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HB 2235

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

## House Bill No. 2235

(By Delegate H. White, Kominar, Frederick,  
Stalnaker, Cann, Browning and G. White)



Passed March 11, 2006

In Effect Ninety Days from Passage

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**E N R O L L E D**

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FOR

**H. B. 2235**

(BY DELEGATE H. WHITE, KOMINAR, FREDERICK,  
STALNAKER, CANN, BROWNING AND G. WHITE)

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[Passed March 11, 2006; in effect ninety days from passage.]

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AN ACT to amend and reenact §50-1-8, §50-1-9 and §50-1-9a of the Code of West Virginia, 1931, as amended, all relating to employees of magistrate courts generally; increasing salaries for magistrate court clerks, magistrate assistants and magistrate court deputy clerks; and increasing the maximum number of magistrate court deputy clerks that may be appointed.

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

That §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 1. COURTS AND OFFICERS.**

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

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

11 (b) Magistrate court clerks shall be paid a monthly salary  
12 by the State. Magistrate court clerks serving magistrates who  
13 serve less than eight thousand four hundred in population shall  
14 be paid up to twenty-six thousand four hundred thirty-six  
15 dollars per year and magistrate court clerks serving magistrates  
16 who serve eight thousand four hundred or more in population  
17 shall be paid up to thirty-one thousand three hundred forty-four  
18 dollars per year: *Provided*, That on and after the first day of  
19 July, two thousand six, magistrate court clerks serving magis-  
20 trates who serve less than eight thousand four hundred in  
21 population shall be paid up to thirty-one thousand four hundred  
22 thirty-six dollars per year and magistrate court clerks serving  
23 magistrates who serve eight thousand four hundred or more in  
24 population shall be paid up to thirty-six thousand three hundred  
25 forty-four dollars per year: *Provided, however*, That on and  
26 after the first day of July, two thousand seven, magistrate court  
27 clerks serving magistrates who serve less than eight thousand  
28 four hundred in population shall be paid up to thirty-six  
29 thousand four hundred thirty-six dollars per year and magistrate  
30 court clerks serving magistrates who serve eight thousand four  
31 hundred or more in population shall be paid up to forty-one  
32 thousand three hundred forty-four dollars per year: *Provided*  
33 *further*, That after the effective date of this section, any general  
34 salary increase granted to all state employees, whose salaries  
35 are not set by statute, expressed as a percentage increase or an

36 “across-the-board” increase, may also be granted to magistrate  
37 court clerks. For the purpose of determining the population  
38 served by each magistrate, the number of magistrates autho-  
39 rized for each county shall be divided into the population of  
40 each county. The salary of the magistrate court clerk shall be  
41 established by the judge of the circuit court, or the chief judge  
42 of the circuit court if there is more than one judge of the circuit  
43 court, within the limits set forth in this section.

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

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

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

1 (a) In each county there shall be one magistrate assistant for  
2 each magistrate. Each magistrate assistant shall be appointed by  
3 the magistrate under whose authority and supervision and at  
4 whose will and pleasure he or she shall serve. The assistant  
5 shall not be a member of the immediate family of any magis-  
6 trate and shall not have been convicted of a felony or any  
7 misdemeanor involving moral turpitude and shall reside in the  
8 State of West Virginia. For the purpose of this section, “imme-  
9 diate family” means the relationships of mother, father, sister,  
10 brother, child or spouse.

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

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

20 (2) The assignment of civil actions to the various magis-  
21 trates;

22 (3) The collection of all costs, fees, fines, forfeitures and  
23 penalties which are payable to the court;

24 (4) The submission of moneys, along with an accounting of  
25 the moneys, 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  
30 reports and documents required by the rules of the Supreme  
31 Court of Appeals or the judge of the circuit court or the chief  
32 judge of the circuit court if there is more than one judge of the  
33 circuit court;

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

36 (8) All other duties or responsibilities whereby the magis-  
37 trate assistant is accountable to the magistrate court clerk as  
38 determined by the magistrate.

