

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 168**

4 (By Senators Laird, Kessler (Mr. President), Browning,  
5 Edgell, Miller, Hall, Plymale, Jenkins, Wills, Klempa and Yost)

6 \_\_\_\_\_  
7 [Originating in the Committee on Government Organization;  
8 reported January 19, 2012.]  
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11  
12 A BILL to amend and reenact §7-7-1 and §7-7-4 of the Code of West  
13 Virginia, 1931, as amended, all relating to compensation of  
14 elected county officials and county commissioners for each  
15 class of county; legislative findings; and authorizing  
16 increasing this compensation after July 1, 2012.

17 *Be it enacted by the Legislature of West Virginia:*

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

20 **ARTICLE 7. COMPENSATION OF ELECTED COUNTY OFFICIALS.**

21 **§7-7-1. Legislative findings and purpose.**

22 (a) The Legislature finds that it has, since January 1, ~~2003~~  
23 2007, consistently and annually imposed upon the county  
24 commissioners, sheriffs, county and circuit clerks, assessors and  
25 prosecuting attorneys in each county board, new and additional

1 duties by the enactment of new provisions and amendments to this  
2 code. The new and additional duties imposed upon the aforesaid  
3 county officials by these enactments are such that they would  
4 justify the increases in compensation as provided in section four  
5 of this article, without violating the provisions of section  
6 thirty-eight, article VI of the Constitution of West Virginia.

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

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

1 developments, requirements of public safety and the need for new  
2 services provided by county officials all increase, that the same  
3 constitute new and additional duties for county officials as their  
4 respective counties reach greater heights of economic development,  
5 as exemplified by the substantial increases in property valuations  
6 and, as such, justify the increases in compensation provided in  
7 section four of this article, without violating the provisions of  
8 section thirty-eight, article VI of the Constitution of West  
9 Virginia.

10 (d) The Legislature further finds and declares that the  
11 amendments enacted to this article are intended to modify the  
12 provisions of this article so as to cause the same to be in full  
13 compliance with the provisions of the Constitution of West Virginia  
14 and to be in full compliance with the decisions of the Supreme  
15 Court of Appeals of West Virginia.

16 **§7-7-4. Compensation of elected county officials and county**  
17 **commissioners for each class of county; effective**  
18 **date.**

19 (1) The increased salaries to be paid to the county  
20 commissioners and the other elected county officials described in  
21 this subsection on and after July 1, 2006, are set out in  
22 subdivisions (5) and (7) of this subsection. Every county  
23 commissioner and elected county official in each county, whose term  
24 of office commenced prior to or on or after July 1, 2006, shall  
25 receive the same annual salary by virtue of legislative findings of

1 extra duties as set forth in section one of this article.

2 (2) Before the increased salaries, as set out in subdivisions  
3 (5) and (7) of this subsection, are paid to the county  
4 commissioners and the elected county officials, the following  
5 requirements must be met:

6 (A) The Auditor has certified that the proposed annual county  
7 budget for the fiscal year beginning the first days of July, 2006,  
8 has increased over the previous fiscal year in an amount sufficient  
9 for the payment of the increase in the salaries, set out in  
10 subdivisions (5) and (7) of this subsection, and the related  
11 employment taxes: *Provided*, That the Auditor may not approve the  
12 budget certification for any proposed annual county budget  
13 containing anticipated receipts which are unreasonably greater or  
14 lesser than that of the previous year. For purposes of this  
15 subdivision, the term "receipts" does not include unencumbered fund  
16 balance or federal or state grants; and

17 (B) Each county commissioner or other elected official  
18 described in this subsection in office on the effective date of the  
19 increased salaries provided by this subsection who desires to  
20 receive the increased salary has prior to that date filed in the  
21 office of the clerk of the county commission his or her written  
22 agreement to accept the salary increase. The salary for the person  
23 who holds the office of county commissioner or other elected  
24 official described in this subsection who fails to file the written  
25 agreement as required by this paragraph shall be the salary for  
26 that office in effect immediately prior to the effective date of

1 the increased salaries provided by this subsection until the person  
2 vacates the office or his or her term of office expires, whichever  
3 first occurs.

4 (3) If there is an insufficient projected increase in revenues  
5 to pay the increased salaries and the related employment taxes,  
6 then the salaries of that county's elected officials and  
7 commissioners shall remain at the level in effect at the time  
8 certification was sought.

