

SB 211

FILED

2002 MAR 29 P 4: 21

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2002

ENROLLED

Committee Substitute for

SENATE BILL NO. 211

(By Senator Wooten, et al)

PASSED March 9, 2002

In Effect ninety days from Passage

FILED

2002 MAR 29 P 4: 23

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 211

(SENATORS WOOTON, MINARD, MITCHELL, UNGER,
EDGELL, KESSLER, JACKSON AND TOMBLIN,
MR. PRESIDENT, *original sponsors*)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and four, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating generally to salaries and duties of elected county officials; recognizing additional duties imposed on elected county officials; increasing salaries of certain elected county officials; and providing circumstances under which certain elected county officials must perform their duties on a full-time basis.

Be it enacted by the Legislature of West Virginia:

That sections one and four, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7. COMPENSATION OF ELECTED COUNTY OFFICIALS.

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

1 (a) The Legislature finds that it has, since the first da
2 of January, one thousand nine hundred ninety-sever
3 consistently and annually imposed upon the count;
4 commissioners, sheriffs, county and circuit clerks, asses
5 sors and prosecuting attorneys in each county board, new
6 and additional duties by the enactment of new provisions
7 and amendments to this code. The new and additional
8 duties imposed upon the aforesaid county officials by these
9 enactments are such that they would justify the increases
10 in compensation as provided in section four of this article,
11 without violating the provisions of section thirty-eight,
12 article VI of the constitution of West Virginia.

13 (b) The Legislature further finds that there are, from
14 time to time, additional duties imposed upon all county
15 officials through the acts of the Congress of the United
16 States and that such acts constitute new and additional
17 duties for county officials and, as such, justify the in-
18 creases in compensation as provided by section four of this
19 article, without violating the provisions of section thirty-
20 eight, article VI of the constitution of West Virginia.

21 (c) The Legislature further finds that there is a direct
22 correlation between the total assessed property valuations
23 of a county on which the salary levels of the county
24 commissioners, sheriffs, county and circuit clerks, asses-
25 sors and prosecuting attorneys are based, and the new and
26 additional duties that each of these officials is required to
27 perform as they serve the best interests of their respective
28 counties. Inasmuch as the reappraisal of the property
29 valuations in each county has now been accomplished, the
30 Legislature finds that a change in classification of counties
31 by virtue of increased property valuations will occur on an
32 infrequent basis. However, it is the further finding of the
33 Legislature that when such change in classification of
34 counties does occur, that new and additional programs,
35 economic developments, requirements of public safety and

36 the need for new services provided by county officials all
 37 increase, that the same constitute new and additional
 38 duties for county officials as their respective counties
 39 reach greater heights of economic development, as exem-
 40 plified by the substantial increases in property valuations
 41 and, as such, justify the increases in compensation pro-
 42 vided in section four of this article, without violating the
 43 provisions of section thirty-eight, article VI of the consti-
 44 tution of West Virginia.

45 (d) The Legislature further finds and declares that the
 46 amendments enacted to this article are intended to modify
 47 the provisions of this article so as to cause the same to be
 48 in full compliance with the provisions of the constitution
 49 of West Virginia and to be in full compliance with the
 50 decisions of the supreme court of appeals of West Virginia.

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

1 (a)(1) All county commissioners shall be paid compensa-
 2 tion out of the county treasury in amounts and according
 3 to the schedule set forth in subdivision (2) of this subsec-
 4 tion for each class of county as determined by the provi-
 5 sions of section three of this article: *Provided*, That as to
 6 any county having a tribunal in lieu of a county commis-
 7 sion, the county commissioners of the county may be paid
 8 less than the minimum compensation limits of the county
 9 commission for the particular class of such county.

10 (2) COUNTY COMMISSIONERS

11	Class I	\$ 20,000
12	Class II	\$ 15,500
13	Class III	\$ 14,000
14	Class IV	\$ 10,000
15	Class V	\$ 7,000
16	Class VI	\$ 4,000

17 (3) The compensation, set out in subdivision (2) of this
 18 subsection, shall be paid on and after the first day of

19 January, one thousand nine hundred eighty-five, to each
 20 county commissioner. Within each county, every county
 21 commissioner whose term of office commenced prior to the
 22 first day of January, one thousand nine hundred eighty-
 23 five, shall receive the same annual compensation as
 24 commissioners commencing a term of office on or after
 25 that date by virtue of the new duties imposed upon county
 26 commissioners pursuant to the provisions of chapter
 27 fifteen, acts of the Legislature, first extraordinary session,
 28 one thousand nine hundred eighty-three.

