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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

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ENROLLED

Com. Sub. for
HOUSE BILL No. 1140

(By ~~Mr.~~ Del. Flanigan + Del. McNeely)

— ● —

Passed March 8, 1986

In Effect July 1, 1986 ~~Passage~~

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1140

(By DELEGATE FLANIGAN and DELEGATE McNEELY)

[Passed March 8, 1986; in effect July 1, 1986.]

AN ACT to amend and reenact sections two, three, eight, nine and nine-a, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to magistrates and magistrates staffs; establishing number of magistrates per county and new positions; establishing new total number of magistrate court deputy clerks in the state; and setting salaries of magistrates and magistrate staffs.

Be it enacted by the Legislature of West Virginia:

That sections two, three, eight, nine and nine-a, 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
2 population there shall be elected two magistrates; except
3 that in the county of Putnam there shall be elected three
4 magistrates. In each county which has thirty thousand
5 or more in population but less than sixty thousand in
6 population there shall be elected three magistrates;

7 except that in the counties of McDowell and Fayette
8 there shall be elected four magistrates, with the fourth
9 magistrate position hereby created for Fayette County
10 not to be subject to being filled by prior appointment,
11 but with service to begin in January, one thousand nine
12 hundred eighty-seven, after initial election at general
13 election in the fall of one thousand nine hundred eighty-
14 six, and in the county of Brooke there shall be elected
15 two magistrates. In each county which has sixty
16 thousand or more in population but less than one
17 hundred five thousand in population there shall be
18 elected four magistrates; except that in the counties of
19 Raleigh and Mercer there shall be elected five magis-
20 trates with the fifth magistrate position hereby created
21 for Mercer County to be subject to being filled by prior
22 appointment on and after the first day of July, one
23 thousand nine hundred eighty-six and until the subse-
24 quent general election therefor. In each county which has
25 one hundred five thousand or more in population but
26 less than two hundred thousand in population there shall
27 be elected seven magistrates. In each county which has
28 two hundred thousand or more in population there shall
29 be elected ten magistrates. For the purpose of this
30 article, the population of each county shall be considered
31 to be the population as determined by the last preceding
32 census taken under the authority of the United States
33 government. No change in the number of magistrates
34 caused by the publication of more recent such census
35 figures shall be effective until the next regular election
36 for such office occurring after the year of such publi-
37 cation.

§50-1-3. Salary of magistrates.

1 The salary of each magistrate shall be paid by the
2 state. Beginning on the first day of July, one thousand
3 nine hundred eighty-four, magistrates who serve less
4 than ten thousand in population shall be paid annual
5 salaries of seventeen thousand two hundred fifty dollars;
6 magistrates who serve ten thousand or more in popula-
7 tion but less than fifteen thousand in population shall
8 be paid annual salaries of twenty thousand six hundred
9 twenty-five dollars: *Provided*, That magistrates in the

10 county of Putnam shall be paid annual salaries of twenty
11 thousand six hundred twenty-five dollars. Magistrates
12 who serve fifteen thousand or more in population shall
13 be paid annual salaries of twenty-five thousand one
14 hundred twenty-five dollars: *Provided, however, That*
15 magistrates in the counties of Boone, Preston, Jefferson,
16 Mercer and Fayette shall be paid annual salaries of
17 twenty-five thousand one hundred twenty-five dollars.
18 For the purpose of determining the population served
19 by each magistrate, the number of magistrates autho-
20 rized for each county shall be divided into the population
21 of each county. Magistrates shall be paid once a month.

**§50-1-8. Magistrate Court Clerks; salary; duties; duties of
circuit clerk.**

1 In each county having three or more magistrates the
2 judge of the circuit court or the chief judge thereof, if
3 there is more than one judge of the circuit court, shall
4 appoint a magistrate court clerk. In all other counties
5 such judge may appoint a magistrate court clerk or may
6 by rule require the duties of the magistrate court clerk
7 to be performed by the clerk of the circuit court, in
8 which event such circuit court clerk shall be entitled to
9 additional compensation in the amount of two thousand
10 five hundred dollars per year. The magistrate court
11 clerk shall serve at the will and pleasure of such circuit
12 judge.

13 Magistrate court clerks shall be paid a monthly salary
14 by the State. Beginning on the first day of July, one
15 thousand nine hundred eighty-four, magistrate court
16 clerks serving magistrates who serve less than ten
17 thousand in population shall be paid up to nine hundred
18 eighty-one dollars per month; magistrate court clerks
19 serving magistrates who serve ten thousand or more in
20 population but less than fifteen thousand in population
21 shall be paid up to one thousand two hundred forty-one
22 dollars per month: *Provided, That* the magistrate court
23 clerk in the county of Putnam shall be paid up to one
24 thousand two hundred forty-one dollars per month; and
25 magistrate court clerks serving magistrates who serve
26 fifteen thousand or more in population shall be paid up
27 to one thousand five hundred sixteen dollars per month:

28 *Provided, however,* That the magistrate court clerks in
29 the counties of Boone, Preston, Jefferson, Mercer,
30 Fayette and Raleigh shall be paid up to one thousand
31 five hundred sixteen dollars per month. For the purpose
32 of determining the population served by each magis-
33 trate, the number of magistrates authorized for each
34 county shall be divided into the population of each
35 county. The salary of the magistrate court clerk shall
36 be established by the judge of the circuit court, or the
37 chief judge thereof if there is more than one judge of
38 the circuit court, within the limits set forth in this
39 section.

