

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 339

BY SENATORS TRUMP, KESSLER, WOELFEL, PALUMBO,

ROMANO, PLYMALE AND YOST

[Introduced January 21, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §51-1-10a of the Code of West Virginia, 1931, as amended; to
 2 amend and reenact §51-2-13 of said code; to amend and reenact §51-2A-6 of said code;
 3 and to amend said code by adding thereto a new article, designated §51-12-1 and §51-
 4 12-2, all relating to compensation paid to professional judicial officers; establishing judicial
 5 compensation commission; providing eligibility and quorum requirements; filling
 6 commission vacancies; filing commission reports and recommendations; and requiring
 7 legislative action.

Be it enacted by the Legislature of West Virginia:

1 That §51-1-10a of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; that §51-2-13 of said code be amended and reenacted; that §51-2A-6 of said code be
 3 amended and reenacted; and that said code be amended by adding thereto a new article,
 4 designated §51-12-1 and §51-12-2, all to read as follows:

ARTICLE 1. SUPREME COURT OF APPEALS.

§51-1-10a. Salary of Justices.

1 The salary of each of the justices of the Supreme Court of Appeals shall be \$95,000 per
 2 year: *Provided*, That beginning July, 1, 2005, the salary of each of the justices of the Supreme
 3 Court shall be \$121,000: *Provided, however*, That beginning July 1, 2011, the annual salary of a
 4 justice of the Supreme Court shall be \$136,000: *Provided further*, That beginning July 1, 2017,
 5 the salary of a supreme court justice shall be increased upon recommendation of the Judicial
 6 Compensation Commission established in article twelve of this chapter unless such
 7 recommendation is rejected by the Legislature.

ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.

§51-2-13. Salaries of judges of circuit court.

1 The salaries of the judges of the various circuit courts shall be paid solely out of the State

2 Treasury. No county, county commission, board of commissioners or other political subdivision
3 shall supplement or add to such salaries.

4 The annual salary of all circuit judges shall be \$90,000 per year: *Provided*, That beginning
5 July 1, 2005, the annual salary of all circuit judges shall be \$116,000 per year: *Provided, however*,
6 That beginning July 1, 2011, the annual salary of a circuit court judge shall be \$126,000: *Provided*
7 *further, That beginning July 1, 2017, the salary of a circuit court judge shall be increased upon*
8 *recommendation of the Judicial Compensation Commission established in article twelve of this*
9 *chapter unless such recommendation is rejected by the Legislature.*

ARTICLE 2A. FAMILY COURTS.

§51-2A-6. Compensation and expenses of family court judges and their staffs.

1 (a) A family court judge is entitled to receive as compensation for his or her services an
2 annual salary of \$62,500: *Provided*, That beginning July 1, 2005, a family court judge is entitled
3 to receive as compensation for his or her services an annual salary of \$82,500: *Provided*,
4 *however*, That beginning July 1, 2011, the annual salary of a family court judge shall be \$94,500:
5 *Provided further, That beginning July 1, 2017, the salary of a family court judge shall be increased*
6 *upon recommendation of the Judicial Compensation Commission established in article twelve of*
7 *this chapter unless such recommendation is rejected by the Legislature.*

8 (b) The secretary-clerk of the family court judge is appointed by the family court judge and
9 serves at his or her will and pleasure. The secretary-clerk of the family court judge is entitled to
10 receive an annual salary of \$27,036: *Provided*, That on and after July 1, 2006, the annual salary
11 of the secretary-clerk shall be established by the administrative director of the Supreme Court of
12 Appeals, but may not exceed \$35,000. In addition, any person employed as a secretary-clerk to
13 a family court judge on the effective date of the enactment of this section during the sixth
14 extraordinary session of the Legislature in the year 2001 who is receiving an additional \$500 per
15 year up to ten years of a certain period of prior employment under the provisions of the prior

16 enactment of section eight of this article during the second extraordinary session of the
17 Legislature in the year 1999 shall continue to receive such additional amount. Further, the
18 secretary-clerk will receive such percentage or proportional salary increases as may be provided
19 by general law for other public employees and is entitled to receive the annual incremental salary
20 increase as provided in article five, chapter five of this code.

21 (c) The family court judge may employ not more than one family case coordinator who
22 serves at his or her will and pleasure. The annual salary of the family case coordinator of the
23 family court judge shall be established by the Administrative Director of the Supreme Court of
24 Appeals but may not exceed \$36,000: *Provided*, That on and after July 1, 2006, the annual salary
25 of the family case coordinator of the family court judge may not exceed \$46,060. The family case
26 coordinator will receive such percentage or proportional salary increases as may be provided by
27 general law for other public employees and is entitled to receive the annual incremental salary
28 increase as provided in article five, chapter five of this code.

29 (d) The sheriff or his or her designated deputy shall serve as a bailiff for a family court
30 judge. The sheriff of each county shall serve or designate persons to serve so as to assure that
31 a bailiff is available when a family court judge determines the same is necessary for the orderly
32 and efficient conduct of the business of the family court.

33 (e) Disbursement of salaries for family court judges and members of their staffs are made
34 by or pursuant to the order of the Director of the Administrative Office of the Supreme Court of
35 Appeals.

