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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006

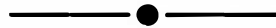


ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4100

(By Delegates Staton, Browning, Beane,
Manchin, Tabb, Howard, Wysong, Barker,
Long, Caputo and G. White)



Passed March 11, 2006

In Effect Ninety Days from Passage

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HB 4100

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COMMITTEE SUBSTITUTE

FOR

H. B. 4100

(BY DELEGATES STATON, BROWNING, BEANE,
MANCHIN, TABB, HOWARD, WYSONG, BARKER,
LONG, CAPUTO AND G. WHITE)

[Passed March 11, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §7-7-1 and §7-7-4 of the Code of West Virginia, 1931, as amended, all relating to salaries for elected county officials; providing for a salary increase for elected county officials; finding that additional duties have been imposed on county officials which justify the increased compensation to prosecuting attorneys generally; and providing that a prosecuting attorney for a class VI county which subsequently becomes a class V county may remain part-time and compensated at the class VI county level.

Be it enacted by the Legislature of West Virginia:

That §7-7-1 and §7-7-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7. COMPENSATION OF ELECTED COUNTY OFFICIALS.**§7-7-1. Legislative findings and purpose.**

1 (a) The Legislature finds that it has, since the first day of
2 January, two thousand three, consistently and annually imposed
3 upon the county commissioners, sheriffs, county and circuit
4 clerks, assessors and prosecuting attorneys in each county
5 board, new and additional duties by the enactment of new
6 provisions and amendments to this code. The new and addi-
7 tional duties imposed upon the aforesaid county officials by
8 these enactments are such that they would justify the increases
9 in compensation as provided in section four of this article,
10 without violating the provisions of section thirty-eight, article
11 VI of the Constitution of West Virginia.

12 (b) The Legislature further finds that there are, from time
13 to time, additional duties imposed upon all county officials
14 through the acts of the Congress of the United States and that
15 such acts constitute new and additional duties for county
16 officials and, as such, justify the increases in compensation as
17 provided by section four of this article, without violating the
18 provisions of section thirty-eight, article VI of the Constitution
19 of West Virginia.

20 (c) The Legislature further finds that there is a direct
21 correlation between the total assessed property valuations of a
22 county on which the salary levels of the county commissioners,
23 sheriffs, county and circuit clerks, assessors and prosecuting
24 attorneys are based, and the new and additional duties that each
25 of these officials is required to perform as they serve the best
26 interests of their respective counties. Inasmuch as the reap-
27 praisal of the property valuations in each county has now been
28 accomplished, the Legislature finds that a change in classifica-
29 tion of counties by virtue of increased property valuations will
30 occur on an infrequent basis. However, it is the further finding
31 of the Legislature that when such change in classification of

32 counties does occur, that new and additional programs, eco-
 33 nomic developments, requirements of public safety and the
 34 need for new services provided by county officials all increase,
 35 that the same constitute new and additional duties for county
 36 officials as their respective counties reach greater heights of
 37 economic development, as exemplified by the substantial
 38 increases in property valuations and, as such, justify the
 39 increases in compensation provided in section four of this
 40 article, without violating the provisions of section thirty-eight,
 41 article VI of the Constitution of West Virginia.

42 (d) The Legislature further finds and declares that the
 43 amendments enacted to this article are intended to modify the
 44 provisions of this article so as to cause the same to be in full
 45 compliance with the provisions of the Constitution of West
 46 Virginia and to be in full compliance with the decisions of the
 47 Supreme Court of Appeals of West Virginia.

**§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 compensa-
 2 tion out of the county treasury in amounts and according to the
 3 schedule set forth in subdivision (2) of this subsection for each
 4 class of county as determined by the provisions of section three
 5 of this article: *Provided*, That as to any county having a tribunal
 6 in lieu of a county commission, the county commissioners of
 7 the county may be paid less than the minimum compensation
 8 limits of the county commission for the particular class of such
 9 county.

