

1 **ENROLLED**

2 **Senate Bill No. 1005**

3 (BY SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,

4 BY REQUEST OF THE EXECUTIVE)

5 _____
6 [Passed March 14, 2014; in effect ninety days from passage.]
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9

10 AN ACT to amend and reenact §7-7-1 and §7-7-4 of the Code of West
11 Virginia, 1931, as amended, all relating to authorizing an
12 increase in the salaries of county commissioners and elected
13 county officials; revising legislative findings; requiring the
14 State Auditor to consider certain factors when certifying
15 whether a county has an amount sufficient for payment of the
16 salary increases; providing that the State Auditor may not be
17 held liable for relying upon information and data provided by
18 a county commission in assessing a county's fiscal condition
19 or annual budget; requiring submission of a written request
20 for a salary increase; providing salary ranges for county
21 commissioners and other county officials for the time period
22 beginning July 1, 2014; and requiring certain prosecuting

1 attorneys to be devoted full time to public duties.

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

3 That §7-7-1 and §7-7-4 of the Code of West Virginia, 1931, as
4 amended, be amended and reenacted, all to read as follows:

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

6 **§7-7-1. Legislative findings and purpose.**

7 (a) The Legislature finds that it has, since January 1, 2007,
8 consistently and annually imposed upon the county commissioners,
9 sheriffs, county and circuit clerks, assessors and prosecuting
10 attorneys in each county new and additional duties by the enactment
11 of new provisions and amendments to this code. The new and
12 additional duties imposed upon the aforesaid county officials by
13 these enactments are such that they would justify the increases in
14 compensation as provided in section four of this article, without
15 violating the provisions of section thirty-eight, article VI of the
16 Constitution of West Virginia.

17 (b) The Legislature further finds that there are, from time to
18 time, additional duties imposed upon all county officials through
19 the acts of the Congress of the United States and that such acts
20 constitute new and additional duties for county officials and, as
21 such, justify the increases in compensation as provided by section
22 four of this article, without violating the provisions of section

1 thirty-eight, article VI of the Constitution of West Virginia.

2 (c) The Legislature further finds that there is a direct
3 correlation between the total assessed property valuations of a
4 county on which the salary levels of the county commissioners,
5 sheriffs, county and circuit clerks, assessors and prosecuting
6 attorneys are based, and the new and additional duties that each of
7 these officials is required to perform as they serve the best
8 interests of their respective counties. Inasmuch as the
9 reappraisal of the property valuations in each county has now been
10 accomplished, the Legislature finds that a change in classification
11 of counties by virtue of increased property valuations will occur
12 on an infrequent basis. However, it is the further finding of the
13 Legislature that when such change in classification of counties
14 does occur, that new and additional programs, economic
15 developments, requirements of public safety and the need for new
16 services provided by county officials all increase, that the same
17 constitute new and additional duties for county officials as their
18 respective counties reach greater heights of economic development,
19 as exemplified by the substantial increases in property valuations
20 and, as such, justify the increases in compensation provided in
21 section four of this article, without violating the provisions of
22 section thirty-eight, article VI of the Constitution of West

1 Virginia.

2 (d) The Legislature further finds and declares that the
3 amendments enacted to this article are intended to modify the
4 provisions of this article so as to cause the same to be in full
5 compliance with the provisions of the Constitution of West Virginia
6 and to be in full compliance with the decisions of the Supreme
7 Court of Appeals of West Virginia.

8 **§7-7-4. Compensation of elected county officials and county**
9 **commissioners for each class of county; effective**
10 **date.**

11 (1) The increased salaries to be paid to the county
12 commissioners and the other elected county officials described in
13 this section on and after July 1, 2014, are set out in subsections
14 (5) and (7) of this section. Every county commissioner and elected
15 county official in each county, whose term of office commenced
16 prior to or on or after July 1, 2014, shall receive the same annual
17 salary by virtue of legislative findings of extra duties as set
18 forth in section one of this article.

19 (2) Before the increased salaries, as set out in subsections
20 (5) and (7) of this section, are paid to the county commissioners
21 and the elected county officials, the following requirements must
22 be met:

1 (A) The Auditor has certified that the fiscal condition of the
2 county, considering costs, revenues, liabilities and significant
3 trends of the same; maintenance standards; and the commitment to
4 the provision of county services has sufficiently improved over the
5 previous fiscal years so that there exists an amount sufficient for
6 the payment of the increase in the salaries set out in subsections
7 (5) and (7) of this section and the related employment taxes:
8 *Provided*, That the Auditor may not provide the certification for
9 the payment of the increase in the salaries where any proposed
10 annual county budget contains anticipated receipts which are
11 unreasonably greater or lesser than that of the previous year. For
12 purposes of this subsection, the term "receipts" does not include
13 unencumbered fund balance or federal or state grants: *Provided*,
14 *however*, That the Auditor shall not be held liable for relying upon
15 information and data provided by a county commission in assessing
16 the county's fiscal condition or a proposed annual county budget;
17 and

18 (B) Each county commissioner or other elected official
19 described in this section in office on the effective date of the
20 increased salaries provided by this section who desires to receive
21 the increased salary shall have prior to that date filed in the
22 office of the clerk of the county commission his or her written

1 request for the salary increase. The salary for the person who
2 holds the office of county commissioner or other elected official
3 described in this section who fails to file the written request as
4 required by this paragraph shall be the salary for that office in
5 effect immediately prior to the effective date of the increased
6 salaries provided by this section until the person vacates the
7 office or his or her term of office expires, whichever first
8 occurs.

