1   **Senate Bill No. 438**

2   (By Senators Palumbo, Beach, Browning, Foster, Jenkins, Klempa,

3   McCabe, Minard, Snyder, Tucker, Unger, Williams, Wills, Barnes,

4   K. Facemyer and Nohe)

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7   [Originating in the Committee on the Judiciary;

8   reported February 4, 2011.]

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12   A BILL to amend and reenact §50-1-1 of the Code of West Virginia,

13   1931, as amended, relating to the election of magistrates by

14   division; providing that all magistrates will be elected by

15   division, at large from the entire county he or she serves;

16   and requiring the Supreme Court of Appeals to assign

17   magistrates to divisions.

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

19   That §50-1-1 of the Code of West Virginia, 1931, as amended,

20   be amended and reenacted to read as follows:

21   **ARTICLE 1. COURTS AND OFFICERS.**

22   **§50-1-1. Magistrate court created; election by division.**

23   (a) There is hereby created in each county of ~~this~~ the state

24   a magistrate court ~~with such numbers~~ consisting of the number of

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1   magistrates for each court ~~as are hereafter provided~~ that is

2   authorized by the provisions of this article. ~~There shall be~~

3   ~~elected by the voters of each county, at the general election to be~~

4   ~~held in the year one thousand nine hundred seventy-six, and in~~

5   ~~every fourth year thereafter, such number of magistrates as is~~

6   ~~provided in section two of this article. The filing fee for the~~

7   ~~office of magistrate shall be one percent of the annual salary.~~

8   Each magistrate is elected at large by the voters of the county in

9   which he or she will serve. The term of ~~magistrates shall be~~

10   office for a magistrate is for four years and shall begin on

11   January 1 of the year following the year of election. The filing

12   fee for the office of magistrate is one percent of the annual

13   salary.

14   (b) Beginning with the primary and general elections to be

15   conducted in 2012, in every county there shall be, for election

16   purposes, numbered divisions corresponding to the number of

17   magistrates in each county. There may not be less than two nor

18   more than ten magisterial divisions in each county. The Supreme

19   Court of Appeals shall make the initial assignment of divisions for

20   each county by administrative order. The court shall enter

21   additional orders as necessary in the event the Legislature

22   increases or decreases the number of magistrates serving in any

23   county. In each numbered division of the county, the candidates

24   for nomination or election shall be voted upon and the votes cast

1   for the candidates in each division shall be tallied separately

2   from the votes cast for candidates in other numbered divisions

3   within the county. The candidate receiving the highest number of

4   the votes cast within a numbered division shall be either nominated

5   or elected, whatever the case may be.

6   (c) In counties where voting machines or electronic voting

7   systems are used, the procedures of section eleven, article four,

8   chapter three of this code and section twelve, article four-a of

9   said chapter ~~shall~~ apply respectively to the election of

10   magistrates in the same manner as they apply to the election of

11   members of the House of Delegates.

12   ~~Notwithstanding the provisions of section seven, article five,~~

13   ~~chapter three of this code, for purposes of the primary election to~~

14   ~~be held in the year one thousand nine hundred seventy- six, the~~

15   ~~last day for filing certificates of candidacy for the office of~~

16   ~~magistrate shall be extended to the twenty-seventh day of February~~

17   ~~of that year.~~