

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

Introduced

### Senate Bill 485

FISCAL  
NOTE

BY SENATOR CLEMENTS

[Introduced January 15, 2020; referred  
to the Committee on the Judiciary; and then to the  
Committee on Finance]

1 A BILL to amend and reenact §6-7-2a of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §62-12-12 of said code, all relating to the Board of Parole; raising the  
 3 salary for the chairperson; raising the salaries for members; creating and setting the salary  
 4 for the vice chairperson; transferring the board to the Division of Corrections and  
 5 Rehabilitation for purposes of administrative and other support; removing the residency  
 6 requirements pertaining to counties and congressional districts; removing the work  
 7 substitution or qualification to serve on the board; specifying the powers and duties of the  
 8 chairperson; setting forth the process for selecting a vice chairperson; specifying the  
 9 powers and duties of the vice chairperson; clarifying how a vacancy occurs on the board;  
 10 creating a temporary or substitute board member list; and clarifying how moneys for the  
 11 board should be appropriated.

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

## **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  
 2 appointed by the Governor, by and with the advice and consent of the Senate. Each of the  
 3 appointive state officers serves at the will and pleasure of the Governor for the term for which the  
 4 Governor was elected and until the respective state officers' successors have been appointed  
 5 and qualified. Each of the appointive state officers are subject to the existing qualifications for  
 6 holding each respective office and each has and is hereby granted all of the powers and authority  
 7 and shall perform all of the functions and services heretofore vested in and performed by virtue  
 8 of existing law respecting each office.

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

10 Commissioner, Division of Highways, \$92,500; Commissioner, Division of Corrections and  
11 Rehabilitation, \$90,000; Director, Division of Natural Resources, \$75,000; Superintendent, State  
12 Police, \$85,000; Commissioner, Division of Financial Institutions, \$75,000; Commissioner,  
13 Division of Culture and History, \$65,000; Commissioner, Alcohol Beverage Control Commission,  
14 \$75,000; Commissioner, Division of Motor Vehicles, \$75,000; Director, Human Rights  
15 Commission, \$55,000; Commissioner, Division of Labor, \$70,000; Chairperson, Board of Parole,  
16 ~~\$55,000~~ \$70,000; Vice Chairperson, Board of Parole, ~~\$65,000~~; members, Board of Parole,  
17 ~~\$50,000~~ \$60,000; members, Employment Security Review Board, \$17,000; and Commissioner,  
18 Workforce West Virginia, \$75,000. Secretaries of the departments shall be paid an annual salary  
19 as follows: Health and Human Resources, \$95,000: *Provided*, That effective July 1, 2013, the  
20 Secretary of the Department of Health and Human Resources shall be paid an annual salary not  
21 to exceed \$175,000; Transportation, \$95,000: *Provided, however*, That if the same person is  
22 serving as both the Secretary of Transportation and the Commissioner of Highways, he or she  
23 shall be paid \$120,000; Revenue, \$95,000; Military Affairs and Public Safety, \$95,000;  
24 Administration, \$95,000; Education and the Arts, \$95,000; Commerce, \$95,000; Veterans'  
25 Assistance, \$95,000; and Environmental Protection, \$95,000: *Provided further*, That any officer  
26 specified in this subsection whose salary is increased by more than \$5,000 as a result of the  
27 amendment and reenactment of this section during the 2011 regular session of the Legislature  
28 shall be paid the salary increase in increments of \$5,000 per fiscal year beginning July 1, 2011,  
29 up to the maximum salary provided in this subsection.

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

32 Director, Board of Risk and Insurance Management, \$80,000; Director, Division of  
33 Rehabilitation Services, \$70,000; Director, Division of Personnel, \$70,000; Executive Director,  
34 Educational Broadcasting Authority, \$75,000; Secretary, Library Commission, \$72,000; Director,  
35 Geological and Economic Survey, \$75,000; Executive Director, Prosecuting Attorneys Institute,

36 \$80,000; Executive Director, Public Defender Services, \$70,000; Commissioner, Bureau of  
37 Senior Services, \$75,000; Executive Director, Women's Commission, \$45,000; Director, Hospital  
38 Finance Authority, \$35,000; member, Racing Commission, \$12,000; Chairman, Public Service  
39 Commission, \$85,000; members, Public Service Commission, \$85,000; Director, Division of  
40 Forestry, \$75,000 and Executive Director of the Health Care Authority, \$80,000.

41 (c) Each of the following appointive state officers named in this subsection shall be  
42 appointed by the Governor, by and with the advice and consent of the Senate. Each of the  
43 appointive state officers serves at the will and pleasure of the Governor for the term for which the  
44 Governor was elected and until the respective state officers' successors have been appointed  
45 and qualified. Each of the appointive state officers are subject to the existing qualifications for  
46 holding each respective office and each has and is hereby granted all of the powers and authority  
47 and shall perform all of the functions and services heretofore vested in and performed by virtue  
48 of existing law respecting each office.

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

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

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

## **CHAPTER 62. CRIMINAL PROCEDURE.**

### **ARTICLE 12. PROBATION AND PAROLE.**

#### **§62-12-12. Parole Board generally.**

1 (a) The West Virginia Parole Board is continued as part of the Division of Corrections and  
2 Rehabilitation. The board shall consist of nine members, each of whom shall have been a resident  
3 of this state for at least five consecutive years prior to his or her appointment. Except as provided  
4 in subsection (b) of this section, no more than five of the board members may at any one time  
5 belong to the same political party. The board shall be appointed by the Governor, by and with the  
6 advice and consent of the Senate, and members serve at the will and pleasure of the Governor.

