

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 2953**

By Delegates Criss, Householder, Hardy, Espinosa,

Ridenour and Clark

[Originating in the Committee on Finance,

February 24, 2023]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §29-36-1, §29-36-2, §29-36-3, §29-36-4, §29-36-5, §29-36-6, and §29-36-7,  
3 all relating to the creation of the Commission on Cost-of-Living Adjustments; providing for  
4 a declaration of public policy and legislative findings; establishing the commission and  
5 providing for membership, terms, and authority; establishing meetings for the commission;  
6 providing for the commission's authority and duties; establishing commission reports on  
7 determinations and recommendations regarding certain localities to the Legislature and  
8 the Executive; providing for various factors for the commission to consider in making  
9 recommendations and determinations; providing for legislative action and possible future  
10 appropriations; providing for applicability and exceptions; providing for rulemaking;  
11 providing for the creation and administration of the Locality Cost-of-Living Adjustment  
12 Fund; providing for payment of expenses of the commission and payment of cost-of-living  
13 adjustments to certain defined state employees based upon workstation location and other  
14 external economic factors.

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

**ARTICLE 36. COMMISSION ON COST-OF-LIVING ADJUSTMENTS.**

**§29-36-1. Declaration of public policy; legislative findings.**

1 (a) It is hereby declared to be the public policy of this state and in the public interest to  
2 adequately compensate state employees, based not only on their employment position,  
3 qualifications, and job performance, but also on other external economic factors which adversely  
4 affect employees' standards of living when working in certain geographical locations.

5 (b) The Legislature hereby finds that:

6 (1) Certain areas of the state are experiencing higher economic growth and more rapid  
7 increases to costs of living when compared to other areas of the state;

8           (2) The state is losing valuable public employees in these areas because salaries and  
9 benefits are not competitive with the salaries and benefits paid to employees of other  
10 governments, including other states, the federal government, and private employers;

11           (3) State employees in these areas require adjustments to offset rapid increases in costs of  
12 living, which are much higher when compared to other areas of the state; and

13           (4) Adjustments are necessary and prudent to ensure all employees have a standard of  
14 living that is uniform throughout the state.

**§29-36-2. Commission on Cost-of-Living Adjustments established; membership, authority.**

1           (a) The Commission on Cost-of-Living Adjustments is hereby established as an advisory  
2 commission to the West Virginia Legislature and the Executive. The commission shall study  
3 differentials in costs of living between different counties of the state. The commission shall also  
4 determine and make recommendations regarding amounts and counties where cost-of-living  
5 adjustments for state employees are necessary to ensure that qualified persons may be attracted  
6 and retained to serve the people of the State of West Virginia. The commission is hereby  
7 authorized and shall execute and carry out, administer, and enforce the provisions of this article in  
8 the manner provided herein.

9           (b) The commission shall be comprised of the following five voting members:

10           (1) The Secretary of the Department of Administration or his or her designee,

11           (2) The Secretary of the Department of Revenue or his or her designee;

12           (3) The Governor of the State of West Virginia or his or her designee; and

13           (4) Two members appointed by the Governor, who may not be employees of the  
14 Departments of Administration or Revenue, who may not work in either the same county or in  
15 Kanawha County, who possess a graduate level degree from an accredited college or university,  
16 and who have knowledge and experience in the fields of economics, finance, or personnel  
17 management.

18 (c) Any person appointed to serve on the commission pursuant to subdivision (4),  
19 subsection (b) of this section shall serve for four years. The initial appointments to the commission  
20 shall be made by July 1, 2023. Upon expiration of any term, the person previously appointed shall  
21 continue to serve until his or her successor is duly appointed and qualified to serve on the  
22 commission.

23 (d) Members of the commission shall serve without compensation. The commission may  
24 reimburse members for all reasonable and necessary expenses, including travel expenses  
25 actually incurred by members in the conduct of their official duties. Any expense reimbursements  
26 shall be made from appropriations made to the Department of Revenue for the purpose of funding  
27 the commission's activities at the same rate paid to state employees. The Secretary of Revenue  
28 shall provide office space and necessary administrative support to the commission upon request  
29 of the commission.

30 (e) In the event of a vacancy on the commission, the unexpired term shall be filled in the  
31 same manner used to make the original appointment within 60 days of the vacancy.

**§29-36-3. Commission meetings; where held; how conducted.**

1 (a) The commission shall meet in Charleston, West Virginia, at the place and time  
2 designated by the chairperson with at least 10 days' written notice to the members of the  
3 commission.

4 (b) The commission shall meet at the call of the chairperson or at the request of a majority  
5 of the members.

6 (c) For purposes of calling the first meeting, the Governor of the State of West Virginia or  
7 his or her designee shall serve as the initial chairperson. At its first meeting, the members of the  
8 commission shall select a chairperson. If the member selected to serve as chairperson ceases to  
9 be a member of the commission or subsequently resigns as chairperson, the Governor of the  
10 State of West Virginia or his or her designee shall serve as the chairperson for purposes of calling  
11 the next meeting and selecting a replacement chairperson.

12 (d) A majority of the commission members serving shall constitute a quorum.

