

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

ENROLLED

HOUSE BILL No.. 105.....

(By Mr. Board and Mr. Barker)

PASSED March 10, 1961

In Effect July 1, 1961. Passage

Filed in Office of the Secretary of State  
of West Virginia MAR 17 1961

JOE F. BURDETT  
SECRETARY OF STATE

H. 105

ENROLLED

House Bill No. 105

(By MR. BOARD and MR. BARKER, by request)

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[Passed March 11, 1961; in effect July 1, 1961.]

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AN ACT to amend chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nineteen, relating to the salaries for justices of the peace in lieu of fees in counties of over two hundred thousand population.

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

That chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article nineteen, to read as follows:

**Article 19. Salaries of Justices of the Peace.**

Section 1. *Salaries of Justices of the Peace; Amounts;*

2 *How Determined.*—The provisions of this article shall be  
3 applicable only to counties having a population in excess  
4 of two hundred thousand. The salaries of justices of the  
5 peace shall be payable solely out of the justices' account

6 in the county general fund which is hereinafter provided,  
7 and shall be in the following amounts: (1) In magisterial  
8 districts having more than forty thousand population,  
9 eight thousand ten dollars; (2) in magisterial districts  
10 having more than twenty thousand but not more than  
11 forty thousand, seven thousand dollars; (3) in magis-  
12 terial districts having more than five thousand but not  
13 more than twenty thousand population, five thousand  
14 dollars; (4) in magisterial districts having five thou-  
15 sand population or less two thousand four hundred dol-  
16 lars.

17 The population shall be according to the United States  
18 census or the estimate of the United States bureau of  
19 census as certified to the state auditor by the United  
20 States director of the census last proceeding the beginning  
21 year in which the salary is payable.

22 The salary herein provided shall be in lieu of all fees  
23 and other compensation, as provided by law, payable to  
24 a justice of the peace.

Sec. 2. *Clerk Provided; Duties.*—It shall be the duty  
2 of the circuit clerk of the county to furnish a deputy

3 clerk and any other necessary assistance and clerical help  
4 in each justice court. The deputy shall be present at all  
5 times when the court is open for business: *Provided,*  
6 *however,* That in districts having five thousand or less  
7 population, one deputy clerk may perform the duties for  
8 both courts in the district. It shall be the responsibility  
9 of the deputy clerk to keep all court records, including a  
10 day to day docket of all records of the court's work; he  
11 shall receive all fines, fees, costs, and other moneys pay-  
12 able to the justice under other provisions of the code,  
13 both in criminal and civil cases, and he shall be account-  
14 able to the circuit clerk of the county for all such moneys.  
15 The circuit clerk shall remit all moneys coming into his  
16 hand through the court to the county general fund to be  
17 credited to an account therein known as the justices'  
18 account. All civil fees provided by law in the justice  
19 court shall be payable in advance.

*Sec. 3. County Court to Furnish Office Space and Pay*

2 *Salaries.*—The county court shall provide solely out of the  
3 justices' account in the county general fund, the neces-  
4 sary office space, stationery and supplies for each justice

5 court, shall pay the sum of three thousand dollars to the  
6 circuit clerk of the county as further compensation to  
7 the salary which he receives as provided by law for the  
8 performance of the additional duties imposed upon him  
9 by this article, shall pay the annual salary of the justice  
10 out of this account, shall pay the deputy clerk and other  
11 assistants therefrom, as well as any other necessary ex-  
12 penses of the court.

Sec. 4. *Time Courts to Remain Open.*—The county  
2 court shall by order entered on its books, fix a reasonable  
3 schedule of hours for each court throughout the county  
4 to remain open so that some court in each magisterial  
5 district shall be open for business at all times between  
6 the hours of nine o'clock a.m. and eight o'clock p.m.,  
7 Monday through Saturday, inclusive, holidays excepted;  
8 it shall provide for alternating the hours of two courts  
9 in a magisterial district on a monthly basis. The fixing  
10 of the hours within which a court shall remain open shall  
11 in no way preclude the court from functioning at any  
12 other time if the justice deems it necessary.

