

Senate Bill No. 89

(By Senators Laird and Miller)

[Introduced January 14, 2015;
referred to the Committee on Finance.]

A BILL to amend and reenact §6-7-2a of the Code of West Virginia, 1931, as amended; and to amend and reenact §7-4-6 of said code, all relating to providing that the salary of the Executive Director of the West Virginia Prosecuting Attorneys Institute shall be established by the executive council of the institute, with a minimum salary of \$70,000.

Be it enacted by the Legislature of West Virginia:

That §6-7-2a of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §7-4-6 of said code be amended and reenacted, all to read as follows:

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of officers.

1 (a) Each of the following appointive state officers named in this subsection shall be appointed
2 by the Governor, by and with the advice and consent of the Senate. Each of the appointive state
3 officers serves at the will and pleasure of the Governor for the term for which the Governor was

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1 elected and until the respective state officers' successors have been appointed and qualified. Each
2 of the appointive state officers are subject to the existing qualifications for holding each respective
3 office and each has and is hereby granted all of the powers and authority and shall perform all of the
4 functions and services heretofore vested in and performed by virtue of existing law respecting each
5 office.

6 The annual salary of each named appointive state officer is as follows:

7 Commissioner, Division of Highways, \$92,500; Commissioner, Division of Corrections,
8 \$80,000; Director, Division of Natural Resources, \$75,000; Superintendent, State Police, \$85,000;
9 Commissioner, Division of Banking, \$75,000; Commissioner, Division of Culture and History,
10 \$65,000; Commissioner, Alcohol Beverage Control Commission, \$75,000; Commissioner, Division
11 of Motor Vehicles, \$75,000; Chairman, Health Care Authority, \$80,000; members, Health Care
12 Authority, \$70,000; Director, Human Rights Commission, \$55,000; Commissioner, Division of
13 Labor, \$70,000; prior to July 1, 2011, Director, Division of Veterans Affairs, \$65,000; Chairperson,
14 Board of Parole, \$55,000; members, Board of Parole, \$50,000; members, Employment Security
15 Review Board, \$17,000; and Commissioner, Workforce West Virginia, \$75,000. Secretaries of the
16 departments shall be paid an annual salary as follows: Health and Human Resources, \$95,000;
17 Transportation, \$95,000: *Provided*, That if the same person is serving as both the Secretary of
18 Transportation and the Commissioner of Highways, he or she shall be paid \$120,000; Revenue,
19 \$95,000; Military Affairs and Public Safety, \$95,000; Administration, \$95,000; Education and the
20 Arts, \$95,000; Commerce, \$95,000; Veterans' Assistance, \$95,000; and Environmental
21 Protection, \$95,000: *Provided, however*, That any officer specified in this subsection whose salary

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1 is increased by more than \$5,000 as a result of the amendment and reenactment of this section during
2 the 2011 regular session of the Legislature shall be paid the salary increase in increments of \$5,000
3 per fiscal year beginning July 1, 2011 up to the maximum salary provided in this subsection.

4 (b) Each of the state officers named in this subsection shall continue to be appointed in the
5 manner prescribed in this code and shall be paid an annual salary as follows:

6 Director, Board of Risk and Insurance Management, \$80,000; Director, Division of
7 Rehabilitation Services, \$70,000; Director, Division of Personnel, \$70,000; Executive Director,
8 Educational Broadcasting Authority, \$75,000; Secretary, Library Commission, \$72,000; Director,
9 Geological and Economic Survey, \$75,000; ~~Executive Director, Prosecuting Attorneys Institute,~~
10 ~~\$70,000;~~ Executive Director, Public Defender Services, \$70,000; Commissioner, Bureau of Senior
11 Services, \$75,000; Executive Director, Women's Commission, \$45,000; Director, Hospital Finance
12 Authority, \$35,000; member, Racing Commission, \$12,000; Chairman, Public Service Commission,
13 \$85,000; members, Public Service Commission, \$85,000; Director, Division of Forestry, \$75,000;
14 Director, Division of Juvenile Services, \$80,000; and Executive Director, Regional Jail and
15 Correctional Facility Authority, \$80,000.