13 (e) The commission shall meet as often as is necessary to conduct a thorough review and  
14 comparison of costs of living within the different counties of this state and prepare a report with  
15 determinations and recommendations as provided for in §29-36-4 of this code.

16 (f) In furtherance of its duties, the commission may request staff assistance from any  
17 department, any state institution of higher education, and the Joint Committee on Government and  
18 Finance. The commission may additionally seek assistance and information from other private  
19 and public research institutions as may be necessary to collect and analyze data and perform any  
20 research as needed in the performance of its duties.

**§29-36-4. Commission authority and duties; commission reports and recommendations;**

**legislative action.**

1 (a) The commission shall study the differentials in costs of living between different counties  
2 within the state which cause variations in the standards of living for employees of the State of West  
3 Virginia and its citizens. The commission shall compile, analyze, and weigh data from available  
4 sources which concern costs-of-living variations between counties.

5 (b) The commission shall:

6 (1) Determine the five counties within the state with the highest costs of living;

7 (2) Estimate the number of applicable state employees whose primary workstation is within  
8 these counties and identify for which agencies these employees work;

9 (3) Determine a recommended flat dollar amount to provide each applicable state  
10 employee, whose primary workstation is within the five counties, which could be appropriated by  
11 the legislature in the coming fiscal year as a cost-of-living adjustment; and

12 (4) Report the commission's determinations and recommendations, which report shall  
13 include justifications and supporting data underlying the commission's determinations and  
14 recommendations for county selection and recommended appropriation amounts.

15 (c) In determining five counties within the state with the highest costs of living and  
16 recommending appropriate cost-of-living adjustments of the applicable state employees, the  
17 commission shall consider the following factors:

18 (1) Population increases in an area compared to other areas of the state;

19 (2) The top counties found in the Tax Department's housing index;

20 (3) Market forces resulting in higher state employment vacancies compared to other areas  
21 of the state;

22 (4) The value differential between state salaries and benefits and local private sector  
23 salaries and benefits for similar job descriptions and specialties;

24 (5) The value differential between state salaries and benefits and other federal, state, and  
25 neighboring out of state agency salaries and benefits for similar job descriptions and specialties;

26 (6) The consumer price index in an area compared to other areas of the state;

27 (7) Unemployment rates in an area compared to other areas of the state;

28 (8) Property tax valuations in an area compared to other areas of the state for similar  
29 properties;

30 (9) The levels of compensation adequate to attract and retain qualified individuals in state  
31 employment; and

32 (10) Any other relevant factors and information the commission may determine is  
33 appropriate for their deliberations.

34 (d) The commission shall prepare and submit its first report containing its determinations  
35 and recommendations no later than December 1, 2024. The commission shall then prepare and  
36 submit subsequent reports on or before December 1 of each year thereafter to update its  
37 determinations and recommendations to reflect ongoing changes in the state's economic  
38 circumstances.

39 (e) The commission shall send a copy of its yearly report to the Joint Committee on  
40 Government and Finance and the Executive.

**§29-36-5. Applicability and exceptions.**

1 (a) This program shall be in addition to, and not a replacement of, any existing locality pay  
2 programs established by this code or the rules promulgated hereunder.

3 (b) This program shall apply to all state employees, not otherwise excluded in this article.

4 (c) This program shall not apply to state employees and other state officials whose salaries  
5 are otherwise specified in this code.

6 (d) This program shall not apply to part-time or temporary employees, interns, or contract  
7 workers.

**§29-36-6. Legislative Rulemaking.**

1 The commission may propose rules for legislative approval in accordance with the  
2 provisions of §29A-3-1 et seq. of this code, including emergency rules, to implement and make  
3 effective the provisions of this article and the authority conferred, and the duties imposed under  
4 the provisions of this article.

**§29-36-7. Creation and administration of the Locality Cost-of-Living Adjustment Fund.**

1 (a) There is hereby created in the State Treasury a fund known as the Locality Cost-of-  
2 Living Adjustment Fund. The fund shall be administered by and under the control of the Secretary  
3 of Revenue. Expenditures from the fund shall be for the purposes set forth in this article and are to  
4 be made only in accordance with appropriation by the Legislature and in accordance with the  
5 provisions of §11B-2-1 et seq. of this code.

6 (b) The fund shall consist of moneys appropriated by the Legislature. For fiscal year 2025  
7 and each fiscal year thereafter, the commission shall include in their budget requests and the  
8 Governor shall include in each budget bill submitted to the Legislature, an appropriation for the  
9 purposes of the fund. The amount appropriated shall be transferred to the fund to be used solely  
10 for the purposes provided by this article.

11 (c) Expenditures from the sum appropriated by the legislature to the fund shall be for the  
12 purposes of performing the duties of the commission and providing cost-of-living adjustments. The



13 cost-of-living adjustments shall be made once quarterly in the same amount to all applicable state  
14 employees, regardless of classification or salary, whose workstation is within the counties  
15 designated by the commission. The cost-of-living adjustments will be prorated as applicable for  
16 time employed in any quarter. To the extent the amounts appropriated are not sufficient to fully  
17 fund the commission's recommendations, the amount shall be distributed equally to all applicable  
18 state employees on a pro-rata basis.

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