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OFFICE OF
CLERK OF THE HOUSE OF DELEGATES
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1975

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ENROLLED

HOUSE BILL No. 1350

Originating in the House Committee
(By Mr. _____)
on the Judiciary

— ● —

PASSED March 8, 1975

In Effect from Passage



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ENROLLED

H. B. 1350

(Originating in the House Committee on the Judiciary)

[Passed March 8, 1975; in effect from passage.]

AN ACT to amend and reenact sections one and eleven, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact article nineteen of said chapter, all relating to the office of justice of the peace; increasing fees in civil cases and related matters and in criminal cases and proceedings; abolishing the office of county magistrate; relating to the transfer of matters pending before a county magistrate; specifying that all previous acts and decisions of a county magistrate shall continue in full force and effect; relating to accountings by county magistrates; relating to expenses of a county magistrate; prohibiting justices of the peace from collecting any fees for their own use and benefit; relating to the disposition of fees, costs, fines, forfeitures and penalties collected by justices of the peace; classifying the counties by population for the purpose of establishing maximum salaries for justices of the peace; relating to fixing the salaries of justices of the peace within such maximum limitations; specifying that only certain justices of the peace shall be entitled to receive a salary; providing that vacancies in office of justice of the peace need not be filled; creating a justice of the peace advisory board in each county; relating to the composition, function and duties of each such board; relating to expenses of a justice of the peace; authorizing rules and regulations by circuit court judges concerning the discharge of the duties of justices of the peace; relating to the powers of circuit court judges with respect to justices of the peace; relating to the distribution of judicial business among justices of the peace; relating to ac-

counting and audit procedures concerning justices of the peace; requiring various reports by justices of the peace; relating to exercise of county-wide powers by justices of the peace; relating to the office of constable; relating to conflicting provisions; relating to the removal from office of a justice of the peace; and providing criminal offenses and penalties.

Be it enacted by the Legislature of West Virginia:

That sections one and eleven, article seventeen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article nineteen of said chapter be amended and reenacted, all to read as follows:

ARTICLE 17. FEES, FINES AND COSTS.

§50-17-1. Fees in civil cases.

1 A justice of the peace shall charge and shall collect in
2 advance from the party or parties requesting such services
3 the following fees:

- | | | |
|----|--|---------|
| 4 | (1) For entering and trying any civil suit and the | |
| 5 | issuance of all papers including distress | |
| 6 | warrant and attachment orders and the per- | |
| 7 | formance of all other services in connection | |
| 8 | with any such civil suit whether the suit be | |
| 9 | contested or uncontested and whether or | |
| 10 | not the suit be completed or discontinued | |
| 11 | but excepting services in connection with | |
| 12 | executions or garnishments and suggestee | |
| 13 | executions | \$10.00 |
| 14 | (2) For all services in connection with an execu- | |
| 15 | tion on judgment, suggestion on judgment, | |
| 16 | execution and garnishment whether execu- | |
| 17 | tion be without garnishment or there be | |
| 18 | both execution and garnishment or sug- | |
| 19 | gestee execution | \$ 2.50 |
| 20 | (3) For each bond filed in a case, appeal bond, | |
| 21 | stay of execution bond, bail bond, civil order | |
| 22 | of arrest, detinue bond, except bond in | |
| 23 | attachment case and docketing same | \$ 1.00 |

24	(4) For taking depositions of witnesses if done	
25	in an hour or less	\$ 1.00
26	(5) If not completed in an hour, for additional	
27	time at the rate, per hour of	\$ 1.00
28	(6) For taking an inquest on a dead body, to be	
29	audited and paid from the treasury of the	
30	county	\$ 5.00
31	(7) Order of appraisement, appointing appraisers,	
32	swearing of the same and docketing same,	
33	to be paid by plaintiff	\$ 1.00
34	(8) For taking and certifying acknowledgment of	
35	deed or other instrument of writing50
36	(9) For mailing each suggestee execution by regis-	
37	tered and/or certified mail and return re-	
38	ceipt requested55

§50-17-11. Fees in criminal cases.