9 Any request for a salary increase shall use the following
10 language:

11 I, [name of office holder], the duly elected [name of office]
12 in and for the County of [name of county], West Virginia, do hereby
13 request a salary increase pursuant to W. Va. Code §7-7-4, as
14 amended. This salary increase is effective July 1, 2014.

15 [Signature of office holder]

16 [Date]

17 (3) If the Auditor has failed to certify that there is an
18 amount sufficient for the payment of the increase in the salaries
19 and the related employment taxes pursuant to this section, then the
20 salaries of that county's elected officials and commissioners shall
21 remain at the level in effect at the time certification was sought.

22 (4) In any county having a tribunal in lieu of a county

1 commission, the county commissioners of that county may be paid
2 less than the minimum salary limits of the county commission for
3 that particular class of the county.

4 (5) Prior to July 1, 2014:

5 COUNTY COMMISSIONERS

6	Class I	\$36,960
7	Class II	\$36,300
8	Class III	\$35,640
9	Class IV	\$34,980
10	Class V	\$34,320
11	Class VI	\$28,380
12	Class VII	\$27,720
13	Class VIII	\$25,080
14	Class IX	\$24,420
15	Class X	\$19,800

16 After June 30, 2014:

17 COUNTY COMMISSIONERS

18	Class I	\$41,395
19	Class II	\$40,656
20	Class III	\$39,917
21	Class IV	\$39,178
22	Class V	\$38,438

1	Class VI	\$31,786
2	Class VII	\$31,046
3	Class VIII	\$28,090
4	Class IX	\$27,350
5	Class X	\$22,176

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

12 (7) Prior to July 1, 2014:

13 OTHER ELECTED OFFICIALS

14		County	Circuit		Prosecuting	
15	Sheriff	Clerk	Clerk	Assessor	Attorney	
16	Class I	\$44,880	\$55,440	\$55,440	\$44,880	\$ 96,600
17	Class II	\$44,220	\$54,780	\$54,780	\$44,220	\$ 94,400
18	Class III	\$43,890	\$53,460	\$53,460	\$43,890	\$ 92,200
19	Class IV	\$43,560	\$53,154	\$53,154	\$43,560	\$ 90,000
20	Class V	\$43,230	\$52,800	\$52,800	\$43,230	\$ 87,800
21	Class VI	\$42,900	\$49,500	\$49,500	\$42,900	\$ 59,400
22	Class VII	\$42,570	\$48,840	\$48,840	\$42,570	\$ 56,760

1	Class VIII	\$42,240	\$48,180	\$48,180	\$42,240	\$ 54,120
2	Class IX	\$41,910	\$47,520	\$47,520	\$41,910	\$ 50,160
3	Class X	\$38,280	\$42,240	\$42,240	\$38,280	\$ 46,200

4 After June 30, 2014:

5 OTHER ELECTED OFFICIALS

6 County Circuit Prosecuting
7 Sheriff Clerk Clerk Assessor Attorney

8	Class I	\$50,266	\$62,093	\$62,093	\$50,266	\$108,192
9	Class II	\$49,526	\$61,354	\$61,354	\$49,526	\$105,728
10	Class III	\$49,157	\$59,875	\$59,875	\$49,157	\$103,264
11	Class IV	\$48,787	\$59,532	\$59,532	\$48,787	\$100,800
12	Class V	\$48,418	\$59,136	\$59,136	\$48,418	\$98,336
13	Class VI	\$48,048	\$55,440	\$55,440	\$48,048	\$66,528
14	Class VII	\$47,678	\$54,701	\$54,701	\$47,678	\$63,571
15	Class VIII	\$47,309	\$53,962	\$53,962	\$47,309	\$60,614
16	Class IX	\$46,939	\$53,222	\$53,222	\$46,939	\$56,179
17	Class X	\$42,874	\$47,309	\$47,309	\$42,874	\$51,744

18 (8) Any county clerk, circuit clerk, county assessor,
19 prosecuting attorney or sheriff of a Class I through Class V
20 county, inclusive, any assessor or any sheriff of a Class VI
21 through Class IX county, inclusive, shall devote full time to his
22 or her public duties to the exclusion of any other employment:

1 *Provided*, That any public official whose term of office begins when
2 his or her county's classification imposes no restriction on his or
3 her outside activities may not be restricted on his or her outside
4 activities during the remainder of the term for which he or she is
5 elected.