WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
FIRST EXTRAORDINARY SESSION, 2013

ENROLLED

Senate Bill No. 1003

(By Senators Kessler (Mr. President) and M. Hall,
By Request of the Executive)

[Passed April 18, 2013; in effect ninety days from passage.]
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AN ACT to amend and reenact §50-1-3, §50-1-8, §50-1-9 and §50-1-9a of the Code of West Virginia, 1931, as amended, all relating generally to the magistrate court system; making legislative findings; adjusting the population line upon which salaries for magistrates and certain magistrate employees are calculated; providing that the Joint Committee on Government and Finance shall request a study from the National Center for State Courts on the weighted case loads, salaries, jurisdiction and apportionment of resources within the magistrate court system; requiring presentation of report and recommendations regarding redistribution of magistrate court personnel and resources by December 1, 2014; requiring the Supreme Court of Appeals of West Virginia to present recommendations to the Legislature regarding allocation and assignment of resources; adjusting certain salaries for certain magistrates and magistrate court employees effective January 1, 2013; equalizing the pay for all magistrates and certain magistrate employees on January 1, 2017; providing for an effective date; and providing that the amendments are retroactive to January 1, 2013.

Be it enacted by the Legislature of West Virginia:

That §50-1-3, §50-1-8, §50-1-9 and §50-1-9a of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:
ARTICLE I. COURTS AND OFFICERS.


(a) The Legislature finds and declares that:

1. The West Virginia Supreme Court of Appeals has held that a salary system for magistrates which is based upon the population that each magistrate serves does not violate the equal protection clause of the Constitution of the United States;

2. The West Virginia Supreme Court of Appeals has held that a salary system for magistrates which is based upon the population that each magistrate serves does not violate section thirty-nine, article VI of the Constitution of West Virginia;

3. The Administrative Office of the Supreme Court of Appeals of West Virginia has stated that the utilization of a two-tiered salary schedule for magistrates is no longer an equitable and rational manner by which magistrates should be compensated for work performed;

4. Organizing the two tiers of the salary schedule into one tier for magistrates serving less than seven thousand three hundred in population and a second tier for magistrates serving seven thousand three hundred or more in population is no longer rational and equitable given current statistical information relating to population and caseload; and

5. That, by January 1, 2017, all magistrates should be compensated equally.

(b) The salary of each magistrate shall be paid by the state. Magistrates who serve fewer than seven thousand three hundred in population shall be paid annual salaries of
$51,125 and magistrates who serve seven thousand three hundred or more in population shall be paid annual salaries of $57,500.

(c) For the purpose of determining the population served by each magistrate, the number of magistrates authorized for each county shall be divided into the population of each county. For the purpose of this article, the population of each county is the population as determined by the last preceding decennial census taken under the authority of the United States government.

(d) Notwithstanding any provision of this code to the contrary, the amendments made to this section during the 2013 First Extraordinary Session are effective upon passage and are retroactive to January 1, 2013.

(e) On or before July 1, 2013, the Joint Committee on Government and Finance shall request a study by the National Center for State Courts, working in conjunction with the Administrative Office of the Supreme Court of Appeals of West Virginia, to review the weighted case loads in each of the magistrate courts in this state, and present recommendations as to how the present resources and personnel in the magistrate court system could be better apportioned to equitably and timely meet the collective needs of the magistrate court system in West Virginia. Based on the findings and data generated by that study, the National Center for State Courts shall make recommendations as to the equitable redistribution of personnel and resources, by temporary or permanent reassignment, to better meet the needs and weighted loads that are demonstrated to exist in the various magistrate courts in this state. This study shall be presented to the Joint Committee on Government and Finance no later than December 1, 2014, and shall include recommendations and proposed legislation resulting from such study and shall also include a plan to continue the
efficient delivery of justice by the magistrate court system
and the justification for equalization of pay for all
magistrates. As a part of the submitted study, the plan shall
consider the reassignment of magistrates or the extension of
their duties and jurisdiction to include holding court or
delivering services to adjacent counties with higher
caseloads, as part of their regular duties, or being on call as
needed to serve other needs in other adjacent counties or
within the same judicial circuit.

On or before January 15, 2015, the Supreme Court of
Appeals of West Virginia shall present its recommendations
to the Legislature regarding how to allocate or assign a
maximum of one hundred fifty-eight magistrates throughout
this state to improve the magistrate process, and more
equitably distribute the magistrate court resources to
efficiently and effectively meet the needs of the citizens of
this state.

(f) Notwithstanding any provision of this code to the
contrary, beginning January 1, 2017, all magistrates shall be
compensated equally and the annual salary of all magistrates
shall be $57,500.

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

(a) In each county having three or more magistrates the
judge of the circuit court or the chief judge of the circuit
court, if there is more than one judge of the circuit court,
shall appoint a magistrate court clerk. In all other counties
the judge may appoint a magistrate court clerk or may by rule
require the duties of the magistrate court clerk to be
performed by the clerk of the circuit court, in which event the
circuit court clerk is entitled to additional compensation in
the amount of $2,500 per year. The magistrate court clerk
serves at the will and pleasure of the circuit judge.
(b) Magistrate court clerks shall be paid a monthly salary by the state. Magistrate court clerks serving magistrates who serve less than seven thousand three hundred in population shall be paid up to $39,552 per year and magistrate court clerks serving magistrates who serve seven thousand three hundred or more in population shall be paid up to $44,712 per year: Provided, That after the effective date of this section, any general salary increase granted to all state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate court clerks. For the purpose of determining the population served by each magistrate, the number of magistrates authorized for each county shall be divided into the population of each county. The salary of the magistrate court clerk shall be established by the judge of the circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit court, within the limits set forth in this section.

