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# WEST VIRGINIA LEGISLATURE

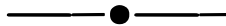
SECOND REGULAR SESSION, 2000



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 4009**

(By Delegates Hines)



Passed March 11, 2000

In Effect July 1, 2000

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CLERK OF THE HOUSE

# ENROLLED

COMMITTEE SUBSTITUTE

FOR

## H. B. 4009

(BY DELEGATE HINES)

[Passed March 11, 2000; in effect July 1, 2000.]

AN ACT to amend and reenact section two, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section four, article three of said chapter, all relating to magistrate courts; providing for the number of magistrates; eliminating the formula for determining the number and location of magistrates for elections held after the year two thousand; providing for the disposition of court costs collected in magistrate courts; continuing and increasing allowable deposits in magistrate court funds to be used to defray expenses incurred by counties for providing services to magistrate courts; and allowing court costs collected in excess of limitations on deposits in magistrate court funds to be placed in a newly created surplus account for distribution to counties with underfunded magistrate court funds.

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

That section two, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section four, article three of said chapter be amended and reenacted, all to read as follows:

**ARTICLE 1. COURTS AND OFFICERS.**

**§50-1-2. Number of magistrates.**

1       (a) The number of magistrates to be elected in each county  
2 of this state shall be determined in accordance with the provi-  
3 sions of this section.

4       (b) The number of magistrates serving in each county of the  
5 state shall comport with the numbers certified by the supreme  
6 court of appeals to the ballot commissioners of each county on  
7 or before the thirty-first day of January, two thousand, for  
8 purposes of the primary and general elections to be held in the  
9 year two thousand.

10       (c) (1) The Legislature finds that there exists among the  
11 various counties large and unwarranted disparities of caseload  
12 between the magistrate courts. The Legislature further finds that  
13 the disparity causes an inequity with regard to magistrate court  
14 resources and the ability of such courts to effectively meet the  
15 needs of the citizens of this state who need to avail themselves  
16 of this judicial resource. The Legislature further finds that the  
17 system currently in place for allocating magistrate court  
18 resources which has been in effect since the year one thousand  
19 nine hundred ninety-one produces certain anomalies which  
20 cause quadrennial reallocation of magistrate resources based  
21 upon said anomalies which in turn cause a waste of funds,  
22 inequitable workloads, unnecessary shifting of resources and  
23 confusion among the various counties.

24       (2) The office of legislative services is hereby directed to  
25 undertake a comprehensive study of the magistrate courts of the

26 various counties to determine, among other things, the work  
27 performed by various personnel in the magistrate court system,  
28 how work time is spent by said employees and to report its  
29 findings no later than the tenth day of December, two thousand  
30 one, to the joint standing committee on the judiciary.

31 (3) The division of criminal justice and highway safety  
32 shall, in conjunction with the administrative office of the West  
33 Virginia supreme court of appeals, compile for consideration by  
34 the Legislature statistical information and documentation  
35 regarding caseloads, cases handled per year per magistrate,  
36 cases per county, cases per circuit and provide to the president  
37 of the Senate and the speaker of the House of Delegates no later  
38 than the first day of the regular session of the Legislature, two  
39 thousand two, their recommendations for improving the  
40 magistrate process, better utilization of court resources,  
41 including but not limited to, categorizing the various types of  
42 cases heard in magistrate court and developing a new weighted  
43 formula to evaluate types of cases by the amount of time  
44 necessary to bring said cases to a resolution.

**ARTICLE 3. COSTS, FINES AND RECORDS.**

**§50-3-4. Disposition of costs; magistrate court fund.**

1 (a) All costs collected in magistrate courts in a civil  
2 proceeding pursuant to the provisions of section one of this  
3 article, and all costs collected in magistrate courts in a criminal  
4 proceeding pursuant to the provisions of section two of this  
5 article, shall be submitted on or before the tenth day of the  
6 month following the month of their collection to the magistrate  
7 court clerk or, if there is no magistrate court clerk, to the clerk  
8 of the circuit court along with such information as may be  
9 required by the rules of the supreme court of appeals and by the  
10 rules of the chief inspector of public offices.

11 (b) (1) The special county fund known as the magistrate  
12 court fund established in each county by chapter thirty-three,

13 Acts of the Legislature, regular session, one thousand nine  
14 hundred seventy-six, as amended and reenacted in subsequent  
15 Acts of the Legislature, is hereby continued. The moneys  
16 credited to the fund may be used solely for the purposes  
17 provided in this section.

