WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

ENROLLED
COMMITTEE SUBSTITUTE
FOR
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 492

(Senator White, original sponsor)

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

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 492

(SENIOR WHITE, original sponsor)

[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.

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

(b) If, after the first day of January, two thousand nine, during the course of a term of office, pursuant to subsection (a) of this section, any prosecutor who
becomes full-time or chooses to remain part-time who believes that the responsibilities of his or her office either no longer requires a full-time position or believes that the duties of the part-time position have become full-time, may, by mutual agreement with the county commission, either return to part-time status or change to full-time status: Provided, That, if the decision to change to full-time or part-time status is made during an election year, the decision must be by mutual agreement between the county commission and the prosecutor-elect: Provided, however, That any prosecutor who returns to part-time status shall, thereafter, be compensated at the rate of compensation set forth in section four of this article for a prosecuting attorney of his or her class county and any prosecutor that changes to full-time status shall, thereafter, be compensated at the same rate of compensation established for a prosecuting attorney in a Class V county.

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

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

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the Day of , 2008.

Governor