

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 451

By Senators Phillips, Hunt, Jeffries, Nelson, Queen,
Rucker, Smith, Stuart, Swope, Takubo, Taylor, Trump,

Woodrum, Woelfel, Plymale, and Deeds

[Passed March 6, 2024; in effect from passage]

1 AN ACT to amend and reenact §7-4-6 of the Code of West Virginia, 1931, as amended, relating to
2 training of newly appointed or elected prosecuting attorneys; and directing the Prosecuting
3 Attorneys Institute to conduct the training for all newly appointed and newly elected
4 prosecuting attorneys.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. PROSECUTING ATTORNEY, REWARDS, AND LEGAL ADVICE.

§7-4-6. West Virginia Prosecuting Attorneys Institute.

1 (a) There is continued the West Virginia Prosecuting Attorneys Institute, a public body
2 whose membership shall consist of the 55 elected county prosecuting attorneys in the state. The
3 Institute shall meet at least once each calendar year and the presence of 28 of the 55 prosecutors
4 at any meeting constitutes a quorum for the conduct of the Institute's business.

5 (b) There is continued the executive council of the West Virginia Prosecuting Attorneys
6 Institute, which shall consist of seven prosecuting attorneys elected by the membership of the
7 West Virginia Prosecuting Attorneys Institute at its annual meeting and two persons appointed
8 annually by the county commissioner's association of West Virginia. The executive council shall
9 elect one member of the council to serve as chairman of the institute for a term of one year without
10 compensation. The executive council shall serve as the regular executive body of the institute.

11 (c) There is continued the position of Executive Director of the West Virginia Prosecuting
12 Attorneys Institute to be employed by the executive council of the institute. The executive director
13 of the West Virginia Prosecuting Attorneys Institute shall serve at the will and pleasure of the
14 executive council of the institute. The executive director shall be licensed to practice law in the
15 State of West Virginia and shall devote full time to his or her official duties and may not engage in
16 the private practice of law.

17 (d) The duties and responsibilities of the institute, as implemented by and through its
18 executive council and its executive director, include the following:

19 (1) The provision for special prosecuting attorneys to pursue a criminal matter, a juvenile

20 delinquency matter, or a matter involving child abuse neglect pursuant to Chapter 49 of this code,
21 or in any matter in which a special prosecutor previously appointed has failed to take any action on
22 the matter within such time as the executive director considers unreasonable, not to exceed three
23 terms of court from the date on which the special prosecutor was appointed: *Provided*, That such
24 replacement or original appointment may be any attorney with a license in good standing in this
25 state in any county upon the request of a circuit court judge of that county and upon the approval of
26 the executive council;

27 (2) The establishment and implementation of general and specialized training programs for
28 prosecuting attorneys, their staffs and, where determined practical by the executive council and
29 executive director, all statutorily authorized law-enforcement or investigative agencies of the state
30 or its political subdivisions;

31 (3) The establishment of a training program for all newly appointed or newly elected
32 prosecuting attorneys;

33 (4) The provision of materials for prosecuting attorneys and their staffs, including legal
34 research, technical assistance, and technical and professional publications;

35 (5) The compilation and dissemination of information on behalf of prosecuting attorneys
36 and their staffs on current developments and changes in the law and the administration of criminal
37 justice;

38 (6) The establishment and implementation of uniform reporting procedures for
39 prosecuting attorneys and their professional staffs in order to maintain and to provide accurate and
40 timely data and information relative to criminal prosecutorial matters;

41 (7) The acceptance and expenditure of grants, moneys for reimbursement of expenses,
42 gifts, and acceptance of services from any public or private source;

43 (8) The entering into of agreements and contracts with public or private agencies, groups,
44 organizations, or educational institutions;

45 (9) The identification of experts and other resources for use by prosecutors in criminal

46 matters;

47 (10) The recommendation to the Legislature or the Supreme Court of Appeals of the State
48 of West Virginia on measures required, or procedural rules to be promulgated, to make uniform the
49 processing of juvenile cases in the 55 counties of the state; and

50 (11) The development of a written handbook for prosecutors and their assistants to use
51 which delineates relevant information concerning the elements of various crimes in West Virginia
52 and other information the institute considers appropriate.

