

1 **H. B. 3147**

2
3 (By Delegates Miley, Hunt, Michael, Manchin,
4 Kominar, Poore and Moore)

5 [Introduced February 15, 2011; referred to the
6 Committee on the Judiciary then Finance.]

7 **FISCAL**
8 **NOTE**

9
10 A BILL to amend and reenact §50-1-3 of the Code of West Virginia,
11 1931, as amended; to amend and reenact §51-1-10a of said code;
12 to amend and reenact §51-2-13 of said code; and to amend and
13 reenact §51-2A-6 of said code, all relating generally to the
14 salaries of supreme court justices, circuit court judges,
15 family court judges and magistrates.

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

17 That §50-1-3 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted; that §51-1-10a of said code be amended
19 and reenacted; that §51-2-13 of said code be amended and reenacted
20 and that §51-2A-6 of said code be amended and reenacted, all to
21 read as follows:

22 **CHAPTER 50. MAGISTRATE COURTS.**

23 **§50-1-3. Salaries of magistrates.**

24 ~~(a) The Legislature finds and declares that:~~

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

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

9 ~~(3) The utilization of a two-tiered salary schedule for~~
10 ~~magistrates is an equitable and rational manner by which~~
11 ~~magistrates should be compensated for work performed;~~

12 ~~(4) Organizing the two tiers of the salary schedule into one~~
13 ~~tier for magistrates serving less than eight thousand four hundred~~
14 ~~in population and the second tier for magistrates serving eight~~
15 ~~thousand four hundred or more in population is rational and~~
16 ~~equitable given current statistical information relating to~~
17 ~~population and caseload; and~~

18 ~~(5) That all magistrates who fall under the same tier should~~
19 ~~be compensated equally.~~

20 ~~(b) The salary of each magistrate shall be paid by the state.~~
21 ~~Magistrates who serve fewer than eight thousand four hundred in~~
22 ~~population shall be paid annual salaries of thirty thousand six~~
23 ~~hundred twenty-five dollars and magistrates who serve eight~~
24 ~~thousand four hundred or more in population shall be paid annual~~

1 ~~salaries of thirty-seven thousand dollars: *Provided*, That on and~~
2 ~~after the first day of July, two thousand three, magistrates who~~
3 ~~serve fewer than eight thousand four hundred in population shall be~~
4 ~~paid annual salaries of thirty-three thousand six hundred~~
5 ~~twenty-five dollars and magistrates who serve eight thousand four~~
6 ~~hundred or more in population shall be paid annual salaries of~~
7 ~~forty thousand dollars: *Provided, however*, That on and after the~~
8 ~~first day of July, two thousand five, magistrates who serve fewer~~
9 ~~than eight thousand four hundred in population shall be paid annual~~
10 ~~salaries of forty-three thousand six hundred twenty-five dollars~~
11 ~~and magistrates who serve eight thousand four hundred or more in~~
12 ~~population shall be paid annual salaries of fifty thousand dollars.~~

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

19 The Legislature finds and declares that all magistrates should
20 be compensated equally. Beginning July 1,2011, the salary of a
21 magistrate shall be fifty-three percent of a family court judge.

22 **CHAPTER 51. COURTS AND THEIR OFFICERS.**

23 **ARTICLE 1. SUPREME COURT OF APPEALS.**

24 **§51-1-10a. Salary of justices.**

1 entitled to receive as compensation for his or her services an
2 annual salary of \$82,500: Provided, however, That beginning July
3 1, 2011, the annual salary of a family court judge shall be
4 eighty-five percent of the annual salary of a circuit judge.

5 (b) The secretary-clerk of the family court judge is appointed
6 by the family court judge and serves at his or her will and
7 pleasure. The secretary-clerk of the family court judge is entitled
8 to receive an annual salary of \$27,036: *Provided, That on and*
9 *after July 1, 2006, the annual salary of the secretary-clerk shall*
10 *be established by the administrative director of the Supreme Court*
11 *of Appeals, but may not exceed \$35,000. In addition, any person*
12 *employed as a secretary-clerk to a family court judge on the*
13 *effective date of the enactment of this section during the sixth*
14 *extraordinary session of the Legislature in the year 2001 who is*
15 *receiving an additional \$500 per year up to ten years of a certain*
16 *period of prior employment under the provisions of the prior*
17 *enactment of section eight of this article during the second*
18 *extraordinary session of the Legislature in the year 1999 shall*
19 *continue to receive such additional amount. Further, the*
20 *secretary-clerk will receive such percentage or proportional salary*
21 *increases as may be provided by general law for other public*
22 *employees and is entitled to receive the annual incremental salary*
23 *increase as provided in article five, chapter five of this code.*

24 (c) The family court judge may employ not more than one family

1 case coordinator who serves at his or her will and pleasure. The
2 annual salary of the family case coordinator of the family court
3 judge shall be established by the Administrative Director of the
4 Supreme Court of Appeals but may not exceed \$36,000: *Provided,*
5 That on and after July 1, 2006, the annual salary of the family
6 case coordinator of the family court judge may not exceed \$46,060.
7 The family case coordinator will receive such percentage or
8 proportional salary increases as may be provided by general law for
9 other public employees and is entitled to receive the annual
10 incremental salary increase as provided in article five, chapter
11 five of this code.

12 (d) The sheriff or his or her designated deputy shall serve as
13 a bailiff for a family court judge. The sheriff of each county
14 shall serve or designate persons to serve so as to assure that a
15 bailiff is available when a family court judge determines the same
16 is necessary for the orderly and efficient conduct of the business
17 of the family court.

18 (e) Disbursement of salaries for family court judges and
19 members of their staffs are made by or pursuant to the order of the
20 Director of the Administrative Office of the Supreme Court of
21 Appeals.

22 (f) Family court judges and members of their staffs are
23 allowed their actual and necessary expenses incurred in the
24 performance of their duties. The expenses and compensation will be

1 determined and paid by the Director of the Administrative Office of
2 the Supreme Court of Appeals under such guidelines as he or she may
3 prescribe, as approved by the Supreme Court of Appeals.

4 (g) Notwithstanding any other provision of law, family court
5 judges are not eligible to participate in the retirement system for
6 judges under the provisions of article nine of this chapter.

NOTE: The purpose of this bill is to increase the annual salaries of supreme court justices, circuit judges, family court judges and magistrates. This bill also provides that magistrates be compensated equally by eliminating the two-tier pay system currently utilized for paying magistrates.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.