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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1975

— ● —

# ENROLLED

*Committee Substitute for*

HOUSE BILL No. 1396

(By Mr. Sommerville)

— ● —

PASSED March 8, 1975

In Effect ninety days from Passage



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**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**H. B. 1396**  
**(By Mr. SOMMERVILLE)**

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

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 twenty, creating a system of magistrate courts; providing for designation of location of magistrate courts within the counties; providing for temporary service by magistrates outside of county of residence; providing for election of magistrates; relating to filing fee; specifying the number of magistrate courts in each county, based upon population of county; relating to ascertainment of population; relating to procedures where voting machines are used for election of magistrates; specifying salary of magistrates, based upon population served; relating to payment of certain expenses; specifying qualifications for election as a magistrate; excepting certain persons from such qualifications; requiring oath and bond; requiring magistrate to devote full time to duties; relating to instructional courses for magistrates; providing for clerks of magistrate courts; relating to qualifications of clerks; specifying salary of clerks, based upon population served; and relating to duties of sheriff with respect to service of process and bailiff duties for magistrates.

*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 twenty, to read as follows:

**ARTICLE 20. MAGISTRATE COURTS.**

**§50-20-1. Magistrate courts created.**

1     There is hereby created in this state a system of magistrate  
2     courts. Magistrate courts shall have such jurisdiction as may  
3     be provided by law. The judge of the circuit court of the  
4     county in which a magistrate is elected, or the chief judge  
5     thereof if there is more than one judge of the circuit court,  
6     subject to the approval of the supreme court of appeals,  
7     shall direct where each magistrate court shall be located  
8     in the county. A magistrate shall sit at such other locations  
9     within the county for such periods and for such purposes  
10    as such judge may by order direct. Such judge may by  
11    order direct a magistrate to serve temporarily in any other  
12    county within such circuit for such purposes as the judge may  
13    direct, and such magistrate's authority, to the extent ordered  
14    by such judge, shall be equal to the jurisdiction and authority  
15    of a magistrate elected in the county in which such magistrate  
16    is ordered to serve.

**§50-20-2. Election of magistrates; number.**

1     There shall be elected by the voters of each county, at the  
2     general election to be held in the year one thousand nine  
3     hundred seventy-six, and in every fourth year thereafter, one  
4     magistrate for each magistrate court in each county. The filing  
5     fee for the office of magistrate shall be one percent of the an-  
6     nual salary. The term of magistrates shall begin on the first  
7     day of January of the year following the year of election.

8     In each county which has less than ten thousand in popula-  
9     tion there shall be one magistrate court. In each county which  
10    has ten thousand or more in population but less than thirty thou-  
11    sand in population there shall be two magistrate courts. In each  
12    county which has thirty thousand or more in population but less  
13    than sixty thousand in population there shall be three magistrate  
14    courts. In each county which has sixty thousand or more in  
15    population but less than one hundred thousand in population  
16    there shall be four magistrate courts. In each county which has  
17    one hundred thousand or more in population but less than two

18 hundred thousand in population there shall be seven magistrate  
 19 courts. In each county which has two hundred thousand or  
 20 more in population there shall be ten magistrate courts. For the  
 21 purpose of this article, the population of each county shall be  
 22 considered to be the population as determined by the last  
 23 preceding census taken under the authority of the United  
 24 States government. No change in the number of magistrate  
 25 courts caused by the publication of more recent such census  
 26 figures shall be effective until the next regular election for  
 27 such office occurring after the year of such publication.

28 In counties where voting machines are used, the procedures  
 29 of section eleven, article four, chapter three of this code shall  
 30 apply to the election of magistrates in the same way as they ap-  
 31 ply to the election of members of the House of Delegates.

**§50-20-3. Salary of magistrates; certain expenses.**

1 The salary of each magistrate shall be paid by the state.  
 2 Magistrates who serve ten thousand or less in population shall  
 3 be paid an annual salary of ten thousand dollars. Magistrates  
 4 who serve more than ten thousand in population but less than  
 5 fifteen thousand in population shall be paid an annual salary  
 6 of fourteen thousand dollars. Magistrates who serve fifteen  
 7 thousand or more in population shall be paid an annual salary  
 8 of eighteen thousand dollars. For the purpose of determining  
 9 the population served by each magistrate, the number of mag-  
 10 istrates authorized for each county shall be divided into the  
 11 population of each county. Magistrates shall be paid once a  
 12 month.