29 (4) For the purpose of determining the compensation to
 30 be paid to the elected county officials of each county, the
 31 compensations for each office by class, set out in subdivi-
 32 sion (5) of this subsection, are established and shall be
 33 used by each county commission in determining the
 34 compensation of each of their county officials other than
 35 compensation of members of the county commission:

36 (5) OTHER ELECTED OFFICIALS

37		County	Circuit		Prosecuting	
38	Sheriff	Clerk	Clerk	Assessor	Attorney	
39	Class I	\$24,200	\$31,300	\$31,300	\$24,200	\$41,500
40	Class II	\$24,200	\$28,000	\$28,000	\$24,200	\$39,500
41	Class III	\$24,200	\$28,000	\$28,000	\$24,200	\$30,000
42	Class IV	\$22,300	\$24,000	\$24,000	\$22,300	\$26,500
43	Class V	\$20,400	\$22,000	\$22,000	\$20,400	\$23,500
44	Class VI	\$17,200	\$17,200	\$17,200	\$17,200	\$17,000

45 (6) Any county clerk, circuit clerk, joint clerk of the
 46 county commission and circuit court, if any, county
 47 assessor, sheriff and prosecuting attorney of a Class I
 48 county, any assessor of a Class II and Class III county, any
 49 sheriff of a Class II and Class III county and any prosecut-
 50 ing attorney of a Class II county shall devote full time to
 51 his or her public duties to the exclusion of any other
 52 employment: *Provided*, That any public official, whose
 53 term of office begins when his or her county's classifica-
 54 tion imposes no restriction on his or her outside activities,

55 shall not be restricted on his or her outside activities
56 during the remainder of the term for which he or she is
57 elected. The compensation, set out in subdivision (5) of
58 this subsection, shall be paid on and after the first day of
59 January, one thousand nine hundred eighty-five, to each
60 elected county official.

61 (7) In the case of a county that has a joint clerk of the
62 county commission and circuit court, the compensation of
63 the joint clerk shall be fixed in an amount twenty-five
64 percent higher than the compensation would be fixed for
65 the county clerk if it had separate offices of county clerk
66 and circuit clerk.

67 (8) The Legislature finds that the duties imposed upon
68 county clerks by the provisions of chapter sixty-four, acts
69 of the Legislature, regular session, one thousand nine
70 hundred eighty-two, and by chapter fifteen, acts of the
71 Legislature, first extraordinary session, one thousand nine
72 hundred eighty-three, constitute new and additional duties
73 for county clerks and as such justify the additional com-
74 pensation provided in this section without violating the
75 provisions of section thirty-eight, article VI of the consti-
76 tution of West Virginia.

77 (9) The Legislature further finds that the duties imposed
78 upon circuit clerks by the provisions of chapters sixty-one
79 and one hundred eighty-two, acts of the Legislature,
80 regular session, one thousand nine hundred eighty-one,
81 and by chapter sixty, acts of the Legislature, regular
82 session, one thousand nine hundred eighty-three, consti-
83 tute new and additional duties for circuit clerks and as
84 such justify the additional compensation provided by this
85 section without violating the provisions of section thirty-
86 eight, article VI of the constitution of West Virginia.

87 (b)(1) Prior to the primary election in the year one
88 thousand nine hundred ninety-two, and for the fiscal year
89 beginning on the first day of July, one thousand nine
90 hundred ninety-two, or for any subsequent fiscal year if

91 the approval, set out in subdivision (2) of this subsection,
92 is not granted for any fiscal year, and at least thirty days
93 prior to the meeting to approve the county budget, the
94 commission shall provide notice to the public of the date
95 and time of the meeting and that the purpose of the
96 meeting of the county commission is to decide upon their
97 budget certification to the auditor.

98 (2) Upon submission by the county commission to the
99 auditor of a proposed annual budget which contains
100 anticipated receipts into the county's general revenue
101 fund, less anticipated moneys from the unencumbered
102 fund balance, equal to anticipated receipts into the
103 county's general revenue fund, less anticipated moneys
104 from the unencumbered fund balance and any federal or
105 state special grants, for the immediately preceding fiscal
106 year, plus such additional amount as is necessary for
107 payment of the increases in the salaries set out in subdivi-
108 sions (3) and (5) of this subsection, and related employ-
109 ment taxes over that paid for the immediately preceding
110 fiscal year, and upon approval thereof by the auditor,
111 which approval shall not be granted for any proposed
112 annual budget containing anticipated receipts which are
113 unreasonably greater or lesser than that of the immedi-
114 ately preceding fiscal year, for the purpose of determining
115 the compensation to be paid to the elected county officials
116 of each county office by class are established and shall be
117 used by each county commission in determining the
118 compensation of each of their county officials: *Provided,*
119 That as to any county having a tribunal in lieu of a county
120 commission, the county commissioners of the county may
121 be paid less than the minimum compensation limits of the
122 county commission for the particular class of the county.