36 (f) Family court judges and members of their staffs are allowed their actual and necessary
37 expenses incurred in the performance of their duties. The expenses and compensation will be
38 determined and paid by the Director of the Administrative Office of the Supreme Court of Appeals
39 under such guidelines as he or she may prescribe, as approved by the Supreme Court of Appeals.

40 (g) Notwithstanding any other provision of law, family court judges are not eligible to
41 participate in the retirement system for judges under the provisions of article nine of this chapter.

ARTICLE 12. JUDICIAL COMPENSATION COMMISSION.**§51-12-1. Judicial compensation commission.**

42 (a) The Judicial Compensation Commission is hereby established. The commission is
43 responsible for studying and making recommendations to the Legislature in order that the judicial
44 compensation structure for judicial officers subject to election and required to hold a professional
45 license to serve in that position is adequate to ensure that highly qualified persons will be attracted
46 to serve on the bench without suffering unreasonable economic hardship.

47 The commission is comprised of five members as follows:

48 (1) The Dean of the West Virginia University College of Law, who shall serve as the
49 chairperson;

50 (2) The President of the West Virginia State Bar;

51 (3) One member appointed by the Governor;

52 (4) One member appointed by the President of the Senate; and

53 (5) One member appointed by the Speaker of the House of Delegates.

54 (b) Any person appointed to serve on the commission shall serve for four years. The
55 initial appointments to the commission shall be made by July 1, 2016. Any public employee,
56 elected public official or any person holding a position in any political party may not be appointed
57 to serve on the commission. Members of the commission are not eligible for appointment to a
58 state judicial position as long as he or she is serving as a member of the commission. Upon
59 expiration of any term, the person previously appointed shall continue to serve until his or her
60 successor is duly appointed and qualified to serve on the commission.

61 (c) The members of the commission serve without compensation but shall be reimbursed
62 for reasonable expenses actually incurred in carrying out the responsibilities of the commission
63 by the Joint Committee on Government and Finance. Commission members shall be reimbursed
64 at the same rate established for public employees.

65 (d) In the event of a vacancy on the Judicial Compensation Commission, the unexpired

66 term shall be filled in the same manner used to make the original appointment within sixty days
67 of the vacancy.

68 (e) A majority of the commission members constitutes a quorum.

69 (f) The commission shall meet at the call of the chairperson or at the request of a majority
70 of the members.

71 (g) The commission may request staff assistance from the Joint Committee on
72 Government and Finance and the administrative office of the Supreme Court of Appeals as may
73 be necessary.

**§51-12-2. Judicial Compensation Commission reports and recommendations; legislative
action.**

1 (a) The commission shall meet in Charleston, West Virginia, at the place and time
2 designated by the chairperson with at least 30 days written notice to the members of the
3 commission.

4 (b) The commission shall send a copy of its recommendations on or before December 1
5 of each year in which it is required to meet to the Governor, the President of the Senate, the
6 Speaker of the House of Delegates, the Chief Justice of the Supreme Court of Appeals, and the
7 Administrative Director of the Supreme Court of Appeals.

8 (c) The report shall recommend the appropriate salaries to be paid by the state for justices
9 of the Supreme Court of Appeals, circuit court judges, family court judges and any other judicial
10 officer subject to election and requiring the judge to hold a professional license to serve in that
11 position.

12 (d) In recommending the appropriate salaries of the state's judicial officers, the
13 commission shall consider the following factors:

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

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

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

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

20 (5) The cost of living;

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

22 (7) The compensation of deans, presidents, and chancellors of the university systems, if
23 available;

24 (8) The level of overall compensation adequate to attract the most highly qualified
25 individuals in the state, from a diversity of life and professional experiences, to serve the judiciary
26 without unreasonable hardship and with judicial independence unaffected by financial concerns;
27 and

28 (9) Any other information the commission may find relevant in its mission to determine the
29 appropriate compensation for the state's professional judicial officers.

30 (c) The commission is required to file its report with the Legislature within the first five
31 days of the commencement of its Regular Session, beginning with the 2018 regular session. The
32 salary recommendations made by the commission shall be introduced as a concurrent resolution
33 by the presiding officer in both the Senate and the House of Delegates no later than the twentieth
34 day of the regular legislative session. If the Legislature fails to take action on the concurrent
35 resolution or if the Legislature rejects the passage of the concurrent resolution by less than sixty-
36 percent of those elected in each body, then the recommendations made by the Judicial
37 Compensation Commission will stand and compensation increases will take effect as indicated in
38 the Judicial Compensation Commission's report to the Legislature. If the recommendations of
39 the Judicial Compensation Commission become effective, then the commission shall be
40 adjourned for four calendar years. If the Legislature rejects the commission's recommendations,
41 then the commission shall meet every year to provide an updated analysis until its
42 recommendation becomes effective.

NOTE: The purpose of this bill is to establish the judicial compensation commission to study and make recommendations to the Legislature to ensure that the judicial compensation structure for judicial officers subject to election, and required to hold a professional license to serve in that office, is adequate to ensure that highly qualified persons will be attracted to serve on the bench without enduring unreasonable economic hardship.

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