

1 **H. B. 4405**

2  
3 (By Delegates Perry, Hall, Skaff, Barker and  
4 Caputo )

5 [Introduced February 2, 2012; referred to the  
6 Committee on Political Subdivisions then Finance.]

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10 A BILL to amend and reenact §6-7-2a of the Code of West Virginia,  
11 1931, as amended; and amend and reenact §7-7-1 and §7-7-4 of  
12 said code, all relating to compensation of elected county  
13 officials and county commissioners for each class of county;  
14 certain appointive state officers, specifically the Executive  
15 Director, Prosecuting Attorneys Institute; legislative  
16 findings; and authorizing increasing this compensation after  
17 July 1, 2012.

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

19 That §6-7-2a of the Code of West Virginia, 1931, as amended,  
20 be amended and reenacted; and that §7-7-1 and §7-7-4 of said code  
21 be amended and reenacted, all to read as follows:

22 **CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.**

23 **ARTICLE 7. COMPENSATION AND ALLOWANCES.**

24 **§6-7-2a. Terms of certain appointive state officers; appointment;**

1                   **qualifications; powers and salaries of such officers.**

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

13           Prior to July 1, 2006, each such named appointive state  
14 officer shall continue to receive the annual salaries they were  
15 receiving as of the effective date of the enactment of this section  
16 in 2006 and thereafter, notwithstanding any other provision of this  
17 code to the contrary, the annual salary of each named appointive  
18 state officer shall be as follows:

19           Commissioner, Division of Highways, \$92,500; Commissioner,  
20 Division of Corrections, \$80,000; Director, Division of Natural  
21 Resources, \$75,000; Superintendent, State Police, \$85,000;  
22 Commissioner, Division of Banking, \$75,000; Commissioner, Division  
23 of Culture and History, \$65,000; Commissioner, Alcohol Beverage  
24 Control Commission, \$75,000; Commissioner, Division of Motor

1 Vehicles, \$75,000; Chairman, Health Care Authority, \$80,000;  
2 members, Health Care Authority, \$75,000; Director, Human Rights  
3 Commission, \$55,000; Commissioner, Division of Labor, \$70,000;  
4 Director, Division of Veterans' Affairs, \$65,000; Chairperson,  
5 Board of Parole, \$55,000; members, Board of Parole, \$50,000;  
6 members, Employment Security Review Board, \$17,000; and  
7 Commissioner, Bureau of Employment Programs, \$75,000. Secretaries  
8 of the departments shall be paid an annual salary as follows:  
9 Health and Human Resources, \$95,000; Transportation, \$95,000:  
10 *Provided*, That if the same person is serving as both the Secretary  
11 of Transportation and the Commissioner of Highways, he or she shall  
12 be paid \$120,000; Revenue, \$95,000; Military Affairs and Public  
13 Safety, \$95,000; Administration, \$95,000; Education and the Arts,  
14 \$95,000; Commerce, \$95,000; and Environmental Protection, \$95,000:  
15 *Provided, however*, That any increase in the salary of any current  
16 appointive state officer named in this subsection pursuant to the  
17 reenactment of this subsection during the regular session of the  
18 Legislature in 2006 that exceeds \$5,000 shall be paid to such  
19 officer or his or her successor beginning on July 1, 2006, in  
20 annual increments of \$5,000 per fiscal year, up to the maximum  
21 salary provided in this subsection: *Provided further*, That if the  
22 same person is serving as both the Secretary of Transportation and  
23 the Commissioner of Highways, then the annual increments of \$5,000  
24 per fiscal year do not apply.

1 (b) Each of the state officers named in this subsection shall  
2 continue to be appointed in the manner prescribed in this code and,  
3 prior to July 1, 2006, each of the state officers named in this  
4 subsection shall continue to receive the annual salaries he or she  
5 was receiving as of the effective date of the enactment of this  
6 section in 2006 and shall thereafter, notwithstanding any other  
7 provision of this code to the contrary, be paid an annual salary as  
8 follows:

9 Director, Board of Risk and Insurance Management, \$80,000;  
10 Director, Division of Rehabilitation Services, \$70,000; Director,  
11 Division of Personnel, \$70,000; Executive Director, Educational  
12 Broadcasting Authority, \$75,000; Secretary, Library Commission,  
13 \$72,000; Director, Geological and Economic Survey, \$75,000;  
14 Executive Director, Prosecuting Attorneys Institute, ~~\$70,000~~  
15 \$84,000; Executive Director, Public Defender Services, \$70,000;  
16 Commissioner, Bureau of Senior Services, \$75,000; Director, State  
17 Rail Authority, \$65,000; Executive Director, Women's Commission,  
18 \$55,000; Director, Hospital Finance Authority, \$35,000; member,  
19 Racing Commission, \$12,000; Chairman, Public Service Commission,  
20 \$85,000; members, Public Service Commission, \$85,000; Director,  
21 Division of Forestry, \$75,000; Director, Division of Juvenile  
22 Services, \$80,000; and Executive Director, Regional Jail and  
23 Correctional Facility Authority, \$80,000: *Provided*, That any  
24 increase in the salary of any current appointive state officer

1 named in this subsection pursuant to the reenactment of this  
2 subsection during the regular session of the Legislature in 2006  
3 that exceeds \$5,000 shall be paid to such officer or his or her  
4 successor beginning on July 1, 2006, in annual increments of \$5,000  
5 per fiscal year, up to the maximum salary provided in this  
6 subsection.

