

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 451**

BY SENATORS PHILLIPS, HUNT, JEFFRIES, NELSON,  
QUEEN, RUCKER, SMITH, STUART, SWOPE, TAKUBO,  
TAYLOR, TRUMP, WOODRUM, WOELFEL, PLYMALE, AND

DEEDS

[Originating in the Committee on the Judiciary;

reported January 25, 2024]



1 A BILL to amend and reenact §7-4-6 of the Code of West Virginia, 1931, as amended, relating to  
2 training of newly appointed or elected prosecuting attorneys; and directing the Prosecuting  
3 Attorneys Institute to conduct the training for all newly appointed and newly elected  
4 prosecuting attorneys.

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

**ARTICLE 4. PROSECUTING ATTORNEY, REWARDS, AND LEGAL ADVICE.**

**§7-4-6. West Virginia Prosecuting Attorneys Institute.**

1 (a) There is continued the West Virginia Prosecuting Attorneys Institute, a public body  
2 whose membership shall consist of the 55 elected county prosecuting attorneys in the state. The  
3 Institute shall meet at least once each calendar year and the presence of 28 of the 55 prosecutors  
4 at any meeting constitutes a quorum for the conduct of the Institute's business.

5 (b) There is continued the executive council of the West Virginia Prosecuting Attorneys  
6 Institute, which shall consist of seven prosecuting attorneys elected by the membership of the  
7 West Virginia Prosecuting Attorneys Institute at its annual meeting and two persons appointed  
8 annually by the county commissioner's association of West Virginia. The executive council shall  
9 elect one member of the council to serve as chairman of the institute for a term of one year without  
10 compensation. The executive council shall serve as the regular executive body of the institute.

11 (c) There is continued the position of Executive Director of the West Virginia Prosecuting  
12 Attorneys Institute to be employed by the executive council of the institute. The executive director  
13 of the West Virginia Prosecuting Attorneys Institute shall serve at the will and pleasure of the  
14 executive council of the institute. The executive director shall be licensed to practice law in the  
15 State of West Virginia and shall devote full time to his or her official duties and may not engage  
16 in the private practice of law.

17 (d) The duties and responsibilities of the institute, as implemented by and through its  
18 executive council and its executive director, shall include the following:

19 (1) The provision for special prosecuting attorneys to pursue a criminal matter, a juvenile  
20 delinquency matter, or a matter involving child abuse neglect pursuant to Chapter 49 of this code,  
21 or in any matter ~~wherein~~ in which a special prosecutor previously appointed has failed to take any  
22 action ~~thereon~~ on the matter within such time as the executive director ~~deems~~ considers  
23 unreasonable, not to exceed three terms of court from the date on which the special prosecutor  
24 was appointed: *Provided*, That such replacement or original appointment may be any attorney  
25 with a license in good standing in this state in any county upon the request of a circuit court judge  
26 of that county and upon the approval of the executive council;

27 (2) The establishment and implementation of general and specialized training programs  
28 for prosecuting attorneys, their staffs and, where determined practical by the executive council  
29 and executive director, all statutorily authorized law-enforcement or investigative agencies of the  
30 state or its political subdivisions;

31 (3) The establishment of a training program for all newly appointed or newly elected  
32 prosecuting attorneys;

33 ~~(3)~~ (4) The provision of materials for prosecuting attorneys and their staffs, including legal  
34 research, technical assistance, and technical and professional publications;

35 ~~(4)~~ (5) The compilation and dissemination of information on behalf of prosecuting attorneys  
36 and their staffs on current developments and changes in the law and the administration of criminal  
37 justice;

38 ~~(5)~~ (6) The establishment and implementation of uniform reporting procedures for  
39 prosecuting attorneys and their professional staffs in order to maintain and to provide accurate  
40 and timely data and information relative to criminal prosecutorial matters;

41 ~~(6)~~ (7) The acceptance and expenditure of grants, moneys for reimbursement of expenses,  
42 gifts, and acceptance of services from any public or private source;

43 ~~(7)~~ (8) The entering into of agreements and contracts with public or private agencies,  
44 groups, organizations, or educational institutions;

45           ~~(8)~~(9) The identification of experts and other resources for use by prosecutors in criminal  
46 matters;

47           ~~(9)~~(10) The recommendation to the Legislature or the Supreme Court of Appeals of the  
48 State of West Virginia on measures required, or procedural rules to be promulgated, to make  
49 uniform the processing of juvenile cases in the 55 counties of the state; and

50           ~~(10)~~(11) The development of a written handbook for prosecutors and their assistants to  
51 use which delineates relevant information concerning the elements of various crimes in West  
52 Virginia and other information the institute considers appropriate.