16 (c) Each of the following appointive state officers named in this subsection shall be appointed
17 by the Governor, by and with the advice and consent of the Senate. Each of the appointive state
18 officers serves at the will and pleasure of the Governor for the term for which the Governor was
19 elected and until the respective state officers' successors have been appointed and qualified. Each
20 of the appointive state officers are subject to the existing qualifications for holding each respective
21 office and each has and is hereby granted all of the powers and authority and shall perform all of the

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1 functions and services heretofore vested in and performed by virtue of existing law respecting each
2 office.

3 The annual salary of each named appointive state officer shall be as follows:

4 Commissioner, State Tax Division, \$92,500; Insurance Commissioner, \$92,500; Director,
5 Lottery Commission, \$92,500; Director, Division of Homeland Security and Emergency
6 Management, \$65,000; and Adjutant General, \$125,000.

7 (d) No increase in the salary of any appointive state officer pursuant to this section may be
8 paid until and unless the appointive state officer has first filed with the State Auditor and the
9 Legislative Auditor a sworn statement, on a form to be prescribed by the Attorney General, certifying
10 that his or her spending unit is in compliance with any general law providing for a salary increase
11 for his or her employees. The Attorney General shall prepare and distribute the form to the affected
12 spending units.

13 **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

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

15 **§7-4-6. West Virginia Prosecuting Attorneys Institute.**

16 (a) There is continued the West Virginia Prosecuting Attorneys Institute, a public body whose
17 membership shall consist of the fifty-five elected county prosecuting attorneys in the state. The
18 institute shall meet at least once each calendar year and the presence of twenty-eight of the fifty-five
19 prosecutors at any meeting constitutes a quorum for the conduct of the institute's business.

20 (b) There is continued the Executive Council of the West Virginia Prosecuting Attorneys
21 Institute which shall consist of seven prosecuting attorneys elected by the membership of the West

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1 Virginia Prosecuting Attorneys Institute at its annual meeting and two persons appointed annually
2 by the county commissioner's association of West Virginia. The executive council shall elect one
3 member of the council to serve as chairman of the institute for a term of one year without
4 compensation. The executive council shall serve as the regular executive body of the institute.

5 (c) There is continued the position of Executive Director of the West Virginia Prosecuting
6 Attorneys Institute to be employed by the executive council of the institute. The Executive Director
7 of the West Virginia Prosecuting Attorneys Institute shall serve at the will and pleasure of the
8 executive council of the institute. The executive director's salary shall be established by the
9 executive council. The executive director's salary shall be \$70,000 per year or greater, subject to
10 annual appropriation by the Legislature of amounts contained within the fund. The executive
11 director shall be licensed to practice law in the State of West Virginia and shall devote full time to
12 his or her official duties and may not engage in the private practice of law.

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

15 (1) The provision for special prosecuting attorneys to pursue a criminal matter, a juvenile
16 delinquency matter or a matter involving child abuse neglect pursuant to chapter forty-nine of this
17 code, or in any matter wherein a special prosecutor previously appointed has failed to take any action
18 thereon within such time as the executive director deems unreasonable, not to exceed three terms of
19 court from the date on which the special prosecutor was appointed: *Provided, That ~~such~~ the*
20 *replacement or original appointment may be any attorney with a license in good standing in this state*
21 *in any county upon the request of a circuit court judge of that county and upon the approval of the*

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1 executive council;

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

6 (3) The provision of materials for prosecuting attorneys and their staffs, including legal
7 research, technical assistance and technical and professional publications;

8 (4) The compilation and dissemination of information on behalf of prosecuting attorneys and
9 their staffs on current developments and changes in the law and the administration of criminal
10 justice;

11 (5) The establishment and implementation of uniform reporting procedures for prosecuting
12 attorneys and their professional staffs in order to maintain and to provide accurate and timely data
13 and information relative to criminal prosecutorial matters;

14 (6) The acceptance and expenditure of grants, moneys for reimbursement of expenses, gifts
15 and acceptance of services from any public or private source;

16 (7) The entering into of agreements and contracts with public or private agencies, groups,
17 organizations or educational institutions;

18 (8) The identification of experts and other resources for use by prosecutors in criminal
19 matters;

20 (9) The recommendation to the Legislature or the Supreme Court of Appeals of the State of
21 West Virginia on measures required, or procedural rules to be promulgated, to make uniform the

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1 processing of juvenile cases in the fifty-five counties of the state; and