10 (2) COUNTY COMMISSIONERS

11	Class I	\$20,000
12	Class II	\$15,500
13	Class III	\$14,000

14	Class IV	\$10,000
15	Class V	\$ 7,000
16	Class VI	\$ 4,000

17 (3) The compensation, set out in subdivision (2) of this
 18 subsection, shall be paid on and after the first day of January,
 19 one thousand nine hundred eighty-five, to each county commis-
 20 sioner. Within each county, every county commissioner whose
 21 term of office commenced prior to the first day of January, one
 22 thousand nine hundred eighty-five, shall receive the same
 23 annual compensation as commissioners commencing a term of
 24 office on or after that date by virtue of the new duties imposed
 25 upon county commissioners pursuant to the provisions of
 26 chapter fifteen, acts of the Legislature, first extraordinary
 27 session, one thousand nine hundred eighty-three.

28 (4) For the purpose of determining the compensation to be
 29 paid to the elected county officials of each county, the compen-
 30 sations for each office by class, set out in subdivision (5) of this
 31 subsection, are established and shall be used by each county
 32 commission in determining the compensation of each of their
 33 county officials other than compensation of members of the
 34 county commission.

35 (5) OTHER ELECTED OFFICIALS

36		County	Circuit	Prosecuting		
37		Sheriff	Clerk	Assessor	Attorney	
38	Class I	\$24,200	\$31,300	\$31,300	\$24,200	\$41,500
39	Class II	\$24,200	\$28,000	\$28,000	\$24,200	\$39,500
40	Class III	\$24,200	\$28,000	\$28,000	\$24,200	\$30,000
41	Class IV	\$22,300	\$24,000	\$24,000	\$22,300	\$26,500
42	Class V	\$20,400	\$22,000	\$22,000	\$20,400	\$23,500
43	Class VI	\$17,200	\$17,200	\$17,200	\$17,200	\$17,000

44 (6) Any county clerk, circuit clerk, joint clerk of the county
 45 commission and circuit court, if any, county assessor, sheriff

46 and prosecuting attorney of a Class I county, any assessor of a
47 Class II and Class III county, any sheriff of a Class II and Class
48 III county and any prosecuting attorney of a Class II county
49 shall devote full-time to his or her public duties to the exclusion
50 of any other employment: *Provided*, That any public official,
51 whose term of office begins when his or her county's classifica-
52 tion imposes no restriction on his or her outside activities, shall
53 not be restricted on his or her outside activities during the
54 remainder of the term for which he or she is elected. The
55 compensation, set out in subdivision (5) of this subsection, shall
56 be paid on and after the first day of January, one thousand nine
57 hundred eighty-five, to each elected county official.

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

63 (8) The Legislature finds that the duties imposed upon
64 county clerks by the provisions of chapter sixty-four, acts of the
65 Legislature, regular session, one thousand nine hundred
66 eighty-two, and by chapter fifteen, acts of the Legislature, first
67 extraordinary session, one thousand nine hundred eighty-three,
68 constitute new and additional duties for county clerks and as
69 such justify the additional compensation provided in this
70 section without violating the provisions of section thirty-eight,
71 article VI of the Constitution of West Virginia.

72 (9) The Legislature further finds that the duties imposed
73 upon circuit clerks by the provisions of chapters sixty-one and
74 one hundred eighty-two, acts of the Legislature, regular session,
75 one thousand nine hundred eighty-one, and by chapter sixty,
76 acts of the Legislature, regular session, one thousand nine
77 hundred eighty-three, constitute new and additional duties for
78 circuit clerks and as such justify the additional compensation

79 provided by this section without violating the provisions of
80 section thirty-eight, article VI of the Constitution of West
81 Virginia.

82 (b)(1) Prior to the primary election in the year one thousand
83 nine hundred ninety-two, and for the fiscal year beginning on
84 the first day of July, one thousand nine hundred ninety-two, or
85 for any subsequent fiscal year if the approval, set out in
86 subdivision (2) of this subsection, is not granted for any fiscal
87 year, and at least thirty days prior to the meeting to approve the
88 county budget, the commission shall provide notice to the
89 public of the date and time of the meeting and that the purpose
90 of the meeting of the county commission is to decide upon their
91 budget certification to the auditor.