7 ~~(b) Appointments shall be made in such a manner that each congressional district is~~  
8 ~~represented and so that no more than four and no less than two members of the board reside in~~  
9 ~~any one congressional district. No more than two members of the board may reside in any one~~  
10 ~~county~~ The Governor shall appoint one of the nine members to serve as chairperson at the  
11 Governor's will and pleasure. Notwithstanding the provisions of subsection (a) of this section, the  
12 chairperson appointed may be from any political party. In addition to all other powers, duties, and  
13 responsibilities granted and assigned to the chairperson in this chapter and elsewhere by law or  
14 rule, the chairperson:

15 (1) Shall provide for the management of facilities and personnel of the board;

16 (2) Shall supervise the administration and operation of the board;

17 (3) May delegate the powers and duties of his or her office to the vice chairperson or other  
18 members of the board, who shall act under the direction of the chairperson and for whose acts he  
19 or she is responsible: *Provided*, That if the position of chairperson becomes vacant by death,  
20 resignation, or otherwise, the vice chairperson shall assume all the powers and duties of the  
21 chairperson until such time as a new chairperson is appointed pursuant to the provisions of this  
22 section;

23 (4) Shall exercise all other powers and perform all other duties necessary and proper in  
24 carrying out his or her responsibilities as chairperson; and

25 (5) May employ one full time administrative employee, who is a classified exempt  
26 employee.

27           (c) The board, from its membership, shall elect a vice-chairperson, at least once every  
28 year, to serve as chair in the absence of a chairperson. In the absence or at the direction of the  
29 chairperson, the vice chairperson shall exercise the powers and duties of the chairperson. The  
30 vice chairperson shall, while performing the duties and responsibilities of the chairperson, have  
31 all the statutorily delegated power and duties of the chairperson, and may carry forth the statutory  
32 responsibilities as set forth in this article. A resignation of the chairperson or the vice chairperson  
33 constitutes a vacancy of the respective position until the time as those positions are filled by the  
34 appointment of a new chairperson pursuant to subsection (b) of this section or the election of a  
35 new vice chairperson pursuant to the provisions of this subsection.

36           ~~(c)~~ (d) Any person initially appointed to the board on or after July 1, 2012, shall have a  
37 degree from an accredited college or university. ~~or at least five years of actual experience in the~~  
38 ~~fields of corrections, law enforcement, sociology, law, education, psychology, social work,~~  
39 ~~medicine or a combination thereof and shall be otherwise competent to perform the duties of his~~  
40 ~~or her office~~ All members currently serving on the board shall continue the term he or she is  
41 currently serving, unless otherwise removed. The members shall be appointed for overlapping  
42 terms of six years. Members are eligible for reappointment. The members of the board shall  
43 devote their full time and attention to their board duties. ~~The Governor shall appoint one of the~~  
44 ~~nine appointed members to serve as chairperson at the Governor's will and pleasure.~~

45           (e) A vacancy on the board occurs by reason of death, resignation, change of residence  
46 from the state, a member not being confirmed by the Senate, removal, or any other cause, until  
47 the position is filled by the appointment of a new member. The Governor may, if he or she is  
48 informed that a vacancy is imminent, appoint a member to fill the imminent vacancy prior to it  
49 becoming vacant: *Provided*, That the new member shall be appointed no more than 30 days prior  
50 to the vacancy occurring and only for purposes of training. The new member does not assume  
51 the powers and duties of the position until the vacancy has actually occurred and does not count  
52 for the purposes of establishment of a quorum.

53 (f) The Governor shall appoint no more than five persons to a list of temporary or acting  
54 board members, this list shall be used in a rotating fashion. In the case of a long term illness or  
55 incapacity of a member, an appointment not being made to an existing vacancy, or other issue  
56 leading to a seat on the board being temporarily being empty, one of the members of this list shall  
57 fill the seat. These temporary board members have the same powers and duties of the regular  
58 board members while filling the empty seat. These members shall be reimbursed for expenses,  
59 and paid a per-diem rate, set by the secretary.

60 (g) The Division of Corrections and Rehabilitation shall provide administrative and other  
61 services to the board as it requires. Expenses of the board shall be included within the annual  
62 budget of the Division of Corrections and Rehabilitation: *Provided*, That the salaries of the  
63 members appointed pursuant to subsection (b) of this section are to be included in a separate  
64 budget for the Parole Board.

NOTE: The purpose of this bill is to raise salaries for all board members, raise the salaries for the chairperson; raise the salaries for members, create and set the salary for the vice chairperson; transfer the board to the Division of Corrections and Rehabilitation for purposes of administrative and other support; remove the residency requirements pertaining to counties and congressional districts; remove the work substitution or qualification to serve on the board; clarify the powers and duties of the chairperson; set forth the process for selecting a vice chairperson; specify the powers and duties of the vice chairperson; clarify how a vacancy occurs on the board; create a temporary or substitute board member list; clarify how moneys for the board should be appropriated.

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