

SB 492

FILED

2008 APR -1 PM 2:40

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

ENROLLED

COMMITTEE SUBSTITUTE

FOR

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FOR

Senate Bill No. 492

(SENATOR WHITE, *original sponsor*)

[Passed March 8, 2008; to take effect July 1, 2008.]

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SECRETARY OF STATE 

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[Passed March 8, 2008; to take effect July 1, 2008.]

AN ACT to amend and reenact §7-7-4a of the Code of West Virginia, 1931, as amended, relating to prosecuting attorneys; eliminating part-time prosecutors; allowing prosecutors to remain as part-time prosecutors, upon mutual agreement of county commissions and prosecutors;

authorizing an increase in salary for a part-time prosecutor who becomes a full-time prosecutor; allowing prosecutors and counties to mutually agree to a change in part-time or full-time status; providing for a readjustment in salary if full-time prosecutor returns to part-time status; providing a mechanism for review of county finances by the state auditor to confirm the availability of county funds to support a full-time prosecutor; exceptions; and effective dates.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7. COMPENSATION OF ELECTED COUNTY OFFICIALS.

§7-7-4a. Authorizing the option of full-time status for part-time prosecuting attorneys.

1 (a) Notwithstanding the provisions of section four of
2 this article to the contrary, on or before the first day of
3 January, two thousand nine, a county may not have a
4 part-time prosecutor. The county commissions of
5 counties in Class VI through X shall then compensate
6 all prosecuting attorneys that have changed to full-time
7 by virtue of this section at the same rate of
8 compensation established for a prosecuting attorney in
9 a Class V county: *Provided, That*, upon mutual
10 agreement of the prosecuting attorney and the county
11 commission, the prosecuting attorney may choose to
12 remain a part-time prosecuting attorney.

13 (b) If, after the first day of January, two thousand
14 nine, during the course of a term of office, pursuant to
15 subsection (a) of this section, any prosecutor who

16 becomes full-time or chooses to remain part-time who
17 believes that the responsibilities of his or her office
18 either no longer requires a full-time position or believes
19 that the duties of the part-time position have become
20 full-time, may, by mutual agreement with the county
21 commission, either return to part-time status or change
22 to full-time status: *Provided*, That, if the decision to
23 change to full-time or part-time status is made during
24 an election year, the decision must be by mutual
25 agreement between the county commission and the
26 prosecutor-elect: *Provided, however*, That any
27 prosecutor who returns to part-time status shall,
28 thereafter, be compensated at the rate of compensation
29 set forth in section four of this article for a prosecuting
30 attorney of his or her class county and any prosecutor
31 that changes to full-time status shall, thereafter, be
32 compensated at the same rate of compensation
33 established for a prosecuting attorney in a Class V
34 county.

35 (c) If, after the first day of January, two thousand
36 nine, any prosecutor or prosecutor-elect desires to
37 change to full-time status and the county commission
38 objects to such change due to an alleged financial
39 condition of the county, then either party may request
40 the State Auditor's office to examine the county's
41 financial condition and certify whether or not there are
42 sufficient funds to support a full-time position. The
43 State Auditor shall then, within ninety days of such
44 request, certify whether or not there are sufficient
45 funds available to support a full-time prosecutor in the
46 county. If the State Auditor certifies that there are
47 sufficient funds available, then the prosecutor or
48 prosecutor-elect must be changed to full-time status
49 and be compensated at the same rate of pay as a

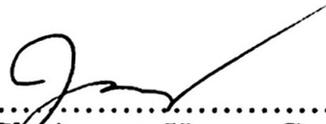
50 prosecutor in a Class V county.

51 (d) Nothing in this section may be construed to
52 prohibit a part-time prosecuting attorney from
53 remaining part-time with the mutual agreement of the
54 county commission.

5 [Enr. Com. Sub. for Com. Sub. for S. B. No. 492

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


.....
Chairman Senate Committee


.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2008.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is appended..... this
the 18 Day of April....., 2008.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 25 2008

Time 3:40pm