

1 **Senate Bill No. 541**

2 (By Senators Laird, Chafin, Green, D. Hall, M. Hall, Kirkendoll,
3 Tucker, Yost. Kessler (Mr. President), Stollings and Plymale)

4 _____
5 [Introduced March 15, 2013; referred to the Committee on
6 Government Organization; and then to the Committee on Finance.]

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9
10 A BILL to amend and reenact §7-7-1 and §7-7-4 of the Code of West
11 Virginia, 1931, as amended, all relating to compensation of
12 elected county officials and county commissioners for each
13 class of county; legislative findings; and authorizing
14 increasing this compensation after July 1, 2013.

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

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

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

19 **§7-7-1. Legislative findings and purpose.**

20 (a) The Legislature finds that it has, since January 1, ~~2003~~
21 2007, consistently and annually imposed upon the county
22 commissioners, sheriffs, county and circuit clerks, assessors and

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

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

15 (c) The Legislature further finds that there is a direct
16 correlation between the total assessed property valuations of a
17 county on which the salary levels of the county commissioners,
18 sheriffs, county and circuit clerks, assessors and prosecuting
19 attorneys are based, and the new and additional duties that each of
20 these officials is required to perform as they serve the best
21 interests of their respective counties. Inasmuch as the
22 reappraisal of the property valuations in each county has now been

1 accomplished, the Legislature finds that a change in classification
2 of counties by virtue of increased property valuations will occur
3 on an infrequent basis. However, it is the further finding of the
4 Legislature that when such change in classification of counties
5 does occur, that new and additional programs, economic
6 developments, requirements of public safety and the need for new
7 services provided by county officials all increase, that the same
8 constitute new and additional duties for county officials as their
9 respective counties reach greater heights of economic development,
10 as exemplified by the substantial increases in property valuations
11 and, as such, justify the increases in compensation provided in
12 section four of this article, without violating the provisions of
13 section thirty-eight, article VI of the Constitution of West
14 Virginia.

15 (d) The Legislature further finds and declares that the
16 amendments enacted to this article are intended to modify the
17 provisions of this article so as to cause the same to be in full
18 compliance with the provisions of the Constitution of West Virginia
19 and to be in full compliance with the decisions of the Supreme
20 Court of Appeals of West Virginia.

21 **§7-7-4. Compensation of elected county officials and county**
22 **commissioners for each class of county; effective**

1 **date.**

2 (1) The increased salaries to be paid to the county
3 commissioners and the other elected county officials described in
4 this subsection on and after July 1, 2006, are set out in
5 subdivisions (5) and (7) of this subsection. Every county
6 commissioner and elected county official in each county, whose term
7 of office commenced prior to or on or after July 1, 2006, shall
8 receive the same annual salary by virtue of legislative findings of
9 extra duties as set forth in section one of this article.

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

14 (A) The Auditor has certified that the proposed annual county
15 budget for the fiscal year beginning the first days of July, 2006,
16 has increased over the previous fiscal year in an amount sufficient
17 for the payment of the increase in the salaries, set out in
18 subdivisions (5) and (7) of this subsection, and the related
19 employment taxes: *Provided*, That the Auditor may not approve the
20 budget certification for any proposed annual county budget
21 containing anticipated receipts which are unreasonably greater or
22 lesser than that of the previous year. For purposes of this

1 subdivision, the term "receipts" does not include unencumbered fund
2 balance or federal or state grants; and

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

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

21 (4) In any county having a tribunal in lieu of a county
22 commission, the county commissioners of that county may be paid

1 less than the minimum salary limits of the county commission for
 2 that particular class of the county.

3 (5) COUNTY COMMISSIONERS

4

| | | |
|----|------------|----------|
| 5 | Class I | \$36,960 |
| 6 | Class II | \$36,300 |
| 7 | Class III | \$35,640 |
| 8 | Class IV | \$34,980 |
| 9 | Class V | \$34,320 |
| 10 | Class VI | \$28,380 |
| 11 | Class VII | \$27,720 |
| 12 | Class VIII | \$25,080 |
| 13 | Class IX | \$24,420 |
| 14 | Class X | \$19,800 |

15 (6) For the purpose of determining the salaries to be paid to
 16 the elected county officials of each county, the salaries for each
 17 county office by class, set out in subdivision (7) of this
 18 subsection, are established and shall be used by each county
 19 commission in determining the salaries of each of their county
 20 officials other than salaries of members of the county commission.

21 (7) OTHER ELECTED OFFICIALS

22 County Circuit Prosecuting

| | | | | | |
|----|------------|----------|----------|----------|--------------------|
| 1 | Sheriff | Clerk | Clerk | assessor | Attorney |
| 2 | Class I | \$44,880 | \$55,440 | \$55,440 | \$44,880 \$ 96,600 |
| 3 | Class II | \$44,220 | \$54,780 | \$54,780 | \$44,220 \$ 94,400 |
| 4 | Class III | \$43,890 | \$53,460 | \$53,460 | \$43,890 \$ 92,200 |
| 5 | Class IV | \$43,560 | \$53,154 | \$53,154 | \$43,560 \$ 90,000 |
| 6 | Class V | \$43,230 | \$52,800 | \$52,800 | \$43,230 \$ 87,800 |
| 7 | Class VI | \$42,900 | \$49,500 | \$49,500 | \$42,900 \$ 59,400 |
| 8 | Class VII | \$42,570 | \$48,840 | \$48,840 | \$42,570 \$ 56,760 |
| 9 | Class VIII | \$42,240 | \$48,180 | \$48,180 | \$42,240 \$ 54,120 |
| 10 | Class IX | \$41,910 | \$47,520 | \$47,520 | \$41,910 \$ 50,160 |
| 11 | Class X | \$38,280 | \$42,240 | \$42,240 | \$38,280 \$ 46,200 |

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

1 elected.