7 (c) Each of the following appointive state officers named in  
8 this subsection shall be appointed by the Governor, by and with the  
9 advice and consent of the Senate. Each of the appointive state  
10 officers serves at the will and pleasure of the Governor for the  
11 term for which the Governor was elected and until the respective  
12 state officers' successors have been appointed and qualified. Each  
13 of the appointive state officers are subject to the existing  
14 qualifications for holding each respective office and each has and  
15 is hereby granted all of the powers and authority and shall perform  
16 all of the functions and services heretofore vested in and  
17 performed by virtue of existing law respecting each office.

18 Prior to July 1, 2006, each such named appointive state  
19 officer shall continue to receive the annual salaries they were  
20 receiving as of the effective date of the enactment of this section  
21 in 2006 and thereafter, notwithstanding any other provision of this  
22 code to the contrary, the annual salary of each named appointive  
23 state officer shall be as follows:

24 Commissioner, State Tax Division, \$92,500; Commissioner,

1 Insurance Commission, \$92,500; Director, Lottery Commission,  
2 \$92,500; Director, Division of Homeland Security and Emergency  
3 Management, \$65,000; and Adjutant General, \$125,000.

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

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

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

16 **§7-7-1. Legislative findings and purpose.**

17 (a) The Legislature finds that it has, since January 1, 2003  
18 2007, consistently and annually imposed upon the county  
19 commissioners, sheriffs, county and circuit clerks, assessors and  
20 prosecuting attorneys in each county board, new and additional  
21 duties by the enactment of new provisions and amendments to this  
22 code. The new and additional duties imposed upon the aforesaid  
23 county officials by these enactments are such that they would  
24 justify the increases in compensation as provided in section four

1 of this article, without violating the provisions of section  
2 thirty-eight, article VI of the Constitution of West Virginia.

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

10       (c) The Legislature further finds that there is a direct  
11 correlation between the total assessed property valuations of a  
12 county on which the salary levels of the county commissioners,  
13 sheriffs, county and circuit clerks, assessors and prosecuting  
14 attorneys are based, and the new and additional duties that each of  
15 these officials is required to perform as they serve the best  
16 interests of their respective counties. Inasmuch as the reappraisal  
17 of the property valuations in each county has now been  
18 accomplished, the Legislature finds that a change in classification  
19 of counties by virtue of increased property valuations will occur  
20 on an infrequent basis. However, it is the further finding of the  
21 Legislature that when such change in classification of counties  
22 does occur, that new and additional programs, economic  
23 developments, requirements of public safety and the need for new  
24 services provided by county officials all increase, that the same

1 constitute new and additional duties for county officials as their  
2 respective counties reach greater heights of economic development,  
3 as exemplified by the substantial increases in property valuations  
4 and, as such, justify the increases in compensation provided in  
5 section four of this article, without violating the provisions of  
6 section thirty-eight, article VI of the Constitution of West  
7 Virginia.

8 (d) The Legislature further finds and declares that the  
9 amendments enacted to this article are intended to modify the  
10 provisions of this article so as to cause the same to be in full  
11 compliance with the provisions of the Constitution of West Virginia  
12 and to be in full compliance with the decisions of the Supreme  
13 Court of Appeals of West Virginia.

14 **§7-7-4. Compensation of elected county officials and county**  
15 **commissioners for each class of county; effective**  
16 **date.**

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



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

5           (A) The Auditor has certified that the proposed annual county  
6 budget for the fiscal year beginning the first days of July, 2006,  
7 has increased over the previous fiscal year in an amount sufficient  
8 for the payment of the increase in the salaries, set out in  
9 subdivisions (5) and (7) of this subsection, and the related  
10 employment taxes: *Provided*, That the Auditor may not approve the  
11 budget certification for any proposed annual county budget  
12 containing anticipated receipts which are unreasonably greater or  
13 lesser than that of the previous year. For purposes of this  
14 subdivision, the term "receipts" does not include unencumbered fund  
15 balance or federal or state grants; and

16           (B) Each county commissioner or other elected official  
17 described in this subsection in office on the effective date of the  
18 increased salaries provided by this subsection who desires to  
19 receive the increased salary has prior to that date filed in the  
20 office of the clerk of the county commission his or her written  
21 agreement to accept the salary increase. The salary for the person  
22 who holds the office of county commissioner or other elected  
23 official described in this subsection who fails to file the written  
24 agreement as required by this paragraph shall be the salary for

1 that office in effect immediately prior to the effective date of  
 2 the increased salaries provided by this subsection until the person  
 3 vacates the office or his or her term of office expires, whichever  
 4 first occurs.