- 1 (1) A fee of ten dollars shall be assessable in each criminal
2 case and proceeding before a justice of the peace, whether a
3 hearing is held or not, which fee shall constitute the only fee
4 to be charged for all official services performed in connection
5 with any single case, including affidavit for warrant, search
6 and seizure warrant, warrant for arrest, trial examination,
7 issuing subpoenas and copies thereof, warrant summoning and
8 swearing a jury when required, swearing and certifying at-
9 tendance of witness, entering judgment and taxing costs,
10 making and certifying a transcript of his docket in any
11 particular case and transmitting the same to the clerk of the
12 circuit court, the department of motor vehicles, or any other
13 office to which he may be by law required to certify such
14 transcript, and for executing any bond or recognizance. No
15 other fees shall be taxed or charged by any justice in such
16 cases and proceedings. The provisions of this section shall not
17 apply to proceedings to require security to keep the peace, and
18 the fees and costs incidental thereto shall be assessed and
19 collected as in civil cases
- 20 (2) For issuing sheep warrant, appointing and swearing
21 appraisers and docketing same \$2.50

ARTICLE 19. JUSTICES OF THE PEACE—GENERAL PROVISIONS.

§50-19-1. County magistrates abolished; transfer of matters pending.

1 The office of county magistrate, heretofore created, is
2 hereby abolished. The judge of the circuit court of each county,
3 or the chief judge thereof if there is more than one judge of the
4 circuit court, shall order the transfer of all matters pending
5 before any county magistrate to a justice of the peace for such
6 county. All previous acts and decisions of a county magistrate
7 shall continue in full force and effect and shall not in any
8 manner be affected by the provisions of this article.

9 Each person heretofore serving as a county magistrate shall
10 complete, within thirty days of the effective date of this article,
11 all acts heretofore required of county magistrates in regard to
12 the disposition of fees, costs, fines, forfeitures and penalties
13 as well as all reports heretofore required. The chief inspector
14 of public offices shall, as soon as practicable, conduct a final
15 audit of the records of county magistrates, both civil and
16 criminal.

17 Reasonable and necessary expenses heretofore incurred by a
18 county magistrate may be reimbursed by the county commission
19 in the matter heretofore provided.

§50-19-2. Fees and costs; limitations on justices of the peace; disposition.

1 Notwithstanding any provision of article seventeen of this
2 chapter or any other provision of law to the contrary, no jus-
3 tice of the peace shall at any time collect or receive any sum
4 of money or other emolument by virtue of his office for his
5 own use and benefit except as is provided in this article.

6 Notwithstanding any provision of article seventeen of this
7 chapter or any other provision of law to the contrary, all fees,
8 costs, fines, forfeitures and penalties collected by justices of the
9 peace, both civil and criminal, together with an accounting
10 of their source and the services for which rendered, shall be
11 paid over to the sheriff of the county by the fifteenth day of the
12 month following the month of their collection. All fees and
13 costs shall be deposited into the general fund of the county.

§50-19-3. Compensation; advisory board; expenses.

1 For the purpose of establishing maximum limitations on the
2 compensation for justices of the peace, the counties shall be
3 classified according to population, as ascertained in the last
4 preceding census taken under the authority of the United States,
5 as follows: Counties with a population of two hundred thou-
6 sand or more shall be designated Class I counties; counties with
7 a population of one hundred thousand or more but less than
8 two hundred thousand shall be designated Class II counties;
9 counties with a population of seventy thousand or more but
10 less than one hundred thousand shall be designated Class III
11 counties; counties with a population of thirty thousand or more
12 but less than seventy thousand shall be designated Class IV
13 counties; counties with a population of twenty thousand or
14 more but less than thirty thousand shall be designated Class V
15 counties; counties with a population of ten thousand or more
16 but less than twenty thousand shall be designated Class VI
17 counties; and counties with a population of less than ten
18 thousand shall be designated Class VII counties.