18 (2) The magistrate court clerk of each county shall pay the  
19 sum of ten dollars collected by magistrates in each civil and  
20 criminal proceeding into the magistrate court fund during each  
21 fiscal year until there is paid a sum equal to fifteen thousand  
22 dollars multiplied by the number of magistrates authorized for  
23 the county.

24 (3) A county may, in accordance with the supervisory rules  
25 of the supreme court of appeals, appropriate and spend from the  
26 fund such sums as are necessary to defray the expenses of  
27 providing services to magistrate courts.

28 (c)(1) There is hereby created in the state treasury a special  
29 escrow account designated as the "magistrate court surplus  
30 account." The moneys credited to the account may be used  
31 solely for the purposes provided in this subsection.

32 (2) Beginning on the first day of July, two thousand, all  
33 costs collected during a fiscal year in excess of the sum  
34 specified in subdivision (2), subsection (b) of this section shall  
35 be deposited in the magistrate court surplus account in the state  
36 treasury.

37 (3) Beginning on the first day of September, two thousand  
38 one, and on the first day of September of each year thereafter,  
39 in accordance with the supervisory rules of the supreme court  
40 of appeals, funds from the magistrate court surplus account  
41 deposited therein as excess costs collected in the prior fiscal  
42 year pursuant to the provisions of subdivision (2) of this  
43 subsection shall be disbursed as a supplement to any county  
44 magistrate court fund which generated less than fifteen thou-

45 sand dollars per magistrate in the prior fiscal year in accordance  
46 with the provisions of this subsection.

47 (4) The amount disbursed to a county magistrate court fund  
48 from the magistrate court surplus account, when combined with  
49 the court costs generated by the magistrate court fund of the  
50 county in the prior fiscal year, may not exceed fifteen thousand  
51 dollars per magistrate.

52 (5) The disbursements described in subdivision (3) of this  
53 subsection shall be made as follows:

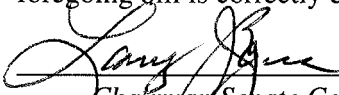
54 (A) There shall be distributed to each county magistrate  
55 court fund that generated less than nine thousand dollars in the  
56 prior fiscal year the sum of nine thousand dollars less the  
57 amount of court costs generated by the county magistrate court  
58 fund in the prior fiscal year. To the extent that the funds  
59 available for this disbursement are insufficient to fully fund this  
60 disbursement, the funds available shall be disbursed to these  
61 counties on a pro rata basis.

62 (B) Any funds that remain available for disbursement after  
63 disbursements made pursuant to paragraph (A) of this subdivi-  
64 sion shall be disbursed in equal shares to each county magis-  
65 trate court fund that generated less than fifteen thousand dollars  
66 per magistrate in the prior fiscal year. The shares to be dis-  
67 bursed to each county magistrate court fund are to be equal to  
68 the number of magistrates in the county. Any disbursement  
69 made under this paragraph shall be subject to the limitations  
70 specified in subdivision (4) of this subsection.

71 (6) Any funds that remain available in the magistrate court  
72 surplus account after the disbursements have been made  
73 pursuant to the provisions of paragraphs (A) and (B), subdivi-  
74 sion (5) of this subsection shall be deposited by the state  
75 treasurer into the general revenue fund of the state.

Enr. Com. Sub. for H. B. 4009] 6

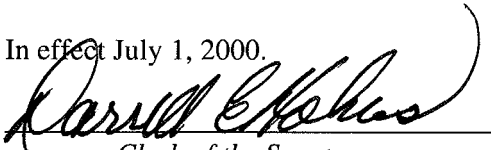
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

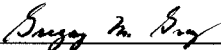
  
Chairman Senate Committee  
MEMBER


  
Chairman House Committee

Originating in the House.

In effect July 1, 2000.

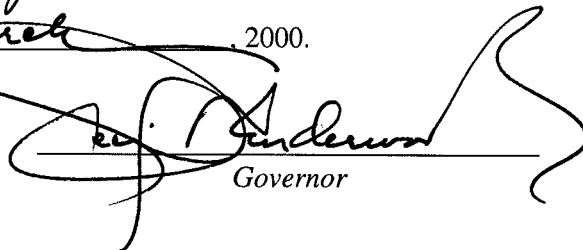
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within approved this the 20th  
day of March, 2000.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/16/10

Time 12:00pm