92 (2) Upon submission by the county commission to the
93 auditor of a proposed annual budget which contains anticipated
94 receipts into the county's general revenue fund, less anticipated
95 moneys from the unencumbered fund balance, equal to antici-
96 pated receipts into the county's general revenue fund, less
97 anticipated moneys from the unencumbered fund balance and
98 any federal or state special grants, for the immediately preced-
99 ing fiscal year, plus such additional amount as is necessary for
100 payment of the increases in the salaries set out in subdivisions
101 (3) and (5) of this subsection, and related employment taxes
102 over that paid for the immediately preceding fiscal year, and
103 upon approval thereof by the auditor, which approval shall not
104 be granted for any proposed annual budget containing antici-
105 pated receipts which are unreasonably greater or lesser than that
106 of the immediately preceding fiscal year, for the purpose of
107 determining the compensation to be paid to the elected county
108 officials of each county office by class are established and shall
109 be used by each county commission in determining the com-
110 pensation of each of their county officials: *Provided*, That as to
111 any county having a tribunal in lieu of a county commission,
112 the county commissioners of the county may be paid less than

113 the minimum compensation limits of the county commission
114 for the particular class of the county.

115 (3) COUNTY COMMISSIONERS

116	Class I	\$24,000
117	Class II	\$18,600
118	Class III	\$16,800
119	Class IV	\$12,000
120	Class V	\$ 8,400

121 (4) If the approval, set out in subdivision (2) of this
122 subsection, is granted, the compensation, set out in subdivision
123 (3) of this subsection, shall be paid on and after the first day of
124 January, one thousand nine hundred ninety-three, to each
125 county commissioner. Within each county, every county
126 commissioner shall receive the same annual compensation by
127 virtue of the new duties imposed upon county commissioners
128 pursuant to the provisions of chapter one hundred seventy-two,
129 acts of the Legislature, second regular session, one thousand
130 nine hundred ninety and chapter five, acts of the Legislature,
131 third extraordinary session, one thousand nine hundred ninety.

132 (5) OTHER ELECTED OFFICIALS

133		County	Circuit	Prosecuting
134	Sheriff	Clerk	Clerk	Assessor Attorney
135	Class I	\$29,040	\$37,560	\$37,560 \$29,040 \$59,500
136	Class II	\$29,040	\$33,600	\$33,600 \$29,040 \$59,500
137	Class III	\$29,040	\$33,600	\$33,600 \$29,040 \$36,000
138	Class IV	\$26,760	\$28,800	\$28,800 \$26,760 \$31,800
139	Class V	\$24,480	\$26,400	\$26,400 \$24,480 \$28,200
140	Class VI	\$24,480	\$26,400	\$26,400 \$24,480 \$28,200

141 (6) Any county clerk, circuit clerk, joint clerk of the county
142 commission and circuit court, if any, county assessor, sheriff
143 and prosecuting attorney of a Class I county, any assessor of a
144 Class II and Class III county, any sheriff of a Class II and Class

145 III county and any prosecuting attorney of a Class II county
146 shall devote full-time to his or her public duties to the exclusion
147 of any other employment: *Provided*, That any public official,
148 whose term of office begins when his or her county's classifica-
149 tion imposes no restriction on his or her outside activities, shall
150 not be restricted on his or her outside activities during the
151 remainder of the term for which he or she is elected. If the
152 approval, set out in subdivision (2) of this subsection, is
153 granted, the compensation, set out in subdivision (5) of this
154 subsection, shall be paid on and after the first day of January,
155 one thousand nine hundred ninety-three, to each elected county
156 official.