9 (4) In any county having a tribunal in lieu of a county  
10 commission, the county commissioners of that county may be paid  
11 less than the minimum salary limits of the county commission for  
12 that particular class of the county.

13 (5) COUNTY COMMISSIONERS

14

15	Class I	\$36,960
16	Class II	\$36,300
17	Class III	\$35,640
18	Class IV	\$34,980
19	Class V	\$34,320
20	Class VI	\$28,380
21	Class VII	\$27,720
22	Class VIII	\$25,080
23	Class IX	\$24,420
24	Class X	\$19,800

25 (6) For the purpose of determining the salaries to be paid to  
26 the elected county officials of each county, the salaries for each

1 county office by class, set out in subdivision (7) of this  
 2 subsection, are established and shall be used by each county  
 3 commission in determining the salaries of each of their county  
 4 officials other than salaries of members of the county commission.

5 (7) OTHER ELECTED OFFICIALS

	County	Circuit	assessor	Prosecuting
	Sheriff	Clerk	Clerk	Attorney
6 Class I	\$44,880	\$55,440	\$55,440	\$ 96,600
7 Class II	\$44,220	\$54,780	\$54,780	\$ 94,400
8 Class III	\$43,890	\$53,460	\$53,460	\$ 92,200
9 Class IV	\$43,560	\$53,154	\$53,154	\$ 90,000
10 Class V	\$43,230	\$52,800	\$52,800	\$ 87,800
11 Class VI	\$42,900	\$49,500	\$49,500	\$ 59,400
12 Class VII	\$42,570	\$48,840	\$48,840	\$ 56,760
13 Class VIII	\$42,240	\$48,180	\$48,180	\$ 54,120
14 Class IX	\$41,910	\$47,520	\$47,520	\$ 50,160
15 Class X	\$38,280	\$42,240	\$42,240	\$ 46,200

16 (8) Any county clerk, circuit clerk, county assessor or  
 17 sheriff of a Class I through Class V county, inclusive, any  
 18 assessor or any sheriff of a Class VI through Class IX county,  
 19 inclusive, shall devote full-time to his or her public duties to  
 20 the exclusion of any other employment other than part-time  
 21 employment that does not create a conflict of interest for the  
 22 official: *Provided,* That any public official, whose term of office  
 23 begins when his or her county's classification imposes no  
 24 restriction on his or her outside activities, may not be restricted

1 on his or her outside activities during the remainder of the term  
2 for which he or she is elected.

3 (9) Effective July 1, 2012, the increased salaries to be paid  
4 to the county commissioners and the other elected county officials  
5 described in this subsection are set out in subdivisions (13) and  
6 (15) of this subsection. Every county commissioner and elected  
7 county official in each county, whose term of office commenced  
8 prior to or on or after July 1, 2012, shall receive the same annual  
9 salary by virtue of legislative findings of extra duties as set  
10 forth in section one of this article.

11 (10) Before the increased salaries, as set out in subdivisions  
12 (13) and (15) of this subsection, are paid to the county  
13 commissioners and the elected county officials, the following  
14 requirements must be met:

15 (A) The Auditor has certified that the proposed annual county  
16 budget for the fiscal year beginning July 1, 2012, has increased  
17 over the previous fiscal year in an amount sufficient for the  
18 payment of the increase in the salaries, set out in subdivisions  
19 (13) and (15) of this subsection, and the related employment taxes:  
20 Provided, That the Auditor may not approve the budget certification  
21 for any proposed annual county budget containing anticipated  
22 receipts which are unreasonably greater or lesser than that of the  
23 previous year. For purposes of this subdivision, the term  
24 "receipts" does not include unencumbered fund balance or federal or  
25 state grants; and

26 (B) Each county commissioner or other elected official

1 described in this subsection in office on the effective date of the  
2 increased salaries provided by this subsection who desires to  
3 receive the increased salary has prior to that date filed in the  
4 office of the clerk of the county commission his or her written  
5 agreement to accept the salary increase. The salary for the person  
6 who holds the office of county commissioner or other elected  
7 official described in this subsection who fails to file the written  
8 agreement as required by this paragraph shall be the salary for  
9 that office in effect immediately prior to the effective date of  
10 the increased salaries provided by this subsection until the person  
11 vacates the office or his or her term of office expires, whichever  
12 first occurs.