53 (e) Each prosecuting attorney is subject to appointment by the institute to serve as a
54 special prosecuting attorney in any county where the prosecutor for that county or his or her office
55 has been disqualified from participating in a particular criminal case, a juvenile delinquency matter,
56 or a matter involving child abuse neglect pursuant to Chapter 49 of this code, or in any matter in
57 which a special prosecutor previously appointed has failed to take any action on the matter within
58 such time as the executive director considers unreasonable, not to exceed three terms of court
59 from the date on which the special prosecutor was appointed: *Provided*, That such replacement or
60 original appointment may be any attorney with a license in good standing in this state. The circuit
61 judge of any county of this state, who disqualifies the prosecutor or his or her office from
62 participating in a particular criminal case, a juvenile delinquency matter, or a matter involving child
63 abuse or neglect pursuant to chapter 49 of this code in that county, shall seek the appointment by
64 the institute of a special prosecuting attorney to substitute for the disqualified prosecutor. The
65 executive director of the institute shall, upon written request to the institute by any circuit judge as
66 a result of disqualification of the prosecutor or for other good cause shown, and upon approval of
67 the executive council, appoint a prosecuting attorney to serve as a special prosecuting attorney.
68 The special prosecuting attorney appointed shall serve without any further compensation other
69 than that paid to him or her by his or her county, except that he or she is entitled to be reimbursed
70 for his or her legitimate expenses associated with travel, mileage, and room and board from the
71 county to which he or she is appointed as a prosecutor. The county commission in which county he

72 or she is special prosecutor is responsible for all expenses associated with the prosecution of the
73 criminal action. A person who is serving as a prosecuting attorney or an assistant prosecuting
74 attorney of any county is not required to take an additional oath when appointed to serve as a
75 special prosecuting attorney.

76 (f) The executive director of the institute shall maintain an appointment list that shall
77 include the names of all 55 prosecuting attorneys and that shall also include the names of any
78 assistant prosecuting attorney who wishes to serve as a special prosecuting attorney upon the
79 same terms and conditions as set forth in this section. The executive director of the institute, with
80 the approval of the executive council, shall appoint special prosecuting attorneys from the
81 appointment list for any particular matter giving due consideration to the proximity of the proposed
82 special prosecuting attorney's home county to the county requesting a special prosecutor and
83 giving due consideration to the expertise of the special prosecuting attorney.

84 (g) Each county commission shall pay, on a monthly basis, a special prosecution premium
85 to the Treasurer of the state for the funding of the West Virginia Prosecuting Attorneys Institute.
86 The monthly premiums shall be paid according to the following schedule:

87 **MONTHLY PREMIUMS**

88 Assessed Valuation of Property
89 of All Classes in the County

90	Category	Minimum	Maximum	Premium
91	A	\$1,500,000,000	Unlimited	\$400
92	B	\$1,000,000,000	\$1,499,999,000	\$375
93	C	\$ 800,000,000	\$ 999,999,000	\$350
94	D	\$ 700,000,000	\$ 799,999,000	\$325
95	E	\$ 600,000,000	\$ 699,999,000	\$300
96	F	\$ 500,000,000	\$ 599,999,000	\$250
97	G	\$ 400,000,000	\$ 499,999,000	\$200

Enr CS for SB 451

98	H	\$ 300,000,000	\$ 399,999,000	\$150
99	I	\$ 200,000,000	\$ 299,999,000	\$100
100	J	-0-	\$ 199,999,000	\$ 50

101 (h) Upon receipt of a premium, grant, reimbursement or other funding source, excluding
102 federal funds as provided in §4-2-1 *et seq.* of this code, the Treasurer shall deposit the funds into
103 a special revenue fund to be known as the West Virginia Prosecuting Attorneys Institute Fund. All
104 costs of operating the West Virginia Prosecuting Attorneys Institute shall be paid from the West
105 Virginia Prosecuting Attorneys Institute Fund upon proper authorization by the executive council
106 or by the executive director of the institute and subject to annual appropriation by the Legislature of
107 the amounts contained within the fund.

108 (i) The institute shall annually, by the first day of the regular Legislative session, provide the
109 Joint Committee on Government and Finance with a report setting forth the activities of the
110 institute and suggestions for legislative action.

111 (j) Neither the institute nor its employees acting in their employment capacity shall engage
112 in activities before governmental bodies which advocate positions on issues other than those
113 issues consistent with the duties of the institute set forth in subsection (d) of this section.