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

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

176 (9) For any county: (A) Which on and after the first day of
177 July, one thousand nine hundred ninety-four, is classified as a

178 Class II county; and (B) which prior to such date was classified
179 as a Class III, Class IV or Class V county and maintained a
180 part-time prosecuting attorney, the county commission may
181 elect to maintain the prosecuting attorney as a part-time
182 prosecuting attorney: *Provided*, That prior to the first day of
183 January, one thousand nine hundred ninety-six, the county
184 commission shall make a finding, by proper order and entered,
185 whether to maintain a full-time or part-time prosecuting
186 attorney. The part-time prosecuting attorney shall be compen-
187 sated at the same rate of compensation as that of a prosecuting
188 attorney in the class for the county prior to being classified as
189 a Class II county.

190 (c)(1) Prior to the primary election in the year one thousand
191 nine hundred ninety-six, and for the fiscal year beginning on the
192 first day of July, one thousand nine hundred ninety-six, or for
193 any subsequent fiscal year if the approval, set out in subdivision
194 (2) of this subsection, is not granted for any fiscal year, and at
195 least thirty days prior to the meeting to approve the county
196 budget, the commission shall provide notice to the public of the
197 date and time of the meeting and that the purpose of the
198 meeting of the county commission is to decide upon their
199 budget certification to the auditor.

200 (2) Upon submission by the county commission to the
201 auditor of a proposed annual budget which contains anticipated
202 receipts into the county's general revenue fund, less anticipated
203 moneys from the unencumbered fund balance, equal to antici-
204 pated receipts into the county's general revenue fund, less
205 anticipated moneys from the unencumbered fund balance and
206 any federal or state special grants, for the fiscal year beginning
207 the first day of July, one thousand nine hundred ninety-six, plus
208 such additional amount as is necessary for payment of the
209 increases in the salaries set out in subdivisions (3) and (6) of
210 this subsection, and related employment taxes over that paid for
211 the immediately preceding fiscal year, and upon approval

212 thereof by the auditor, which approval shall not be granted for
 213 any proposed annual budget containing anticipated receipts
 214 which are unreasonably greater or lesser than that of the
 215 immediately preceding fiscal year for the purpose of determin-
 216 ing the compensation to be paid to the elected county officials
 217 of each county office by class are established and shall be used
 218 by each county commission in determining whether county
 219 revenues are sufficient to pay the compensation mandated
 220 herein for their county officials: *Provided*, That as to any
 221 county having a tribunal in lieu of a county commission, the
 222 county commissioners of the county may be paid less than the
 223 minimum compensation limits of the county commission for
 224 the particular class of the county: *Provided, however*, That
 225 should there be an insufficient projected increase in revenues to
 226 pay the increased compensation and related employment taxes,
 227 then the compensation of that county's elected officials shall
 228 remain at the level in effect at the time certification was sought.

229 (3) COUNTY COMMISSIONERS

230	Class I	\$28,000
231	Class II	\$27,500
232	Class III	\$27,000
233	Class IV	\$26,500
234	Class V	\$26,000
235	Class VI	\$21,500
236	Class VII	\$21,000
237	Class VIII	\$19,000
238	Class IX	\$18,500
239	Class X	\$15,000

240 (4) The compensation, set out in subdivision (3) of this
 241 subsection, shall be paid on and after the first day of January,
 242 one thousand nine hundred ninety-seven, to each county
 243 commissioner. Every county commissioner in each county,
 244 whose term of office commenced prior to or on or after the first
 245 day of January, one thousand nine hundred ninety-seven, shall

246 receive the same annual compensation by virtue of legislative
247 findings of extra duties as set forth in section one of this article.

248 (5) For the purpose of determining the compensation to be
249 paid to the elected county officials of each county, the compen-
250 sations for each county office by class, set out in subdivision (6)
251 of this subsection, are established and shall be used by each
252 county commission in determining the compensation of each of
253 their county officials other than compensation of members of
254 the county commission.