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

5 (e) Each prosecuting attorney is subject to appointment by the institute to serve as a special
6 prosecuting attorney in any county where the prosecutor for that county or his or her office has been
7 disqualified from participating in a particular criminal case, a juvenile delinquency matter or a matter
8 involving child abuse neglect pursuant to chapter forty-nine of this code, or in any matter wherein
9 a special prosecutor previously appointed has failed to take any action thereon within such time as
10 the executive director deems unreasonable, not to exceed three terms of court from the date on which
11 the special prosecutor was appointed: *Provided*, That ~~such~~ the replacement or original appointment
12 may be any attorney with a license in good standing in this state. The circuit judge of any county of
13 this state who disqualifies the prosecutor or his or her office from participating in a particular
14 criminal case, a juvenile delinquency matter or a matter involving child abuse or neglect pursuant
15 to chapter forty-nine of this code in that county shall seek the appointment by the institute of a
16 special prosecuting attorney to substitute for the disqualified prosecutor. The executive director of
17 the institute shall, upon written request to the institute by any circuit judge as a result of
18 disqualification of the prosecutor or for other good cause shown, and upon approval of the executive
19 council, appoint a prosecuting attorney to serve as a special prosecuting attorney. The special
20 prosecuting attorney appointed shall serve without any further compensation other than that paid to
21 him or her by his or her county, except that he or she is entitled to be reimbursed for his or her

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1 legitimate expenses associated with travel, mileage and room and board from the county to which
2 he or she is appointed as a prosecutor. The county commission in which county he or she is special
3 prosecutor is responsible for all expenses associated with the prosecution of the criminal action. No
4 person who is serving as a prosecuting attorney or an assistant prosecuting attorney of any county
5 is required to take an additional oath when appointed to serve as a special prosecuting attorney.

6 (f) The executive director of the institute shall maintain an appointment list that shall include
7 the names of all fifty-five prosecuting attorneys and that shall also include the names of any assistant
8 prosecuting attorney who wishes to serve as a special prosecuting attorney upon the same terms and
9 conditions as set forth in this section. The executive director of the institute, with the approval of
10 the executive council, shall appoint special prosecuting attorneys from the appointment list for any
11 particular matter giving due consideration to the proximity of the proposed special prosecuting
12 attorney's home county to the county requesting a special prosecutor and giving due consideration
13 to the expertise of the special prosecuting attorney.

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

17 **MONTHLY PREMIUMS**

18 Assessed Valuation of Property

19 of All Classes in the County

20	Category	Minimum	Maximum	Premium
21	A	\$1,500,000,000	Unlimited	\$400

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1	B	\$1,000,000,000	\$1,499,999,000	\$375
2	C	\$ 800,000,000 \$	999,999,000	\$350
3	D	\$ 700,000,000 \$	799,999,000	\$325
4	E	\$ 600,000,000 \$	699,999,000	\$300
5	F	\$ 500,000,000 \$	599,999,000	\$250
6	G	\$ 400,000,000 \$	499,999,000	\$200
7	H	\$ 300,000,000 \$	399,999,000	\$150
8	I	\$ 200,000,000 \$	299,999,000	\$100
9	J	-0-	\$ 199,999,000	\$ 50

10 (h) Upon receipt of a premium, grant, reimbursement or other funding source, excluding
11 federal funds as provided in article two, chapter four of this code, the Treasurer shall deposit the
12 funds into a special revenue fund to be known as the West Virginia Prosecuting Attorneys Institute
13 Fund. All costs of operating the West Virginia Prosecuting Attorneys Institute shall be paid from
14 the West Virginia Prosecuting Attorneys Institute Fund upon proper authorization by the executive
15 council or by the executive director of the institute and subject to annual appropriation by the
16 Legislature of the amounts contained within the fund. The executive director's gross salary shall be
17 considered a "cost" and established by the council.

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

21 (j) Neither the institute nor its employees acting in their employment capacity shall engage

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- 1 in activities before governmental bodies which advocate positions on issues other than those issues
- 2 consistent with the duties of the institute set forth in subsection (d) of this section.

(NOTE: The purpose of this bill is to provide that the salary of the executive director of the West Virginia Prosecuting Attorneys Institute shall be established by the executive council of the institute, with a minimum salary of \$70,000.

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