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

10 (4) In any county having a tribunal in lieu of a county  
 11 commission, the county commissioners of that county may be paid  
 12 less than the minimum salary limits of the county commission for  
 13 that particular class of the county.

14 (5) COUNTY COMMISSIONERS

15

16	Class I	\$36,960
17	Class II	\$36,300
18	Class III	\$35,640
19	Class IV	\$34,980
20	Class V	\$34,320
21	Class VI	\$28,380
22	Class VII	\$27,720
23	Class VIII	\$25,080
24	Class IX	\$24,420

1                                    Class X                                    \$19,800

2            (6) For the purpose of determining the salaries to be paid to  
 3 the elected county officials of each county, the salaries for each  
 4 county office by class, set out in subdivision (7) of this  
 5 subsection, are established and shall be used by each county  
 6 commission in determining the salaries of each of their county  
 7 officials other than salaries of members of the county commission.

8            (7)                                    OTHER ELECTED OFFICIALS

	County	Circuit	assessor	Prosecuting
	Sheriff	Clerk	Clerk	Attorney
11 Class I	\$44,880	\$55,440	\$55,440	\$ 96,600
12 Class II	\$44,220	\$54,780	\$54,780	\$ 94,400
13 Class III	\$43,890	\$53,460	\$53,460	\$ 92,200
14 Class IV	\$43,560	\$53,154	\$53,154	\$ 90,000
15 Class V	\$43,230	\$52,800	\$52,800	\$ 87,800
16 Class VI	\$42,900	\$49,500	\$49,500	\$ 59,400
17 Class VII	\$42,570	\$48,840	\$48,840	\$ 56,760
18 Class VIII	\$42,240	\$48,180	\$48,180	\$ 54,120
19 Class IX	\$41,910	\$47,520	\$47,520	\$ 50,160
20 Class X	\$38,280	\$42,240	\$42,240	\$ 46,200

21            (8) Any county clerk, circuit clerk, county assessor or  
 22 sheriff of a Class I through Class V county, inclusive, any  
 23 assessor or any sheriff of a Class VI through Class IX county,  
 24 inclusive, shall devote full-time to his or her public duties to

1 the exclusion of any other employment other than part-time  
2 employment that does not create a conflict of interest for the  
3 official: *Provided*, That any public official, whose term of office  
4 begins when his or her county's classification imposes no  
5 restriction on his or her outside activities, may not be restricted  
6 on his or her outside activities during the remainder of the term  
7 for which he or she is elected.

8 (9) Effective July 1, 2012, the increased salaries to be paid  
9 to the county commissioners and the other elected county officials  
10 described in this subsection are set out in subdivisions (13) and  
11 (15) of this subsection. Every county commissioner and elected  
12 county official in each county, whose term of office commenced  
13 prior to or on or after July 1, 2012, shall receive the same annual  
14 salary by virtue of legislative findings of extra duties as set  
15 forth in section one of this article.

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

20 (A) The Auditor has certified that the proposed annual county  
21 budget for the fiscal year beginning July 1, 2012, has increased  
22 over the previous fiscal year in an amount sufficient for the  
23 payment of the increase in the salaries, set out in subdivisions  
24 (13) and (15) of this subsection, and the related employment taxes:

1 Provided, That the Auditor may not approve the budget certification  
2 for any proposed annual county budget containing anticipated  
3 receipts which are unreasonably greater or lesser than that of the  
4 previous year. For purposes of this subdivision, the term  
5 "receipts" does not include unencumbered fund balance or federal or  
6 state grants; and

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

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

1       (12) In any county having a tribunal in lieu of a county  
 2 commission, the county commissioners of that county may be paid  
 3 less than the minimum salary limits of the county commission for  
 4 that particular class of the county.

5       (13)                               COUNTY COMMISSIONERS

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

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

22       (15)                               OTHER ELECTED OFFICIALS

23		<u>County</u>	<u>Circuit</u>	<u>Prosecuting</u>
24	<u>Sheriff</u>	<u>Clerk</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, shall devote full-time to his or her public duties to  
 15 the exclusion of any other employment other than part-time  
 16 employment that does not create a conflict of interest for the  
 17 official: *Provided*, That any public official, whose term of office  
 18 begins when his or her county's classification imposes no  
 19 restriction on his or her outside activities, may not be restricted  
 20 on his or her outside activities during the remainder of the term  
 21 for which he or she is elected.

NOTE: The purpose of this bill is to authorize an increase in compensation, after July 1, 2012, of elected county officials and

county commissioners for each class of county and the Executive Director, Prosecuting Attorneys Institute.

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