123

(3) COUNTY COMMISSIONERS

124	Class I	\$24,000
125	Class II	\$18,600
126	Class III	\$16,800
127	Class IV	\$12,000
128	Class V	\$ 8,400

129 (4) If the approval, set out in subdivision (2) of this
 130 subsection, is granted, the compensation, set out in
 131 subdivision (3) of this subsection, shall be paid on and
 132 after the first day of January, one thousand nine hundred
 133 ninety-three, to each county commissioner. Within each
 134 county, every county commissioner shall receive the same
 135 annual compensation by virtue of the new duties imposed
 136 upon county commissioners pursuant to the provisions of
 137 chapter one hundred seventy-two, acts of the Legislature,
 138 second regular session, one thousand nine hundred ninety
 139 and chapter five, acts of the Legislature, third extraordi-
 140 nary session, one thousand nine hundred ninety.

141 (5) OTHER ELECTED OFFICIALS

142		County	Circuit		Prosecuting
143		Sheriff	Clerk	Clerk	Assessor Attorney
144	Class I	\$29,040	\$37,560	\$37,560	\$29,040 \$59,500
145	Class II	\$29,040	\$33,600	\$33,600	\$29,040 \$59,500
146	Class III	\$29,040	\$33,600	\$33,600	\$29,040 \$36,000
147	Class IV	\$26,760	\$28,800	\$28,800	\$26,760 \$31,800
148	Class V	\$24,480	\$26,400	\$26,400	\$24,480 \$28,200
149	Class VI	\$24,480	\$26,400	\$26,400	\$24,480 \$28,200

150 (6) Any county clerk, circuit clerk, joint clerk of the
 151 county commission and circuit court, if any, county
 152 assessor, sheriff and prosecuting attorney of a Class I
 153 county, any assessor of a Class II and Class III county, any
 154 sheriff of a Class II and Class III county and any prosecut-
 155 ing attorney of a Class II county shall devote full time to
 156 his or her public duties to the exclusion of any other
 157 employment: *Provided*, That any public official, whose
 158 term of office begins when his or her county's classifica-
 159 tion imposes no restriction on his or her outside activities,
 160 shall not be restricted on his or her outside activities
 161 during the remainder of the term for which he or she is
 162 elected. If the approval, set out in subdivision (2) of this
 163 subsection, is granted, the compensation, set out in
 164 subdivision (5) of this subsection, shall be paid on and

165 after the first day of January, one thousand nine hundred
166 ninety-three, to each elected county official.

167 (7) In the case of a county that has a joint clerk of the
168 county commission and circuit court, the compensation of
169 the joint clerk shall be fixed in an amount twenty-five
170 percent higher than the compensation would be fixed for
171 the county clerk if it had separate offices of county clerk
172 and circuit clerk.

173 (8) Prior to the primary election in the year one thou-
174 sand nine hundred ninety-two, in the case of a Class III,
175 Class IV or Class V county which has a part-time prosecut-
176 ing attorney, the county commission may find that such
177 facts and circumstances exist that require the prosecuting
178 attorney to devote full time to his or her public duties for
179 the four-year term, beginning the first day of January, one
180 thousand nine hundred ninety-three. If the county com-
181 mission makes such a finding, it may by proper order
182 adopted and entered, require the prosecuting attorney who
183 takes office on the first day of January, one thousand nine
184 hundred ninety-three, to devote full time to his or her
185 public duties and the county commission shall then
186 compensate said prosecuting attorney at the same rate of
187 compensation as that of a prosecuting attorney in a Class
188 II county.