40 In addition to other duties as may be imposed by the
41 provisions of this chapter or by the rules of the supreme
42 court of appeals or the judge of the circuit court, or the
43 chief judge thereof if there is more than one judge of
44 the circuit court, it shall be the duty of the magistrate
45 court clerk to establish and maintain appropriate
46 dockets and records in a centralized system for the
47 magistrate court, to assist in the preparation of such
48 reports as may be required of the court and to carry out
49 on behalf of the magistrates, or chief magistrate if a
50 chief magistrate is appointed, the administrative duties
51 of the court.

52 The magistrate court clerk or, if there is no magis-
53 trate court clerk in the county, the clerk of the circuit
54 court shall have the authority to issue all manner of civil
55 process and to require the enforcement of subpoenas and
56 subpoenas duces tecum in magistrate court.

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

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

11 sister, brother, child or spouse.

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

21 (1) The preparation of summons in civil actions;

22 (2) The assignment of civil actions to the various
23 magistrates;

24 (3) The collection of all costs, fees, fines, forfeitures
25 and penalties which may be payable to the court;

26 (4) The submission of such moneys, along with an
27 accounting thereof to appropriate authorities as pro-
28 vided by law;

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

31 (6) All duties related to the gathering of information
32 and documents necessary for the preparation of admin-
33 istrative reports and documents required by the rules
34 of the supreme court of appeals or the judge of the
35 circuit court, or the chief judge thereof if there is more
36 than one judge of the circuit court;

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

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

43 Magistrates assistants shall be paid a monthly salary
44 by the State. Beginning on the first day of July, one
45 thousand nine hundred eighty-four, magistrate assist-
46 ants serving magistrates who serve less than ten
47 thousand in population shall be paid up to seven

48 hundred eighty-eight dollars per month; magistrate
49 assistants serving magistrates who serve ten thousand
50 or more in population but less than fifteen thousand in
51 population shall be paid up to nine hundred seventeen
52 dollars per month: *Provided*, That magistrate assistants
53 in the county of Putnam shall be paid up to nine
54 hundred seventeen dollars per month; and magistrate
55 assistants serving magistrates who serve fifteen thou-
56 sand or more in population shall be paid up to one
57 thousand forty-five dollars per month: *Provided, how-*
58 *ever*, That magistrate assistants in the counties of Boone,
59 Preston, Jefferson, Mercer, Fayette and Raleigh shall be
60 paid up to one thousand forty-five dollars per month.
61 For the purpose of determining the population served
62 by each magistrate, the number of magistrates autho-
63 rized for each county shall be divided into the population
64 of each county. The salary of the magistrate assistant
65 shall be established by the magistrate within the limits
66 set forth in this section.

§50-1-9a. Magistrate court deputy clerks; salary; duties.

1 Whenever required by work load and upon the
2 recommendation of the judge of the circuit court, or the
3 chief judge thereof if there is more than one judge of
4 the circuit court, the supreme court of appeals may by
5 rule provide for the appointment of magistrate court
6 deputy clerks, not to exceed fifty-one in number. Such
7 magistrate court deputy clerks shall be appointed by the
8 judge of the circuit court, or the chief judge thereof if
9 there is more than one judge of the circuit court, with
10 such appointee to serve at his will and pleasure under
11 the immediate supervision of the magistrate court clerk.
12 Such magistrate court deputy clerk shall have such
13 duties, clerical or otherwise, as may be assigned by the
14 magistrate court clerk and as may be prescribed by the
15 rules of the supreme court of appeals or the judge of the
16 circuit court, or the chief judge thereof if there is more
17 than one judge of the circuit court. Such magistrate
18 court deputy clerks shall also have authority to exercise
19 the power and perform the duties of the magistrate
20 court clerk as may be delegated or assigned by such
21 magistrate court clerk.

22 Such magistrate court deputy clerk shall not be a
23 member of the immediate family of any magistrate,
24 magistrate court clerk, magistrate assistant or circuit
25 court judge within the same county, shall not have been
26 convicted of a felony or any misdemeanor involving
27 moral turpitude and shall reside in the county where
28 appointed. For the purpose of this section, immediate
29 family shall mean the relationships of mother, father,
30 sister, brother, child or spouse.

31 Magistrate court deputy clerks shall be paid a
32 monthly salary by the State. Such salary shall be paid
33 on the same basis and in the same applicable amounts
34 as for magistrate assistants in each county as provided
35 in section nine of this article.

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

Bruce O. Williams
Chairman Senate Committee

Floyd Fuller
Chairman House Committee

Originating in the House.

Takes effect July 1, 1986.

Todd C. Nuck
Clerk of the Senate

Donald S. Stapp
Clerk of the House of Delegates

Don Tonkovich
President of the Senate

Joseph P. Allright
Speaker of the House of Delegates

The within appears this the 26th
day of March, 1986.

Arch. Hancock
Governor

TO THE

GOVERNOR

Date 9/21/86

Time 4:28 p.m.

RECEIVED

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DEPARTMENT OF STATE

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/26/86