

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Engrossed

Committee Substitute

for

Senate Bill 339

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ROMANO, PLYMALE AND YOST

[Originating in the Committee on the Judiciary;

reported on February 18, 2016.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §51-12-1, §51-12-2 and §51-12-3, all relating to establishing a judicial
3 compensation commission; setting responsibilities for commission; establishing
4 membership of commission; setting terms of service for appointed members; setting
5 eligibility requirements for certain commission members; providing that members of
6 commission are ineligible for appointment to state judicial position while serving on
7 commission; providing for reimbursement of expenses incurred in carrying out
8 responsibilities of commission; providing for filling of vacancies on commission; giving
9 commission authority to make salary recommendations for certain judicial officers to the
10 Legislature; providing for location of commission meetings; setting meeting notice
11 requirements; directing election of a chairperson; setting quorum requirements; permitting
12 commission to request staff assistance from Joint Committee on Government and Finance
13 and administrative office of Supreme Court of Appeals; requiring meetings be conducted
14 pursuant to open meetings laws; directing commission to study compensation structure
15 for certain judicial officers for purposes of preparing a report; setting forth required factors
16 to be considered in making recommendations regarding compensation; providing for filling
17 of commission vacancies; establishing certain dates for commission action; providing for
18 filing of commission reports and recommendations with certain offices; requiring a bill
19 enacting commission's salary recommendations be introduced by the presiding officer of
20 the Senate and House of Delegates no later than the twentieth day of legislative session
21 following receipt of report; requiring a bill enacting commission's salary recommendations
22 be reintroduced by the presiding officer of the Senate and House of Delegates in each
23 subsequent legislative session if not enacted; providing that commission be adjourned for
24 three years following submission of report; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 article, designated §51-12-1, §51-12-2 and §51-12-3, all to read as follows:

ARTICLE 12. JUDICIAL COMPENSATION COMMISSION.

§51-12-1. Judicial Compensation Commission established; membership.

1 (a) The Judicial Compensation Commission is hereby established. The commission shall
2 be responsible for studying the compensation structure for justices of the Supreme Court of
3 Appeals, circuit court judges, family court judges, magistrates and any other judicial officer subject
4 to election and which office requires the judge to hold a professional license to serve in that
5 position. The commission shall also be responsible for determining adequate compensation for
6 those positions to ensure that highly qualified persons will be attracted to serve on the bench.

7 (b) The commission is comprised of five members as follows:

8 (1) The Dean of the West Virginia University College of Law;

9 (2) Two members appointed by the Governor;

10 (3) One member appointed by the President of the Senate; and

11 (4) One member appointed by the Speaker of the House of Delegates.

12 (c) Any person appointed to serve on the commission pursuant to subdivisions (2), (3) and
13 (4), subsection (b) of this section shall serve for four years. The initial appointments to the
14 commission shall be made by July 1, 2016. No public employee, elected public official, person
15 receiving a pension from the State of West Virginia or officer of any political party may be
16 appointed to serve on the commission pursuant to subdivision (2), (3) or (4), subsection (b) of this
17 section, nor may any member so appointed be a member of the West Virginia State Bar. Upon
18 expiration of any term, the person previously appointed shall continue to serve until his or her
19 successor is duly appointed and qualified to serve on the commission.

20 (d) A member of the commission is not eligible for appointment to a state judicial position
21 as long as he or she is serving as a member of the commission.

22 (e) The members of the commission shall serve without compensation but shall be
23 reimbursed by the Joint Committee on Government and Finance for reasonable expenses
24 incurred in carrying out the responsibilities of the commission. Commission members shall be
25 reimbursed at the same rate established for public employees.

26 (f) In the event of a vacancy on the commission, the unexpired term shall be filled in the
27 same manner used to make the original appointment within sixty days of the vacancy.

§51-12-2. Commission meetings; where held; how conducted.