(c) In addition to other duties that may be imposed by the provisions of this chapter or by the rules of the Supreme Court of Appeals or the judge of the circuit court or the chief judge of the circuit court if there is more than one judge of the circuit court, it is the duty of the magistrate court clerk to establish and maintain appropriate dockets and records in a centralized system for the magistrate court, to assist in the preparation of the reports required of the court and to carry out on behalf of the magistrates or chief magistrate if a chief magistrate is appointed, the administrative duties of the court.

(d) The magistrate court clerk, or if there is no magistrate court clerk in the county, the clerk of the circuit court, may issue all manner of civil process and require the enforcement of subpoenas and subpoenas duces tecum in magistrate court.

(e) Notwithstanding any provision of this code to the contrary, the amendments made to this section during the
2013 First Extraordinary Session are effective upon passage and are retroactive to January 1, 2013.

(f) Beginning January 1, 2017, the annual salary of all magistrate court clerks is $44,720. After the effective date of this section, a general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate court clerks.


(a) In each county there shall be one magistrate assistant for each magistrate. Each magistrate assistant shall be appointed by the magistrate under whose authority and supervision and at whose will and pleasure he or she shall serve. The assistant shall not be a member of the immediate family of any magistrate and shall not have been convicted of a felony or any misdemeanor involving moral turpitude and shall reside in the State of West Virginia. For the purpose of this section, "immediate family" means the relationships of mother, father, sister, brother, child or spouse.

(b) A magistrate assistant shall have the duties, clerical or otherwise, assigned by the magistrate and prescribed by the rules of the Supreme Court of Appeals or the judge of the circuit court or the chief judge of the circuit court if there is more than one judge of the circuit court. In addition to these duties, magistrate assistants shall perform and are accountable to the magistrate court clerks with respect to the following duties:

1. The preparation of summons in civil actions;
2. The assignment of civil actions to the various magistrates;
(3) The collection of all costs, fees, fines, forfeitures and penalties which are payable to the court;

(4) The submission of moneys, along with an accounting of the moneys, to appropriate authorities as provided by law;

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

(6) All duties related to the gathering of information and documents necessary for the preparation of administrative reports and documents required by the rules of the Supreme Court of Appeals or the judge of the circuit court or the chief judge of the circuit court if there is more than one judge of the circuit court;

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

(8) All other duties or responsibilities whereby the magistrate assistant is accountable to the magistrate court clerk as determined by the magistrate.

(c) Magistrate assistants shall be paid a monthly salary by the state. Magistrate assistants serving magistrates who serve less than seven thousand three hundred in population shall be paid up to $36,048 per year and magistrate assistants serving magistrates who serve seven thousand three hundred or more in population shall be paid up to $39,348 per year: Provided, That after the effective date of this section, any general salary increase granted to all state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate assistants. For the purpose of determining the population served by each magistrate, the number of magistrates authorized for each county shall be divided into the
The salary of the magistrate assistant shall be established by the magistrate within the limits set forth in this section.

(d) Notwithstanding any provision of this code to the contrary, the amendments made to this section during the 2013 First Extraordinary Session are effective upon passage and are retroactive to January 1, 2013.

(e) Beginning January 1, 2017, the annual salary of all magistrate assistants is $39,348. After the effective date of this section, a general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate assistants.

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

(a) Whenever required by workload and upon the recommendation of the judge of the circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit court, the Supreme Court of Appeals may, by rule, provide for the appointment of magistrate court deputy clerks, not to exceed seventy-two in number. The magistrate court deputy clerks shall be appointed by the judge of the circuit court, or the chief judge if there is more than one judge of the circuit court, to serve at his or her will and pleasure under the immediate supervision of the magistrate court clerk.

(b) Magistrate court deputy clerks shall have the duties, clerical or otherwise, as may be assigned by the magistrate court clerk and as may be prescribed by the rules of the Supreme Court of Appeals or the judge of the circuit court or the chief judge if there is more than one judge of the circuit court. Magistrate court deputy clerks may also exercise the
power and perform the duties of the magistrate court clerk as
may be delegated or assigned by the magistrate court clerk.

(c) A magistrate court deputy clerk may not be an
immediate family member of any magistrate, magistrate court
clerk, magistrate assistant or judge of the circuit court within
the same county, may not have been convicted of a felony or
any misdemeanor involving moral turpitude and must reside
in this state. For purposes of this subsection, “immediate
family member” means a mother, father, sister, brother, child
or spouse.

(d) Magistrate court deputy clerks shall be paid an annual
salary by the state on the same basis and in the same amounts
established for magistrate assistants in each county, as
provided in section nine of this article.

(c) Notwithstanding any provision of this code to the
contrary, the amendments made to section nine of this article
during the 2013 First Extraordinary Session, and the effects
of those amendments on subsection (d) of this section, are
effective upon passage and are retroactive to January 1, 2013.

(f) Beginning January 1, 2017, the annual salary of all
magistrate court deputy clerks is $39,348. After the effective
date of this section, a general salary increase granted to state
employees, whose salaries are not set by statute, expressed as
a percentage increase or an across-the-board increase, may
also be granted to magistrate court deputy clerks.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Member, Chairman, Senate Committee

[Signature]
Chairman, House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 3rd Day of May, 2013.

[Signature]
Governor
PRESENTED TO THE GOVERNOR

APR 29 2013

Time 2:00 PM