39 (c) Magistrate assistants shall be paid a monthly salary by  
40 the State. Magistrate assistants serving magistrates who serve  
41 less than eight thousand four hundred in population shall be  
42 paid up to twenty-three thousand one hundred forty-eight  
43 dollars per year and magistrate assistants serving magistrates  
44 who serve eight thousand four hundred or more in population  
45 shall be paid up to twenty-six thousand two hundred forty-four  
46 dollars per year: *Provided*, That on and after the first day of  
47 July, two thousand six, magistrate assistants serving magistrates  
48 who serve less than eight thousand four hundred in population  
49 shall be paid up to twenty-eight thousand one hundred forty-  
50 eight dollars per year and magistrate assistants serving magis-  
51 trates who serve eight thousand four hundred or more in  
52 population shall be paid up to thirty-one thousand two hundred  
53 forty-four dollars per year: *Provided, however*, That on and  
54 after the first day of July, two thousand seven, magistrate  
55 assistants serving magistrates who serve less than eight thou-  
56 sand four hundred in population shall be paid up to thirty-three  
57 thousand one hundred forty-eight dollars per year and magis-  
58 trate assistants serving magistrates who serve eight thousand  
59 four hundred or more in population shall be paid up to thirty-six  
60 thousand two hundred forty-four dollars per year: *Provided*  
61 *further*, That after the effective date of this section, any general  
62 salary increase granted to all state employees, whose salaries  
63 are not set by statute, expressed as a percentage increase or an  
64 “across-the-board” increase, may also be granted to magistrate  
65 assistants. For the purpose of determining the population served  
66 by each magistrate, the number of magistrates authorized for  
67 each county shall be divided into the population of each county.  
68 The salary of the magistrate assistant shall be established by the  
69 magistrate within the limits set forth in this section.

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

1           (a) Whenever required by workload and upon the recom-  
2           mendation of the judge of the circuit court, or the chief judge of  
3           the circuit court if there is more than one judge of the circuit  
4           court, the supreme court of appeals may, by rule, provide for  
5           the appointment of magistrate court deputy clerks, not to exceed  
6           seventy-two in number. The magistrate court deputy clerks  
7           shall be appointed by the judge of the circuit court, or the chief  
8           judge if there is more than one judge of the circuit court, to  
9           serve at his or her will and pleasure under the immediate  
10          supervision of the magistrate court clerk.

11          (b) Magistrate court deputy clerks shall have the duties,  
12          clerical or otherwise, as may be assigned by the magistrate  
13          court clerk and as may be prescribed by the rules of the  
14          supreme court of appeals or the judge of the circuit court or the  
15          chief judge if there is more than one judge of the circuit court.  
16          Magistrate court deputy clerks may also exercise the power and  
17          perform the duties of the magistrate court clerk as may be  
18          delegated or assigned by the magistrate court clerk.

19          (c) A magistrate court deputy clerk may not be an immedi-  
20          ate family member of any magistrate, magistrate court clerk,  
21          magistrate assistant or judge of the circuit court within the same  
22          county, may not have been convicted of a felony or any  
23          misdemeanor involving moral turpitude and must reside in this  
24          state. For purposes of this subsection, "immediate family  
25          member" means a mother, father, sister, brother, child or  
26          spouse.

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

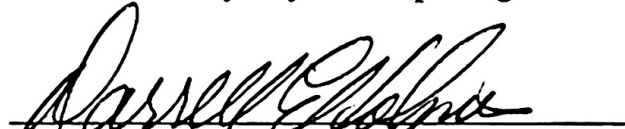
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
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Chairman Senate Committee

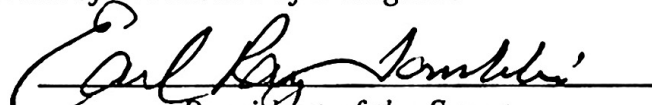
  
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Chairman House Committee

Originating in the House.

In effect ninety days from passage.

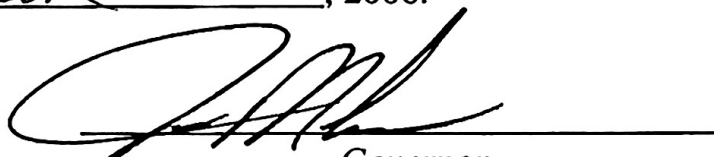
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 31<sup>st</sup>  
day of March, 2006.

  
\_\_\_\_\_  
Governor



PRESENTED TO THE  
GOVERNOR

MAR 29 2006

Time 10:30 am