53           (e) Each prosecuting attorney is subject to appointment by the institute to serve as a  
54 special prosecuting attorney in any county where the prosecutor for that county or his or her office  
55 has been disqualified from participating in a particular criminal case, a juvenile delinquency  
56 matter, or a matter involving child abuse neglect pursuant to Chapter 49 of this code, or in any  
57 matter ~~wherein~~ in which a special prosecutor previously appointed has failed to take any action  
58 ~~thereon~~ on the matter within such time as the executive director ~~deems~~ considers unreasonable,  
59 not to exceed three terms of court from the date on which the special prosecutor was appointed:  
60 *Provided*, That such replacement or original appointment may be any attorney with a license in  
61 good standing in this state. The circuit judge of any county of this state, who disqualifies the  
62 prosecutor or his or her office from participating in a particular criminal case, a juvenile  
63 delinquency matter, or a matter involving child abuse or neglect pursuant to chapter 49 of this  
64 code in that county, shall seek the appointment by the institute of a special prosecuting attorney  
65 to substitute for the disqualified prosecutor. The executive director of the institute shall, upon  
66 written request to the institute by any circuit judge as a result of disqualification of the prosecutor  
67 or for other good cause shown, and upon approval of the executive council, appoint a prosecuting  
68 attorney to serve as a special prosecuting attorney. The special prosecuting attorney appointed  
69 shall serve without any further compensation other than that paid to him or her by his or her  
70 county, except that he or she is entitled to be reimbursed for his or her legitimate expenses

71 associated with travel, mileage, and room and board from the county to which he or she is  
 72 appointed as a prosecutor. The county commission in which county he or she is special prosecutor  
 73 is responsible for all expenses associated with the prosecution of the criminal action. ~~No~~ A person  
 74 who is serving as a prosecuting attorney or an assistant prosecuting attorney of any county is not  
 75 required to take an additional oath when appointed to serve as a special prosecuting attorney.

76 (f) The executive director of the institute shall maintain an appointment list that shall  
 77 include the names of all 55 prosecuting attorneys and that shall also include the names of any  
 78 assistant prosecuting attorney who wishes to serve as a special prosecuting attorney upon the  
 79 same terms and conditions as set forth in this section. The executive director of the institute, with  
 80 the approval of the executive council, shall appoint special prosecuting attorneys from the  
 81 appointment list for any particular matter giving due consideration to the proximity of the proposed  
 82 special prosecuting attorney's home county to the county requesting a special prosecutor and  
 83 giving due consideration to the expertise of the special prosecuting attorney.

84 (g) Each county commission shall pay, on a monthly basis, a special prosecution premium  
 85 to the Treasurer of the state for the funding of the West Virginia Prosecuting Attorneys Institute.  
 86 The monthly premiums shall be paid according to the following schedule:

87 **MONTHLY PREMIUMS**

88 Assessed Valuation of Property  
 89 of All Classes in the County

90	Category	Minimum	Maximum	Premium
91	A	\$1,500,000,000	Unlimited	\$400
92	B	\$1,000,000,000	\$1,499,999,000	\$375
93	C	\$ 800,000,000	\$ 999,999,000	\$350
94	D	\$ 700,000,000	\$ 799,999,000	\$325
95	E	\$ 600,000,000	\$ 699,999,000	\$300
96	F	\$ 500,000,000	\$ 599,999,000	\$250

CS for SB 451

97	G	\$ 400,000,000	\$ 499,999,000	\$200
98	H	\$ 300,000,000	\$ 399,999,000	\$150
99	I	\$ 200,000,000	\$ 299,999,000	\$100
100	J	-0-	\$ 199,999,000	\$ 50

101 (h) Upon receipt of a premium, grant, reimbursement or other funding source, excluding  
102 federal funds as provided in ~~article two, chapter four~~ §4-2-1 *et seq.* of this code, the Treasurer  
103 shall deposit the funds into a special revenue fund to be known as the West Virginia Prosecuting  
104 Attorneys Institute Fund. All costs of operating the West Virginia Prosecuting Attorneys Institute  
105 shall be paid from the West Virginia Prosecuting Attorneys Institute Fund upon proper  
106 authorization by the executive council or by the executive director of the institute and subject to  
107 annual appropriation by the Legislature of the amounts contained within the fund.

108 (i) The institute shall annually, by the first day of the regular Legislative session, provide  
109 the Joint Committee on Government and Finance with a report setting forth the activities of the  
110 institute and suggestions for legislative action.

111 (j) Neither the institute nor its employees acting in their employment capacity shall engage  
112 in activities before governmental bodies which advocate positions on issues other than those  
113 issues consistent with the duties of the institute set forth in subsection (d) of this section.