255 (6) OTHER ELECTED OFFICIALS

256		County	Circuit	Prosecuting		
257		Sheriff	Clerk	Assessor	Attorney	
258	Class I	\$34,000	\$42,000	\$42,000	\$34,000	\$76,000
259	Class II	\$33,500	\$41,500	\$41,500	\$33,500	\$74,000
260	Class III	\$33,250	\$40,500	\$40,500	\$33,250	\$72,000
261	Class IV	\$33,000	\$40,250	\$40,250	\$33,000	\$70,000
262	Class V	\$32,750	\$40,000	\$40,000	\$32,750	\$68,000
263	Class VI	\$32,500	\$37,500	\$37,500	\$32,500	\$45,000
264	Class VII	\$32,250	\$37,000	\$37,000	\$32,250	\$43,000
265	Class VIII	\$32,000	\$36,500	\$36,500	\$32,000	\$41,000
266	Class IX	\$31,750	\$36,000	\$36,000	\$31,750	\$38,000
267	Class X	\$29,000	\$32,000	\$32,000	\$29,000	\$35,000

268 (7) The compensation, set out in subdivision (6) of this
269 subsection, shall be paid on and after the first day of January,
270 one thousand nine hundred ninety-seven, to each elected county
271 official. Any county clerk, circuit clerk, joint clerk of the
272 county commission and circuit court, if any, county assessor or
273 sheriff of a Class I through Class V county, inclusive, any
274 assessor or any sheriff of a Class VI through Class IX county,
275 inclusive, shall devote full-time to his or her public duties to the
276 exclusion of any other employment: *Provided*, That any public
277 official, whose term of office begins when his or her county's
278 classification imposes no restriction on his or her outside

279 activities, shall not be restricted on his or her outside activities
280 during the remainder of the term for which he or she is elected.

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

286 (9) Any prosecuting attorney of a Class I through Class V
287 county, inclusive, shall devote full-time to his or her public
288 duties to the exclusion of any other employment: *Provided,*
289 That any county which under the prior provisions of this section
290 was classified as a Class II county and elected to maintain a
291 part-time prosecutor may continue to maintain a part-time
292 prosecutor, until such time as the county commission, on
293 request of the part-time prosecutor, approves and makes a
294 finding, by proper order entered, that the prosecuting attorney
295 shall devote full-time to his or her public duties. The county
296 commission shall then compensate said prosecuting attorney at
297 the same rate of compensation as that of a prosecuting attorney
298 in a Class V county: *Provided, however,* That any county which
299 under the prior provisions of this section was classified as a
300 Class II county and which did not elect to maintain a part-time
301 prosecutor shall maintain a full-time prosecuting attorney and
302 shall compensate said prosecuting attorney at the same rate of
303 compensation as that of a prosecuting attorney in a Class V
304 county: *Provided further,* That, until the first day of January,
305 two thousand one, when a vacancy occurs in the office of
306 prosecuting attorney prior to the end of a term, the county
307 commission of a Class IV or Class V county may elect to allow
308 the position to become part-time for the end of that term, and
309 thereafter the position of prosecuting attorney shall become
310 full-time.

311 (d) (1) The increased salaries to be paid to the county
312 commissioners and the other elected county officials described
313 in this subsection on and after the first day of July, two thou-
314 sand two, are set out in subdivisions (5) and (7) of this subsec-
315 tion. Every county commissioner and elected county official in
316 each county, whose term of office commenced prior to or on or
317 after the first day of July, two thousand two, shall receive the
318 same annual salary by virtue of legislative findings of extra
319 duties as set forth in section one of this article.

320 (2) Before the increased salaries, as set out in subdivisions
321 (5) and (7) of this subsection, are paid to the county commis-
322 sioners and the elected county officials, the following require-
323 ments must be met:

324 (A) The auditor has certified that the proposed annual
325 county budget for the fiscal year beginning the first days of
326 July, two thousand two, has increased over the previous fiscal
327 year in an amount sufficient for the payment of the increase in
328 the salaries, set out in subdivisions (5) and (7) of this subsec-
329 tion, and the related employment taxes: *Provided*, That the
330 auditor may not approve the budget certification for any
331 proposed annual county budget containing anticipated receipts
332 which are unreasonably greater or lesser than that of the
333 previous year. For purposes of this subdivision, the term
334 "receipts" does not include unencumbered fund balance or
335 federal or state grants; and

336 (B) Each county commissioner or other elected official
337 described in this subsection in office on the effective date of the
338 increased salaries provided by this subsection who desires to
339 receive the increased salary has prior to that date filed in the
340 office of the clerk of the county commission his or her written
341 agreement to accept the salary increase. The salary for the
342 person who holds the office of county commissioner or other
343 elected official described in this subsection who fails to file the

344 written agreement as required by this paragraph shall be the
 345 salary for that office in effect immediately prior to the effective
 346 date of the increased salaries provided by this subsection until
 347 the person vacates the office or his or her term of office expires,
 348 whichever first occurs.