Sec. 5. *Appointing Special Justice; Pay of Special*

2 *Justice; Bond of Special Justice.*—The judge of any court  
3 of record exercising appellate jurisdiction from a justice  
4 court, either civil or criminal, or both, may, in the absence,  
5 sickness, or inability of a justice to act, appoint a special  
6 justice to sit during the absence, sickness or inability to  
7 act of the regular justice, who shall have all the powers  
8 and duties of the regular justice, but before assuming  
9 such powers and duties, he shall take the oath prescribed  
10 by the West Virginia constitution for public officials. A  
11 special justice shall be paid out of the justices' account  
12 of the county general fund, the salary of the regular  
13 justice based upon the number of days he serves during  
14 the month as a special justice. Any special justice so  
15 appointed shall before he acts as said special judge be  
16 bonded in the same manner and in the same amount as a  
17 regularly elected justice.

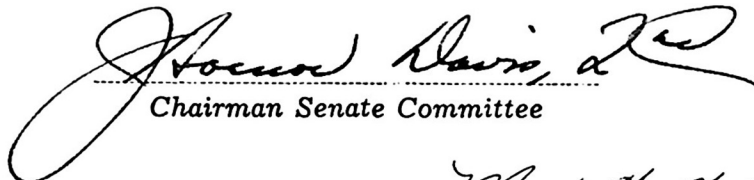
Sec. 6. *Payments for Services of Constables.*—All fees  
2 and compensation provided by law payable to constables  
3 shall be paid by the county court at the end of each month  
4 out of the county justices' fund, and these payments shall  
5 be in lieu of all fees and compensation provided by law

6 payable directly to the constable or otherwise: *Provided*,  
7 *however*, That before such payment is made each cons-  
8 table shall furnish an itemized statement sworn to by the  
9 constable and attested by the justice of the peace out of  
10 whose court the compensation or fees were earned, show-  
11 ing at whose instance or request the services were rend-  
12 ered and setting forth the particular amount and nature  
13 of each charge in detail.

Sec. 7. *Audit by Tax Commissioner.*—The tax com-  
2 missioner shall audit annually the books of each justice  
3 court within the county, and he shall be reimbursed for  
4 his services by the county court out of the justices' ac-  
5 count. All other moneys remaining in the county justices'  
6 account at the end of the fiscal year, shall become a part  
7 of the regular county general fund.

Sec. 8. *Other Provisions of Law.*—All other provisions  
2 of the law relating to justice courts and its officers shall  
3 apply insofar as applicable and not inconsistent herewith.

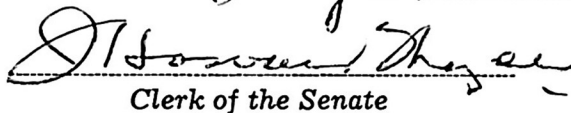
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

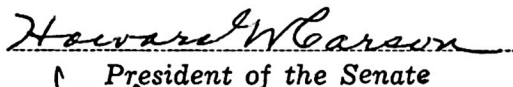
  
Chairman House Committee

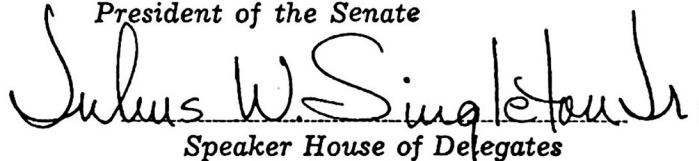
Originated in the House.

Takes effect July 1, 1961 ~~passage~~.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker House of Delegates

The within approved this the 17th  
day of March, 1961.

  
Governor

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of West Virginia MAR 17 1961  
JOE F. BURDETT  
SECRETARY OF STATE