

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-23-80

Time 1:50 p.m.

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1980



ENROLLED

Committee Substitute for
HOUSE BILL No. 1334

(By Mr. Chambers)



Passed March 8, 1980

In Effect July 1, 1980 ~~Passage~~



No: 1334

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 1334

(By MR. CHAMBERS)

(Originating in the House Committee on the Judiciary)

[Passed March 8, 1980; in effect July 1, 1980.]

AN ACT to amend and reenact sections two, three, eight, nine and eleven, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, providing for an additional magistrate to be elected in Putnam and Raleigh Counties; increased compensation for magistrates, magistrate court clerks, magistrate assistants and magistrate court deputy clerks; providing for salaries and maximum salary levels to be paid on a population basis; and providing for travel expenses for magistrates traveling between offices.

Be it enacted by the Legislature of West Virginia:

That sections two, three, eight, nine and eleven, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. COURTS AND OFFICERS.

§50-1-2. Number of magistrates.

- 1 In each county which has less than thirty thousand in popu-
- 2 lation there shall be elected two magistrates; except that in

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3 the county of Putnam there shall be elected three magistrates.
4 In each county which ^{has} ~~is~~ thirty thousand or more in popula-
5 tion but less than sixty thousand in population there shall be
6 elected three magistrates; except that in the county of McDowell
7 there shall be elected four magistrates. In each county which
8 has sixty thousand or more in population but less than one
9 hundred five thousand in population there shall be elected four
10 magistrates; except that in the county of Raleigh there shall be
11 elected five magistrates. In each county which has one hundred
12 five thousand or more in population but less than two hundred
13 thousand in population there shall be elected seven magis-
14 trates. In each county which has two hundred thousand or
15 more in population there shall be elected ten magistrates. For
16 the purpose of this article, the population of each county shall
17 be considered to be the population as determined by the last
18 preceding census taken under the authority of the United States
19 government. No change in the number of magistrates caused
20 by the publication of more recent such census figures shall be
21 effective until the next regular election for such office occur-
22 ring after the year of such publication.

§50-1-3. Salary of magistrates.

1 The salary of each magistrate shall be paid by the state. Be-
2 ginning on the first day of July, one thousand nine hundred
3 eighty, magistrates who serve less than ten thousand in popu-
4 lation shall be paid annual salaries of fourteen thousand dol-
5 lars; magistrates who serve ten thousand or more in population
6 but less than fifteen thousand in population shall be paid
7 annual salaries of seventeen thousand dollars: *Provided*, That
8 magistrates in the county of Putnam shall be paid annual
9 salaries of seventeen thousand dollars. Magistrates who serve
10 fifteen thousand or more in population shall be paid annual
11 salaries of twenty-one thousand dollars: *Provided, however*,
12 That magistrates in the county of Raleigh shall be paid annual
13 salaries of twenty-one thousand dollars. For the purpose of
14 determining the population served by each magistrate, the
15 number of magistrates authorized for each county shall be
16 divided into the population of each county. Magistrates shall
17 be paid once a month.

§50-1-8. Magistrate court clerks; duties; duties of circuit clerk.

1 In each county having three or more magistrates the judge
2 of the circuit court, or the chief judge thereof if there is more
3 than one judge of the circuit court, shall appoint a magistrate
4 court clerk. In all other counties such judge may appoint a
5 magistrate court clerk or may by rule require the duties of the
6 magistrate court clerk to be performed by the clerk of the cir-
7 cuit court, in which event said circuit court clerk shall be en-
8 titled to additional compensation in the amount of two thou-
9 sand five hundred dollars per year. In any county a magistrate
10 court clerk may be appointed prior to the first day of January,
11 one thousand nine hundred seventy-seven. The magistrate
12 court clerk shall serve at the will and pleasure of such circuit
13 judge.

14 Magistrate court clerks shall be paid a monthly salary by the
15 state. Beginning on the first day of July, one thousand nine
16 hundred eighty, magistrate court clerks serving magistrates who
17 serve five thousand or less in population shall be paid up to
18 six hundred twenty dollars per month; magistrate court clerks
19 serving magistrates who serve more than five thousand in popu-
20 lation but less than ten thousand in population shall be paid up
21 to seven hundred ninety-eight dollars per month; magistrate
22 court clerks serving magistrates who serve more than ten thou-
23 sand in population but less than fifteen thousand in population
24 shall be paid up to one thousand twenty-six dollars per month;
25 and magistrate court clerks serving magistrates who serve fif-
26 teen thousand or more in population shall be paid up to one
27 thousand two hundred fifty-four dollars per month. For the
28 purpose of determining the population served by each magis-
29 trate, the number of magistrates authorized for each coun-
30 ty shall be divided into the population of each county. The
31 salary of the magistrate court clerk shall be established by
32 the judge of the circuit court, or the chief judge thereof if
33 there is more than one judge of the circuit court, within the
34 limits set forth in this section.