349 (3) If there is an insufficient projected increase in revenues
 350 to pay the increased salaries and the related employment taxes,
 351 then the salaries of that county's elected officials and commis-
 352 sioners shall remain at the level in effect at the time certifica-
 353 tion was sought.

354 (4) In any county having a tribunal in lieu of a county
 355 commission, the county commissioners of that county may be
 356 paid less than the minimum salary limits of the county commis-
 357 sion for that particular class of the county.

358 (5) COUNTY COMMISSIONERS

359	Class I	\$30,800
360	Class II	\$30,250
361	Class III	\$29,700
362	Class IV	\$29,150
363	Class V	\$28,600
364	Class VI	\$23,650
365	Class VII	\$23,100
366	Class VIII	\$20,900
367	Class IX	\$20,350
368	Class X	\$16,500

369 (6) For the purpose of determining the salaries to be paid to
 370 the elected county officials of each county, the salaries for each
 371 county office by class, set out in subdivision (7) of this subsec-
 372 tion, are established and shall be used by each county commis-
 373 sion in determining the salaries of each of their county officials
 374 other than salaries of members of the county commission.

375 (7) OTHER ELECTED OFFICIALS

376			County	Circuit		Prosecuting
377		Sheriff	Clerk	Clerk	Assessor	Attorney
378	Class I	\$37,400	\$46,200	\$46,200	\$37,400	\$83,600
379	Class II	\$36,850	\$45,650	\$45,650	\$36,850	\$81,400
380	Class III	\$36,575	\$44,550	\$44,550	\$36,575	\$79,200
381	Class IV	\$36,300	\$44,295	\$44,295	\$36,300	\$77,000
382	Class V	\$36,025	\$44,000	\$44,000	\$36,025	\$74,800
383	Class VI	\$35,750	\$41,250	\$41,250	\$35,750	\$49,500
384	Class VII	\$35,475	\$40,700	\$40,700	\$35,475	\$47,300
385	Class VIII	\$35,200	\$40,150	\$40,150	\$35,200	\$45,100
386	Class IX	\$34,925	\$39,600	\$39,600	\$34,925	\$41,800
387	Class X	\$31,900	\$35,200	\$35,200	\$31,900	\$38,500

388 (8) Any county clerk, circuit clerk, joint clerk of the county
389 commission and circuit court, if any, county assessor or sheriff
390 of a Class I through Class V county, inclusive, any assessor or
391 any sheriff of a Class VI through Class IX county, inclusive,
392 shall devote full-time to his or her public duties to the exclusion
393 of any other employment: *Provided*, That any public official,
394 whose term of office begins when his or her county's classifica-
395 tion imposes no restriction on his or her outside activities, may
396 not be restricted on his or her outside activities during the
397 remainder of the term for which he or she is elected.

398 (9) In the case of a county that has a joint clerk of the
399 county commission and circuit court, the salary of the joint
400 clerk shall be fixed in an amount twenty-five percent higher
401 than the salary would be fixed for the county clerk if it had
402 separate offices of county clerk and circuit clerk.