1 (a) The commission shall meet in Charleston, West Virginia, at the place and time
2 designated by the chairperson with at least ten days' written notice to the members of the
3 commission.

4 (b) The commission shall meet at the call of the chairperson or at the request of a majority
5 of the members.

6 (c) For purposes of calling the first meeting, the Dean of the West Virginia University
7 College of Law shall serve as the initial chairperson. At its first meeting, the members of the
8 commission will select a chairperson. In the event that the member selected to serve as
9 chairperson ceases to be a member of the commission, the Dean of West Virginia University
10 College of Law shall serve as the chairperson for purposes of calling the next meeting.

11 (d) A majority of the commission members shall constitute a quorum.

12 (e) The commission shall meet as often as is necessary to conduct a thorough review of
13 judicial compensation and prepare the report and recommendations described in section three of
14 this article.

15 (f) The commission may request staff assistance from the Joint Committee on Government
16 and Finance and the administrative office of the Supreme Court of Appeals as necessary.

17 (g) All meetings of the commission and all business conducted by the commission shall
18 be subject to the open meetings provisions of article nine-a, chapter six of this code.

§51-12-3. Judicial Compensation Commission reports and recommendations; legislative action.

1 (a) During any time it is convened, the commission shall study the compensation structure
2 for justices of the Supreme Court of Appeals, circuit court judges, family court judges, magistrates
3 and any other judicial officer subject to election and which office requires the judge to hold a
4 professional license to serve in that position for purposes of making a recommendation
5 concerning appropriate compensation for those judicial officers.

6 (b) In recommending the appropriate salaries of the state's judicial officers, the
7 commission shall consider the following factors:

8 (1) The skill and experience required of the particular judgeship at issue;

9 (2) The value of comparable service performed by justices and judges, as determined by
10 reference to judicial compensation in other states and in the federal government;

11 (3) The value of comparable service performed in the private sector including, but not
12 limited to, private judging, arbitration, and mediation;

13 (4) The compensation of attorneys in the private sector;

14 (5) The cost of living;

15 (6) The compensation presently received by other public officials in the state;

16 (7) The level of overall compensation adequate to attract the most highly qualified
17 individuals in the state, from a diversity of life and professional experiences, to serve the judiciary
18 without unreasonable hardship and with judicial independence unaffected by financial concerns;
19 and

20 (8) Any other information the commission may find relevant in its mission to determine the
21 appropriate compensation for the state's judicial officers.

22 (c) The commission shall prepare its first report containing its recommendations no later
23 than September 1, 2017. The commission shall then prepare subsequent reports on or before
24 September 1 of each year thereafter, except during those years that the commission is adjourned
25 pursuant to the provisions of this article.

26 (d) The commission shall send a copy of its recommendations to the Governor, the
27 President of the Senate, the Speaker of the House of Delegates, the chairman of the Senate
28 Committee on the Judiciary, the chairman of the House Committee on the Judiciary, the Chief
29 Justice of the Supreme Court of Appeals and the Administrative Director of the Supreme Court of
30 Appeals.

31 (e) In each year following the year in which a recommendation is received from the
32 commission, a bill adopting the salary recommendations made by the commission shall be
33 introduced by the presiding officer in both the Senate and the House of Delegates no later than
34 the twentieth day of the regular legislative session.

35 (f) The commission shall continue to meet and prepare updated recommendations, and a
36 bill adopting the salary recommendations shall continue to be introduced in accordance with the
37 following schedule:

38 (1) If the bill introduced pursuant to subsection (e) of this section is enacted adopting the
39 complete recommendations of the commission, the commission shall then be adjourned for three
40 years from the effective date of the increase.

41 (2) If the bill introduced pursuant to subsection (e) of this section is not enacted or, if that
42 bill is enacted, but adopts salaries less than those which were recommended by the commission,
43 the commission shall continue to meet annually to prepare updated recommendations to provide
44 to the parties identified in subsection (d) of this section.