13       (11) If there is an insufficient projected increase in  
14 revenues to pay the increased salaries and the related employment  
15 taxes, then the salaries of that county's elected officials and  
16 commissioners shall remain at the level in effect at the time  
17 certification was sought.

18       (12) In any county having a tribunal in lieu of a county  
19 commission, the county commissioners of that county may be paid  
20 less than the minimum salary limits of the county commission for  
21 that particular class of the county.

22       (13)                               COUNTY COMMISSIONERS

23	<u>Class I</u>	<u>\$46,960</u>
24	<u>Class II</u>	<u>\$46,300</u>
25	<u>Class III</u>	<u>\$45,640</u>
26	<u>Class IV</u>	<u>\$44,980</u>



1	<u>Class V</u>	<u>\$44,320</u>
2	<u>Class VI</u>	<u>\$38,380</u>
3	<u>Class VII</u>	<u>\$37,720</u>
4	<u>Class VIII</u>	<u>\$35,080</u>
5	<u>Class IX</u>	<u>\$34,420</u>
6	<u>Class X</u>	<u>\$29,800</u>

7 (14) For the purpose of determining the salaries to be paid to  
8 the elected county officials of each county, the salaries for each  
9 county office by class, set out in subdivision (15) of this  
10 subsection, are established and shall be used by each county  
11 commission in determining the salaries of each of their county  
12 officials other than salaries of members of the county commission.

13 (15) OTHER ELECTED OFFICIALS

		<u>County</u>	<u>Circuit</u>	<u>Prosecuting</u>	
	<u>Sheriff</u>	<u>Clerk</u>	<u>Clerk</u>	<u>Assessor</u>	<u>Attorney</u>
16 <u>Class I</u>	<u>\$57,880</u>	<u>\$70,440</u>	<u>\$70,440</u>	<u>\$54,880</u>	<u>\$ 108,600</u>
17 <u>Class II</u>	<u>\$57,220</u>	<u>\$69,780</u>	<u>\$69,780</u>	<u>\$54,220</u>	<u>\$ 106,400</u>
18 <u>Class III</u>	<u>\$56,890</u>	<u>\$68,460</u>	<u>\$68,460</u>	<u>\$53,890</u>	<u>\$ 104,200</u>
19 <u>Class IV</u>	<u>\$56,560</u>	<u>\$68,154</u>	<u>\$68,154</u>	<u>\$53,560</u>	<u>\$ 102,000</u>
20 <u>Class V</u>	<u>\$56,230</u>	<u>\$67,800</u>	<u>\$67,800</u>	<u>\$53,230</u>	<u>\$ 99,800</u>
21 <u>Class VI</u>	<u>\$55,900</u>	<u>\$64,500</u>	<u>\$64,500</u>	<u>\$52,900</u>	<u>\$ 71,400</u>
22 <u>Class VII</u>	<u>\$55,570</u>	<u>\$63,840</u>	<u>\$63,840</u>	<u>\$52,570</u>	<u>\$ 68,760</u>
23 <u>Class VIII</u>	<u>\$55,240</u>	<u>\$63,180</u>	<u>\$63,180</u>	<u>\$52,240</u>	<u>\$ 66,120</u>
24 <u>Class IX</u>	<u>\$54,910</u>	<u>\$62,520</u>	<u>\$62,520</u>	<u>\$51,910</u>	<u>\$ 62,160</u>
25 <u>Class X</u>	<u>\$51,280</u>	<u>\$57,240</u>	<u>\$57,240</u>	<u>\$48,280</u>	<u>\$ 58,200</u>

26 (16) Any county clerk, circuit clerk, county assessor or

1 sheriff of a Class I through Class V county, inclusive, any  
2 assessor or any sheriff of a Class VI through Class IX county,  
3 inclusive, shall devote full-time to his or her public duties to  
4 the exclusion of any other employment other than part-time  
5 employment that does not create a conflict of interest for the  
6 official: *Provided*, That any public official, whose term of office  
7 begins when his or her county's classification imposes no  
8 restriction on his or her outside activities, may not be restricted  
9 on his or her outside activities during the remainder of the term  
10 for which he or she is elected.