35 In addition to other duties as may be imposed by the pro-
36 visions of this chapter or by the rules of the supreme court of
37 appeals or the judge of the circuit court, or the chief judge
38 thereof if there is more than one judge of the circuit court, it

39 shall be the duty of the magistrate court clerk to establish and
40 maintain appropriate dockets and records in a centralized
41 system for the magistrate court, to assist in the preparation
42 of such reports as may be required of the court and to carry
43 out on behalf of the magistrates, or chief magistrate if a chief
44 magistrate is appointed, the administrative duties of the court.

45 The magistrate court clerk or, if there is no magistrate court
46 clerk in the county, the clerk of the circuit court shall have
47 the authority to issue all manner of civil process and to re-
48 quire the enforcement of subpoenas and subpoenas duces
49 tecum in magistrate court.

§50-1-9. Magistrate assistants; salary; duties.

1 In each county there shall be one magistrate assistant for
2 each magistrate. Each magistrate assistant shall be appointed
3 by the magistrate under whose authority and supervision and
4 at whose will and pleasure he shall serve. Such assistant shall
5 not be a member of the immediate family of any magistrate and
6 shall not have been convicted of a felony or any misdemeanor
7 involving moral turpitude and shall reside in the county where
8 appointed. For the purpose of this section, immediate family
9 shall mean the relationships of mother, father, sister, brother,
10 child or spouse.

11 A magistrate assistant shall have such duties, clerical or
12 otherwise, as may be assigned by the magistrate and as may be
13 prescribed by the rules of the supreme court of appeals or the
14 judge of the circuit court, or the chief judge thereof if there
15 is more than one judge of the circuit court. In addition to these
16 duties, magistrate assistants shall perform and be accountable
17 to the magistrate court clerk with respect to the following du-
18 ties:

- 19 (1) The preparation of summons in civil actions;
- 20 (2) The assignment of civil actions to the various mag-
21 istrates;
- 22 (3) The collection of all costs, fees, fines, forfeitures and
23 penalties which may be payable to the court;
- 24 (4) The submission of such moneys, along with an account-
25 ing thereof to appropriate authorities as provided by law;

26 (5) The daily disposition of closed files which are to be
27 located in the magistrate clerk's office;

28 (6) All duties related to the gathering of information and
29 documents necessary for the preparation of administrative re-
30 ports and documents required by the rules of the supreme court
31 of appeals or the judge of the circuit court, or the chief judge
32 thereof if there is more than one judge of the circuit court;

33 (7) All duties relating to the notification, certification and
34 payment of jurors serving pursuant to the terms of this chapter;

35 (8) All other duties or responsibilities whereby the magis-
36 trate assistant shall be accountable to the magistrate court
37 clerk as the magistrate shall determine.

38 Magistrate assistants shall be paid a monthly salary by the
39 state. Beginning on the first day of July, one thousand nine
40 hundred eighty, magistrate assistants serving magistrates who
41 serve five thousand or less in population shall be paid up to
42 five hundred six dollars per month; magistrate assistants serv-
43 ing magistrates who serve more than five thousand in popu-
44 lation but less than ten thousand in population shall be paid up
45 to six hundred twenty-seven dollars per month; magistrate
46 assistants serving magistrates who serve more than ten thou-
47 sand in population but less than fifteen thousand in population
48 shall be paid up to seven hundred forty-one dollars per month;
49 and magistrate assistants serving magistrates who serve fifteen
50 thousand or more in population shall be paid up to eight hun-
51 dred fifty-five dollars per month. For the purpose of determin-
52 ing the population served by each magistrate, the number of
53 magistrates authorized for each county shall be divided into
54 the population of each county. The salary of the magistrate
55 assistant shall be established by the magistrate within the limits
56 set forth in this section.

§50-1-11. Offices for magistrates; location; expenses; copy of state code.

1 Subject to the rules of the supreme court of appeals, the lo-
2 cation of offices for magistrates shall be determined by order
3 of the judge of the circuit court, or the chief judge thereof if
4 there is more than one judge of the circuit court. When re-

5 quired by geography or population dispersion and in order to
6 make such offices accessible to the public, an order may re-
7 quire more than one location for each magistrate. As near as
8 practicable within a county, all office accommodations shall
9 be comparable. All expenses of acquiring or renting offices and
10 utility and telephone expenses shall be paid by the county. All
11 other expenses, including but not limited to expenses for fur-
12 niture, equipment and supplies, shall be paid by the state.
13 The administrative director of the supreme court of appeals
14 shall supply each magistrate with a current copy of the West
15 Virginia code which shall remain the property of the state.

16 Magistrates who serve at more than one location within the
17 county, whether on a regular or temporary basis, shall be re-
18 imbursed travel expenses for travel between locations at a rate
19 per mile equal to that allowed for reimbursement of travel
20 expenses of officers in the judicial branch of state government.

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

James R. Davis
Chairman Senate Committee

Clarence C. Chestnut
Chairman House Committee

Originated in the House.

Takes effect July 1, 1980.

Irvin C. Willis
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

W. T. Bratherton Jr.
President of the Senate

Clde M. Lee, Jr.
Speaker House of Delegates

The within is approved this the 23
day of March, 1980.

John D. Rhyll
Governor

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