19 Salaries for justices of the peace shall be fixed by the
20 county commissions within the following maximum limits: In
21 Class I counties, not more than seventeen thousand five hun-
22 dred dollars per year; in Class II counties, not more than fif-
23 teen thousand dollars per year; in Class III counties, not more
24 than twelve thousand five hundred dollars per year; in Class IV
25 counties, not more than ten thousand dollars per year; in Class
26 V counties, not more than seven thousand five hundred dol-
27 lars per year; in Class VI counties, not more than six thousand
28 two hundred fifty dollars per year; and in Class VII counties,
29 not more than five thousand dollars per year.

30 Within the maximum limitations above prescribed, the
31 county commission may fix the same salary for all justices of
32 the peace within such county or it may establish a different
33 salary for one or more of such justices of the peace: *Provided,*
34 That in counties with a population of one hundred thousand
35 or more every justice of the peace within such county who
36 devotes full time to his public duties to the exclusion
37 of any other employment shall be paid the same salary.
38 In fixing the salaries within the maximum limitations

39 above prescribed, the county commission shall consider the
40 advice of the advisory board herein created and shall take into
41 account the amount of time each justice of the peace shall be
42 available to perform the duties of his office: *Provided*, That
43 notwithstanding any other provision of this article or of this
44 code to the contrary, no person shall be entitled to receive a
45 salary as a justice of the peace under the provisions of this
46 article unless (1) such person was elected to that office and
47 thereafter was appointed and served as a county magistrate
48 under the former provisions of this article, except that his
49 successor shall be entitled to such salary in the event of a
50 vacancy in that particular office of justice of the peace; or (2)
51 such person was appointed and served as a county magistrate
52 under the former provisions of this article and is, after the
53 effective date of this act, appointed to fill a vacancy in the
54 office of justice of the peace, except that his successor shall
55 be entitled to such salary in the event of a vacancy in that
56 particular office of justice of the peace: *Provided, however*,
57 That notwithstanding the foregoing or any other provision of
58 this article or this code to the contrary, a county commission
59 shall not be required to fill any vacancy in any office of justice
60 of the peace.

61 For the purpose of advising the county commission in the
62 fixing of salaries of justices of the peace within the maximum
63 limitations above prescribed, there is hereby created in each
64 county the justice of the peace advisory board which shall be
65 composed of the clerk of the county commission, the clerk of
66 the circuit court, the judge of the circuit court, or the chief
67 judge thereof if there is more than one judge of the circuit
68 court, and two members to be appointed by the county com-
69 mission, which two appointed members shall not both be
70 members of the same political party. Justices of the peace or
71 members of their immediate families shall be ineligible to
72 serve as members of the board by appointment of the county
73 commission. The advisory board shall elect from its mem-
74 bership a chairman. The advisory board shall meet at such
75 times and places as shall be directed by the chairman or by
76 the county commission. It shall be the duty of the advisory
77 board to advise the county commission on the fixing of salaries
78 of justices of the peace within the maximum limitations above

79 prescribed. No member of the justice of the peace advisory
80 board shall be entitled to any pay or reimbursement for ex-
81 penses incurred in the performance of his duties.

82 In addition to his salary, as specified by the county commis-
83 sion, each justice of the peace shall be reimbursed for all
84 reasonable and necessary expenses actually incurred by him in
85 providing office space, furnishing necessary clerical help and
86 providing stationery and supplies and for all other incidental
87 operating expenses, but the total of all such reimbursed ex-
88 penses in any fiscal year may not exceed seventy-five percent of
89 the salary of such justice of the peace for such fiscal year:
90 *Provided*, That the county commission may, in its discretion,
91 reimburse for such expenses in an amount not to exceed one
92 hundred percent of the salary of such justice of the peace or
93 seven thousand five hundred dollars, whichever is greater.
94 Requisition for such reimbursement shall be accompanied by a
95 sworn statement, detailed vouchers and documentation per-
96 taining to such expenses.

97 The salary of each justice of the peace and all payments
98 made to reimburse him for all reasonable and necessary ex-
99 penses actually incurred in the performance of his duties as a
100 justice of the peace shall be paid by the county commission
101 from the county general fund. The salary shall be paid in
102 equal monthly installments.