2 (9) Effective July 1, 2013, the increased salaries to be paid
3 to the county commissioners and the other elected county officials
4 described in this subsection are set out in subdivisions (13) and
5 (15) of this subsection. Every county commissioner and elected
6 county official in each county, whose term of office commenced
7 prior to or on or after July 1, 2013, shall receive the same annual
8 salary by virtue of legislative findings of extra duties as set
9 forth in section one of this article.

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

14 (A) The Auditor has certified that the proposed annual county
15 budget for the fiscal year beginning July 1, 2013, has increased
16 over the previous fiscal year in an amount sufficient for the
17 payment of the increase in the salaries, set out in subdivisions
18 (13) and (15) of this subsection, and the related employment taxes:
19 Provided, That the Auditor may not approve the budget certification
20 for any proposed annual county budget containing anticipated
21 receipts which are unreasonably greater or lesser than that of the
22 previous year. For purposes of this subdivision, the term

1 "receipts" does not include unencumbered fund balance or federal or
2 state grants; and

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

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

21 (12) In any county having a tribunal in lieu of a county
22 commission, the county commissioners of that county may be paid

1 less than the minimum salary limits of the county commission for
 2 that particular class of the county.

3 (13) COUNTY COMMISSIONERS

| | | |
|----|-------------------|-----------------|
| 4 | <u>Class I</u> | <u>\$46,960</u> |
| 5 | <u>Class II</u> | <u>\$46,300</u> |
| 6 | <u>Class III</u> | <u>\$45,640</u> |
| 7 | <u>Class IV</u> | <u>\$44,980</u> |
| 8 | <u>Class V</u> | <u>\$44,320</u> |
| 9 | <u>Class VI</u> | <u>\$38,380</u> |
| 10 | <u>Class VII</u> | <u>\$37,720</u> |
| 11 | <u>Class VIII</u> | <u>\$35,080</u> |
| 12 | <u>Class IX</u> | <u>\$34,420</u> |
| 13 | <u>Class X</u> | <u>\$29,800</u> |

14 (14) For the purpose of determining the salaries to be paid to
 15 the elected county officials of each county, the salaries for each
 16 county office by class, set out in subdivision (15) of this
 17 subsection, are established and shall be used by each county
 18 commission in determining the salaries of each of their county
 19 officials other than salaries of members of the county commission.

20 (15) OTHER ELECTED OFFICIALS

| | | | |
|----|----------------|----------------|---------------------------------|
| 21 | <u>County</u> | <u>Circuit</u> | <u>Prosecuting</u> |
| 22 | <u>Sheriff</u> | <u>Clerk</u> | <u>Assessor</u> <u>Attorney</u> |

| | | | | | | |
|----|-------------------|-----------------|-----------------|-----------------|-----------------|-------------------|
| 1 | <u>Class I</u> | <u>\$57,880</u> | <u>\$70,440</u> | <u>\$70,440</u> | <u>\$54,880</u> | <u>\$ 108,600</u> |
| 2 | <u>Class II</u> | <u>\$57,220</u> | <u>\$69,780</u> | <u>\$69,780</u> | <u>\$54,220</u> | <u>\$ 106,400</u> |
| 3 | <u>Class III</u> | <u>\$56,890</u> | <u>\$68,460</u> | <u>\$68,460</u> | <u>\$53,890</u> | <u>\$ 104,200</u> |
| 4 | <u>Class IV</u> | <u>\$56,560</u> | <u>\$68,154</u> | <u>\$68,154</u> | <u>\$53,560</u> | <u>\$ 102,000</u> |
| 5 | <u>Class V</u> | <u>\$56,230</u> | <u>\$67,800</u> | <u>\$67,800</u> | <u>\$53,230</u> | <u>\$ 99,800</u> |
| 6 | <u>Class VI</u> | <u>\$55,900</u> | <u>\$64,500</u> | <u>\$64,500</u> | <u>\$52,900</u> | <u>\$ 71,400</u> |
| 7 | <u>Class VII</u> | <u>\$55,570</u> | <u>\$63,840</u> | <u>\$63,840</u> | <u>\$52,570</u> | <u>\$ 68,760</u> |
| 8 | <u>Class VIII</u> | <u>\$55,240</u> | <u>\$63,180</u> | <u>\$63,180</u> | <u>\$52,240</u> | <u>\$ 66,120</u> |
| 9 | <u>Class IX</u> | <u>\$54,910</u> | <u>\$62,520</u> | <u>\$62,520</u> | <u>\$51,910</u> | <u>\$ 62,160</u> |
| 10 | <u>Class X</u> | <u>\$51,280</u> | <u>\$57,240</u> | <u>\$57,240</u> | <u>\$48,280</u> | <u>\$ 58,200</u> |

11 (16) Any county clerk, circuit clerk, county assessor or
12 sheriff of a Class I through Class V county, inclusive, any
13 assessor or any sheriff of a Class VI through Class IX county,
14 inclusive, any prosecuting attorney who is designated as full-time
15 shall devote full-time to his or her public duties to the exclusion
16 of any other employment other than part-time employment that does
17 not create a conflict of interest for the official: *Provided, That*
18 any public official, whose term of office begins when his or her
19 county's classification imposes no restriction on his or her
20 outside activities, may not be restricted on his or her outside
21 activities during the remainder of the term for which he or she is
22 elected.

NOTE: The purpose of this bill is to authorize an increase in compensation, after July 1, 2013, of elected county officials and county commissioners for each class of county.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.