13 In addition to the basic salary provided for herein, a mag-  
 14 istrate shall be compensated in the amount of twenty-five dol-  
 15 lars for basic living expenses for each day served outside of  
 16 the county of his election, as provided for in section one of  
 17 this article, and shall be reimbursed at the rate of fifteen cents  
 18 per mile for travel expenses incurred in such service. Such  
 19 amounts shall be paid by the state.

**§50-20-4. Qualifications of magistrates; bond.**

1 Each magistrate shall be at least twenty-one years of age,  
 2 shall have a high school education or its equivalent, shall not  
 3 have been convicted of any felony and shall reside in the

4 county of his election. Notwithstanding the foregoing pro-  
5 visions of this section, each person who held the office of  
6 justice of the peace on the fifth day of November, one thousand  
7 nine hundred seventy-four, and who served in or performed the  
8 functions of such office for one year prior thereto shall be  
9 deemed qualified to run for the office of magistrate, in the  
10 county of his residence.

11 Each magistrate shall, before assuming the duties of office,  
12 take an oath of office to be administered by the circuit judge  
13 of the county, or the chief judge thereof if there is more than  
14 one judge of the circuit court. Each magistrate shall post a bond  
15 in the penalty of five thousand dollars with sufficient surety ap-  
16 proved by such circuit judge, which such bond shall be condi-  
17 tioned upon the faithful performance of the duties of the office.  
18 Each magistrate shall maintain the qualifications for office at  
19 all times.

20 Each magistrate shall devote full time to his public duties to  
21 the exclusion of any other employment.

22 In addition to other qualifications and requirements herein  
23 contained, no person, shall assume the duties of magistrate un-  
24 less he shall have first attended and completed a course of in-  
25 struction in rudimentary principles of law and procedure which  
26 shall be given between the date of election and the beginning of  
27 the magistrates' term in accordance with the supervisory rules of  
28 the supreme court of appeals. The provisions of this paragraph  
29 shall not apply to persons who held the office of justice of the  
30 peace on the fifth day of November, one thousand nine hundred  
31 seventy-four, and who served in or performed the functions of  
32 such office for one year prior thereto but such course of instruc-  
33 tion shall be available to such persons.

34 Each magistrate shall be required to attend such courses of  
35 instruction as may be required by supervisory rule of the su-  
36 preme court of appeals. Such courses shall be provided at  
37 least once every other year.

**§50-20-5. Clerks of magistrate courts; salary.**

1 Each magistrate court shall have a clerk to be appointed by  
2 the magistrate and who shall serve at the will and pleasure of  
3 the magistrate. Such clerk shall not be a member of the im-

4 mediate family of the magistrate, shall not have been convicted  
5 of a felony and shall reside in the county where appointed.  
6 For the purpose of this section, immediate family shall mean  
7 the relationships of mother, father, sister, brother, child or  
8 spouse. Clerks shall perform such duties and shall exercise  
9 such authority as shall be provided by law.

10 Clerks shall be paid a monthly salary by the state. Clerks  
11 appointed by magistrates who serve ten thousand or less in  
12 population shall be paid three hundred fifty dollars per month.  
13 Clerks appointed by magistrates who serve more than ten  
14 thousand in population but less than fifteen thousand in popula-  
15 tion shall be paid four hundred fifty dollars per month. Clerks  
16 appointed by magistrates who serve fifteen thousand or more  
17 in population shall be paid five hundred fifty dollars per  
18 month. For the purpose of determining the population served  
19 by each magistrate, the number of magistrates authorized  
20 for each county shall be divided into the population of each  
21 county.

**§50-20-6. Duties of sheriff; service of process; bailiff.**

1 It shall be the duty of each sheriff to execute all process  
2 from a magistrate court which may be directed to such  
3 sheriff, in the same manner as is provided by law for process  
4 from circuit courts.

5 Subject to the supervision of the judge of the circuit court,  
6 or the chief judge thereof if there is more than one judge  
7 of the circuit court, it shall be the duty of the sheriff, or his  
8 designated deputy, to serve as bailiff of a magistrate court  
9 upon the request of the magistrate.

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

James L. Davis  
Chairman Senate Committee

Clarence T. Christy Jr.  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. C. Fullong Jr.  
Clerk of the Senate

A. B. Blankenship  
Clerk of the House of Delegates

H. B. Moton  
President of the Senate

Lewis F. McManis  
Speaker House of Delegates

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

Anna. Shaufer  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/19/75

Time 4:10 p.m.