189 (9) For any county: (A) Which on and after the first day
190 of July, one thousand nine hundred ninety-four, is classi-
191 fied as a Class II county; and (B) which prior to such date
192 was classified as a Class III, Class IV or Class V county and
193 maintained a part-time prosecuting attorney, the county
194 commission may elect to maintain the prosecuting attor-
195 ney as a part-time prosecuting attorney: *Provided*, That
196 prior to the first day of January, one thousand nine
197 hundred ninety-six, the county commission shall make a
198 finding, by proper order and entered, whether to maintain
199 a full-time or part-time prosecuting attorney. The part-
200 time prosecuting attorney shall be compensated at the
201 same rate of compensation as that of a prosecuting attor-

202 ney in the class for the county prior to being classified as
203 a Class II county.

204 (c)(1) Prior to the primary election in the year one
205 thousand nine hundred ninety-six, and for the fiscal year
206 beginning on the first day of July, one thousand nine
207 hundred ninety-six, or for any subsequent fiscal year if the
208 approval, set out in subdivision (2) of this subsection, is
209 not granted for any fiscal year, and at least thirty days
210 prior to the meeting to approve the county budget, the
211 commission shall provide notice to the public of the date
212 and time of the meeting and that the purpose of the
213 meeting of the county commission is to decide upon their
214 budget certification to the auditor.

215 (2) Upon submission by the county commission to the
216 auditor of a proposed annual budget which contains
217 anticipated receipts into the county's general revenue
218 fund, less anticipated moneys from the unencumbered
219 fund balance, equal to anticipated receipts into the
220 county's general revenue fund, less anticipated moneys
221 from the unencumbered fund balance and any federal or
222 state special grants, for the fiscal year beginning the first
223 day of July, one thousand nine hundred ninety-six, plus
224 such additional amount as is necessary for payment of the
225 increases in the salaries set out in subdivisions (3) and (6)
226 of this subsection, and related employment taxes over that
227 paid for the immediately preceding fiscal year, and upon
228 approval thereof by the auditor, which approval shall not
229 be granted for any proposed annual budget containing
230 anticipated receipts which are unreasonably greater or
231 lesser than that of the immediately preceding fiscal year
232 for the purpose of determining the compensation to be
233 paid to the elected county officials of each county office by
234 class are established and shall be used by each county
235 commission in determining whether county revenues are
236 sufficient to pay the compensation mandated herein for
237 their county officials: *Provided*, That as to any county
238 having a tribunal in lieu of a county commission, the

239 county commissioners of the county may be paid less than
240 the minimum compensation limits of the county commis-
241 sion for the particular class of the county: *Provided,*
242 *however,* That should there be an insufficient projected
243 increase in revenues to pay the increased compensation
244 and related employment taxes, then the compensation of
245 that county's elected officials shall remain at the level in
246 effect at the time certification was sought.

247 (3) COUNTY COMMISSIONERS

248	Class I	\$28,000
249	Class II	\$27,500
250	Class III	\$27,000
251	Class IV	\$26,500
252	Class V	\$26,000
253	Class VI	\$21,500
254	Class VII	\$21,000
255	Class VIII	\$19,000
256	Class IX	\$18,500
257	Class X	\$15,000

258 (4) The compensation, set out in subdivision (3) of this
259 subsection, shall be paid on and after the first day of
260 January, one thousand nine hundred ninety-seven, to each
261 county commissioner. Every county commissioner in each
262 county, whose term of office commenced prior to or on or
263 after the first day of January, one thousand nine hundred
264 ninety-seven, shall receive the same annual compensation
265 by virtue of legislative findings of extra duties as set forth
266 in section one of this article.

267 (5) For the purpose of determining the compensation to
268 be paid to the elected county officials of each county, the
269 compensations for each county office by class, set out in
270 subdivision (6) of this subsection, are established and shall
271 be used by each county commission in determining the
272 compensation of each of their county officials other than
273 compensation of members of the county commission:

274

(6) OTHER ELECTED OFFICIALS

275

276

	Sheriff	County Clerk	Circuit Clerk	Assessor	Prosecuting Attorney
277 Class I	\$34,000	\$42,000	\$42,000	\$34,000	\$76,000
278 Class II	\$33,500	\$41,500	\$41,500	\$33,500	\$74,000
279 Class III	\$33,250	\$40,500	\$40,500	\$33,250	\$72,000
280 Class IV	\$33,000	\$40,250	\$40,250	\$33,000	\$70,000
281 Class V	\$32,750	\$40,000	\$40,000	\$32,750	\$68,000
282 Class VI	\$32,500	\$37,500	\$37,500	\$32,500	\$45,000
283 Class VII	\$32,250	\$37,000	\$37,000	\$32,250	\$43,000
284 Class VIII	\$32,000	\$36,500	\$36,500	\$32,000	\$41,000
285 Class IX	\$31,750	\$36,000	\$36,000	\$31,750	\$38,000
286 Class X	\$29,000	\$32,000	\$32,000	\$29,000	\$35,000