403 (10) Any prosecuting attorney of a Class I through Class V
404 county, inclusive, shall devote full-time to his or her public
405 duties to the exclusion of any other employment: *Provided*,
406 That any county which under the prior provisions of this section
407 was classified as a Class II county and elected to maintain a

408 part-time prosecutor may continue to maintain a part-time
409 prosecutor, until such time as the county commission, on
410 request of the part-time prosecutor, approves and makes a
411 finding, by proper order entered, that the prosecuting attorney
412 shall devote full-time to his or her public duties. The county
413 commission shall then compensate said prosecutor at the same
414 salary as that of a prosecuting attorney in a Class V county:
415 *Provided, however,* That any county which under the prior
416 provisions of this section was classified as a Class II county and
417 which did not elect to maintain a part-time prosecutor shall
418 maintain a full-time prosecuting attorney and shall compensate
419 said prosecuting attorney at the same salary as that of a prose-
420 cuting attorney in a Class V county: *Provided further,* That,
421 until the first day of January, two thousand three, when a
422 vacancy occurs in the office of prosecuting attorney prior to the
423 end of a term, the county commission of a Class IV or Class V
424 county may elect to allow the position to become part-time for
425 the end of that term and thereafter the position of prosecuting
426 attorney shall become full-time: *And provided further,* That a
427 prosecuting attorney for a Class VI county which subsequently
428 becomes a Class V county on or before the first day of July, two
429 thousand ten, may continue as a part-time attorney, and
430 continue to be compensated at the Class VI county level, until
431 such time as determined by the prosecuting attorney and the
432 county commission that a full-time prosecuting attorney is
433 needed.

434 (e) (1) The increased salaries to be paid to the county
435 commissioners and the other elected county officials described
436 in this subsection on and after the first day of July, two thou-
437 sand six, are set out in subdivisions (5) and (7) of this subsec-
438 tion. Every county commissioner and elected county official in
439 each county, whose term of office commenced prior to or on or
440 after the first day of July, two thousand six, shall receive the
441 same annual salary by virtue of legislative findings of extra
442 duties as set forth in section one of this article.

443 (2) Before the increased salaries, as set out in subdivisions
444 (5) and (7) of this subsection, are paid to the county commis-
445 sioners and the elected county officials, the following require-
446 ments must be met:

447 (A) The auditor has certified that the proposed annual
448 county budget for the fiscal year beginning the first days of
449 July, two thousand six, has increased over the previous fiscal
450 year in an amount sufficient for the payment of the increase in
451 the salaries, set out in subdivisions (5) and (7) of this subsec-
452 tion, and the related employment taxes: *Provided*, That the
453 auditor may not approve the budget certification for any
454 proposed annual county budget containing anticipated receipts
455 which are unreasonably greater or lesser than that of the
456 previous year. For purposes of this subdivision, the term
457 "receipts" does not include unencumbered fund balance or
458 federal or state grants; and

459 (B) Each county commissioner or other elected official
460 described in this subsection in office on the effective date of the
461 increased salaries provided by this subsection who desires to
462 receive the increased salary has prior to that date filed in the
463 office of the clerk of the county commission his or her written
464 agreement to accept the salary increase. The salary for the
465 person who holds the office of county commissioner or other
466 elected official described in this subsection who fails to file the
467 written agreement as required by this paragraph shall be the
468 salary for that office in effect immediately prior to the effective
469 date of the increased salaries provided by this subsection until
470 the person vacates the office or his or her term of office expires,
471 whichever first occurs.

472 (3) If there is an insufficient projected increase in revenues
473 to pay the increased salaries and the related employment taxes,
474 then the salaries of that county's elected officials and commis-
475 sioners shall remain at the level in effect at the time certifica-
476 tion was sought.

477 (4) In any county having a tribunal in lieu of a county
 478 commission, the county commissioners of that county may be
 479 paid less than the minimum salary limits of the county commis-
 480 sion for that particular class of the county.

481 (5) COUNTY COMMISSIONERS

482	Class I	\$36,960
483	Class II	\$36,300
484	Class III	\$35,640
485	Class IV	\$34,980
486	Class V	\$34,320
487	Class VI	\$28,380
488	Class VII	\$27,720
489	Class VIII	\$25,080
490	Class IX	\$24,420
491	Class X	\$19,800

492 (6) For the purpose of determining the salaries to be paid to
 493 the elected county officials of each county, the salaries for each
 494 county office by class, set out in subdivision (7) of this subsec-
 495 tion, are established and shall be used by each county commis-
 496 sion in determining the salaries of each of their county officials
 497 other than salaries of members of the county commission.

