification imposes no restriction on his or her outside activities, shall not be restricted on his or her outside activities during the remainder of the term for which he or she is elected. If the approval set out hereinabove is granted, the compensation hereinabove provided shall be paid on and after the first day of January, one thousand nine hundred ninety-three, to each elected county official.

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

Prior to the primary election in the year one thousand nine hundred ninety-two, in the case of a Class III, Class IV or Class V county which has a part-time prosecuting attorney, the county commission may find that such facts and circumstances exist that require the prosecuting attorney to devote full time to his or her public duties for
the four-year term, beginning the first day of January, 
on one thousand nine hundred ninety-three. If the county
commission makes such a finding, it may by proper order
adopted and entered, require the prosecuting attorney
who takes office on the first day of January, one
thousand nine hundred ninety-three, to devote full time
to his or her public duties and the county commission
shall then compensate said prosecuting attorney at the
same rate of compensation as that of a prosecuting
attorney in a Class II county.

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

Clerk of the Senate

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.