287 (7) The compensation, set out in subdivision (6) of this
 288 subsection, shall be paid on and after the first day of
 289 January, one thousand nine hundred ninety-seven, to each
 290 elected county official. Any county clerk, circuit clerk,
 291 joint clerk of the county commission and circuit court, if
 292 any, county assessor or sheriff of a Class I through Class V
 293 county, inclusive, any assessor or any sheriff of a Class VI
 294 through Class IX county, inclusive, shall devote full time
 295 to his or her public duties to the exclusion of any other
 296 employment: *Provided*, That any public official, whose
 297 term of office begins when his or her county's classifica-
 298 tion imposes no restriction on his or her outside activities,
 299 shall not be restricted on his or her outside activities
 300 during the remainder of the term for which he or she is
 301 elected.

302 (8) In the case of a county that has a joint clerk of the
 303 county commission and circuit court, the compensation of
 304 the joint clerk shall be fixed in an amount twenty-five
 305 percent higher than the compensation would be fixed for
 306 the county clerk if it had separate offices of county clerk
 307 and circuit clerk.

308 (9) Any prosecuting attorney of a Class I through Class
 309 V county, inclusive, shall devote full time to his or her

310 public duties to the exclusion of any other employment:
311 *Provided*, That any county which under the prior provi-
312 sions of this section was classified as a Class II county and
313 elected to maintain a part-time prosecutor may continue
314 to maintain a part-time prosecutor, until such time as the
315 county commission, on request of the part-time prosecutor,
316 approves and makes a finding, by proper order entered,
317 that the prosecuting attorney shall devote full time to his
318 or her public duties. The county commission shall then
319 compensate said prosecuting attorney at the same rate of
320 compensation as that of a prosecuting attorney in a Class
321 V county: *Provided, however*, That any county which
322 under the prior provisions of this section was classified as
323 a Class II county and which did not elect to maintain a
324 part-time prosecutor shall maintain a full-time prosecut-
325 ing attorney and shall compensate said prosecuting
326 attorney at the same rate of compensation as that of a
327 prosecuting attorney in a Class V county: *Provided further*,
328 That, until the first day of January, two thousand one,
329 when a vacancy occurs in the office of prosecuting attor-
330 ney prior to the end of a term, the county commission of a
331 Class IV or Class V county may elect to allow the position
332 to become part time for the end of that term, and thereaf-
333 ter the position of prosecuting attorney shall become full
334 time.

335 (d) (1) The increased salaries to be paid to the county
336 commissioners and the other elected county officials
337 described in this subsection on and after the first day of
338 July, two thousand two, are set out in subdivisions (5) and
339 (7) of this subsection. Every county commissioner and
340 elected county official in each county, whose term of office
341 commenced prior to or on or after the first day of July, two
342 thousand two, shall receive the same annual salary by
343 virtue of legislative findings of extra duties as set forth in
344 section one of this article.

345 (2) Before the increased salaries, as set out in subdivi-
346 sions (5) and (7) of this subsection, are paid to the county

347 commissioners and the elected county officials, the
348 following requirements must be met:

349 (A) The auditor has certified that the proposed annual
350 county budget for the fiscal year beginning the first day of
351 July, two thousand two, has increased over the previous
352 fiscal year in an amount sufficient for the payment of the
353 increase in the salaries, set out in subdivisions (5) and (7)
354 of this subsection, and the related employment taxes:
355 *Provided*, That the auditor may not approve the budget
356 certification for any proposed annual county budget
357 containing anticipated receipts which are unreasonably
358 greater or lesser than that of the previous year. For
359 purposes of this subdivision, the term "receipts" does not
360 include unencumbered fund balance or federal or state
361 grants; and

362 (B) Each county commissioner or other elected official
363 described in this subsection in office on the effective date
364 of the increased salaries provided by this subsection who
365 desires to receive the increased salary has prior to that
366 date filed in the office of the clerk of the county commis-
367 sion his or her written agreement to accept the salary
368 increase. The salary for the person who holds the office of
369 county commissioner or other elected official described in
370 this subsection who fails to file the written agreement as
371 required by this paragraph shall be the salary for the that
372 office in effect immediately prior to the effective date of
373 the increased salaries provided by this subsection until the
374 person vacates the office or his or her term of office
375 expires, whichever first occurs.