498 (7) OTHER ELECTED OFFICIALS

499		County	Circuit	Prosecuting
500		Sheriff	Clerk	Assessor Attorney
501	Class I	\$44,880	\$55,440	\$55,440 \$44,880 \$ 96,600
502	Class II	\$44,220	\$54,780	\$54,780 \$44,220 \$ 94,400
503	Class III	\$43,890	\$53,460	\$53,460 \$43,890 \$ 92,200
504	Class IV	\$43,560	\$53,154	\$53,154 \$43,560 \$ 90,000
505	Class V	\$43,230	\$52,800	\$52,800 \$43,230 \$ 87,800
506	Class VI	\$42,900	\$49,500	\$49,500 \$42,900 \$ 59,400
507	Class VII	\$42,570	\$48,840	\$48,840 \$42,570 \$ 56,760
508	Class VIII	\$42,240	\$48,180	\$48,180 \$42,240 \$ 54,120
509	Class IX	\$41,910	\$47,520	\$47,520 \$41,910 \$ 50,160
510	Class X	\$38,280	\$42,240	\$42,240 \$38,280 \$ 46,200

511 (8) Any county clerk, circuit clerk, joint clerk of the county
512 commission and circuit court, if any, county assessor or sheriff
513 of a Class I through Class V county, inclusive, any assessor or
514 any sheriff of a Class VI through Class IX county, inclusive,
515 shall devote full-time to his or her public duties to the exclusion
516 of any other employment: *Provided*, That any public official,
517 whose term of office begins when his or her county's classifica-
518 tion imposes no restriction on his or her outside activities, may
519 not be restricted on his or her outside activities during the
520 remainder of the term for which he or she is elected.

521 (9) In the case of a county that has a joint clerk of the
522 county commission and circuit court, the salary of the joint
523 clerk shall be fixed in an amount twenty-five percent higher
524 than the salary would be fixed for the county clerk if it had
525 separate offices of county clerk and circuit clerk.

526 (10) Any prosecuting attorney of a Class I through Class V
527 county, inclusive, shall devote full-time to his or her public
528 duties to the exclusion of any other employment: *Provided*,
529 That any county which under the prior provisions of this section
530 was classified as a Class II county and elected to maintain a
531 part-time prosecutor may continue to maintain a part-time
532 prosecutor, until such time as the county commission, on
533 request of the part-time prosecutor, approves and makes a
534 finding, by proper order entered, that the prosecuting attorney
535 shall devote full-time to his or her public duties. The county
536 commission shall then compensate said prosecutor at the same
537 salary as that of a prosecuting attorney in a Class V county:
538 *Provided, however*, That any county which under the prior
539 provisions of this section was classified as a Class II county and
540 which did not elect to maintain a part-time prosecutor shall
541 maintain a full-time prosecuting attorney and shall compensate
542 said prosecuting attorney at the same salary as that of a prose-
543 cuting attorney in a Class V county: *And provided further*, That
544 a prosecuting attorney for a Class VI county which subse-

545 quently becomes a Class V county on or before the first day of
546 July, two thousand ten, may continue as a part-time attorney,
547 and continue to be compensated at the Class VI county level,
548 until such time as determined by the prosecuting attorney and
549 the county commission that a full-time prosecuting attorney is
550 needed.

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




Chairman Senate Committee



Chairman House Committee

Originating in the House.

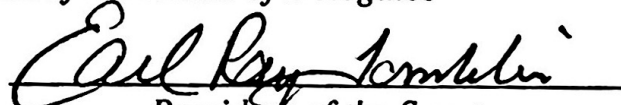
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates




President of the Senate



Speaker of the House of Delegates

The within is approved this the 4th
day of April 2006.



Governor

PRESENTED TO THE
GOVERNOR

MAR 29 2006

Time 4:10 pm