**§50-19-4. Administration; rules and regulations; supervision by
circuit court inspection; reports; quarterly reports to
joint committee on government and finance.**

1 The judge of the circuit court, or the chief judge thereof
2 if there be more than one judge of the circuit court, shall by
3 order entered of record adopt rules and regulations establishing
4 administrative requirements as to the discharge of the duties of
5 justices of the peace, including, but not limited to, the specifi-
6 cation of a reasonable schedule of hours for each justice of
7 the peace, requirements that the office of a justice of the
8 peace be located in a place readily accessible to the public, and
9 requirements that each justice of the peace maintain regular
10 telephone service if such service is available. Such judge may
11 direct a justice to sit at some place other than at his principal
12 office. Each justice of the peace shall be subject to supervision

13 by the judge of the circuit court, or the chief judge thereof if
14 there is more than one judge of the circuit court, as to the
15 performance of his judicial functions.

16 The judge of the circuit court, or the chief judge thereof if
17 there be more than one judge of the circuit court, may by order
18 entered of record adopt rules and regulations, with the full
19 force and effect of law, concerning the distribution of judicial
20 business among the various justices of the peace of the county.

21 Each justice of the peace shall be subject to audit of his
22 records, both civil and criminal, and all materials relating to
23 such records, by the chief inspector of public offices. For the
24 purpose of uniformity, the chief inspector of public offices
25 shall designate the form of records to be used by justices of
26 the peace.

27 Each justice of the peace shall furnish to the county com-
28 mission of his county monthly reports indicating the volume
29 of judicial business handled by him, both civil and criminal,
30 the total amount of moneys received, whether in the form of
31 fees, costs, fines, forfeitures or penalties, the total amount
32 of moneys remitted by him as required by law, the total amount
33 of expenses incurred by such justice of the peace during such
34 month for which reimbursement is claimed, and all such other
35 detailed information as the county commission shall require.
36 The county commission shall consolidate all such monthly
37 reports and each quarter forward a copy of the consolidated
38 report to the joint committee on government and finance.

§50-19-5. Where justice of the peace may exercise powers.

1 Notwithstanding the provisions of section five, article two,
2 of this chapter or any other provision of law to the contrary, a
3 justice of the peace may exercise the powers conferred upon
4 him at any place in the county wherein he serves.

§50-19-6. Continuation of office of constable.

1 All constables elected in the year one thousand nine hundred
2 seventy-two or thereafter elected or appointed shall continue to
3 hold the office of constable until the first day of January,
4 one thousand nine hundred seventy-seven, and shall be subject
5 to all provisions of law relating to constables.

§50-19-7. Conflict of provisions.

1 In the event the provisions of this article are clearly in
2 conflict with other provisions of this code, the provisions of
3 this article shall control.

§50-19-8. Violations; penalties.

1 Any person who shall violate any provision of this article
2 shall be guilty of a misdemeanor, and, upon conviction thereof,
3 shall be fined not more than one thousand dollars, or im-
4 prisoned in the county jail not more than one year, or both
5 fined and imprisoned.

§50-19-9. Removal from office.

1 A justice of the peace may be removed from office in the
2 manner provided in section seven, article six, chapter six of
3 this code. In addition to the grounds for removal enumerated
4 elsewhere by law, a justice of the peace may be removed
5 from office for conviction of a felony, for conviction of a mis-
6 demeanor involving moral turpitude or a duty of the office or
7 for a violation of this article or any rule, regulation or order
8 provided for in this article. In addition to other methods pro-
9 vided by law, removal proceedings may be initiated upon the
10 motion of the judge of the circuit court, or the chief judge
11 thereof if there be more than one judge of the circuit court.

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

James L. Davis
Chairman Senate Committee

Clarence C. Christensen
Chairman House Committee

Originated in the House.

Takes effect from passage.

John A. Sullivan Jr.
Clerk of the Senate

W. B. Blankenship
Clerk of the House of Delegates
W. B. Blankenship
President of the Senate

Louis F. McManus
Speaker House of Delegates

The within approved this the 25th
March day of _____, 1975.

Hubert A. Haas Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/19/75

Time 4:10 p.m.