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

381 (4) In any county having a tribunal in lieu of a county
382 commission, the county commissioners of that county may
383 be paid less than the minimum salary limits of the county
384 commission for that particular class of the county.

385 (5) COUNTY COMMISSIONERS

386	Class I	\$30,800
387	Class II	\$30,250
388	Class III	\$29,700
389	Class IV	\$29,150
390	Class V	\$28,600
391	Class VI	\$23,650
392	Class VII	\$23,100
393	Class VIII	\$20,900
394	Class IX	\$20,350
395	Class X	\$16,500

396 (6) For the purpose of determining the salaries to be
 397 paid to the elected county officials of each county, the
 398 salaries for each county office by class, set out in subdivi-
 399 sion (7) of this subsection, are established and shall be
 400 used by each county commission in determining the
 401 salaries of each of their county officials other than salaries
 402 of members of the county commission.

403 (7) OTHER ELECTED OFFICIALS

404		County	Circuit		Prosecuting	
405	Sheriff	Clerk	Clerk	Assessor	Attorney	
406	Class I	\$37,400	\$46,200	\$46,200	\$37,400	\$83,600
407	Class II	\$36,850	\$45,650	\$45,650	\$36,850	\$81,400
408	Class III	\$36,575	\$44,550	\$44,550	\$36,575	\$79,200
409	Class IV	\$36,300	\$44,295	\$44,295	\$36,300	\$77,000
410	Class V	\$36,025	\$44,000	\$44,000	\$36,025	\$74,800
411	Class VI	\$35,750	\$41,250	\$41,250	\$35,750	\$49,500
412	Class VII	\$35,475	\$40,700	\$40,700	\$35,475	\$47,300
413	Class VIII	\$35,200	\$40,150	\$40,150	\$35,200	\$45,100
414	Class IX	\$34,925	\$39,600	\$39,600	\$34,925	\$41,800
415	Class X	\$31,900	\$35,200	\$35,200	\$31,900	\$38,500

416 (8) Any county clerk, circuit clerk, joint clerk of the
 417 county commission and circuit court, if any, county
 418 assessor or sheriff of a Class I through Class V county,
 419 inclusive, any assessor or any sheriff of a Class VI through
 420 Class IX county, inclusive, shall devote full time to his or

421 her public duties to the exclusion of any other employ-
422 ment: *Provided*, That any public official, whose term of
423 office begins when his or her county's classification
424 imposes no restriction on his or her outside activities, may
425 not be restricted on his or her outside activities during the
426 remainder of the term for which he or she is elected.

427 (9) In the case of a county that has a joint clerk of the
428 county commission and circuit court, the salary of the joint
429 clerk shall be fixed in an amount twenty-five percent
430 higher than the salary would be fixed for the county clerk
431 if it had separate offices of county clerk and circuit clerk.

432 (10) Any prosecuting attorney of a Class I through Class
433 V county, inclusive, shall devote full time to his or her
434 public duties to the exclusion of any other employment:
435 *Provided*, That any county which under the prior provi-
436 sions of this section was classified as a Class II county and
437 elected to maintain a part-time prosecutor may continue
438 to maintain a part-time prosecutor, until such time as the
439 county commission, on request of the part-time prosecutor,
440 approves and makes a finding, by proper order entered,
441 that the prosecuting attorney shall devote full time to his
442 or her public duties. The county commission shall then
443 compensate said prosecutor at the same salary as that of a
444 prosecuting attorney in a Class V county: *Provided*,
445 *however*, That any county which under the prior provi-
446 sions of this section was classified as a Class II county and
447 which did not elect to maintain a part-time prosecutor
448 shall maintain a full-time prosecuting attorney and shall
449 compensate said prosecuting attorney at the same salary
450 as that of a prosecuting attorney in a Class V county:
451 *Provided further*, That, until the first day of January, two
452 thousand three, when a vacancy occurs in the office of
453 prosecuting attorney prior to the end of a term, the county
454 commission of a Class IV or Class V county may elect to
455 allow the position to become part time for the end of that
456 term and thereafter the position of prosecuting attorney
457 shall become full time.

Enr. Com. Sub. for S. B. No. 211] 16

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Carly Ann
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Russell G. Glendon
.....
Clerk of the Senate

Bruce D. Boy
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within is approved..... this the *29th*
Day of *March*....., 2002.

Rob Wise
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/26/02

Time

3:05 pm