

Senate Bill No. 438

(By Senators Palumbo, Beach, Browning, Foster, Jenkins,
Klempa, McCabe, Minard, Snyder, Tucker, Unger, Williams,
Wills, Barnes, K. Facemyer and Nohe)

[Originating in the Committee on the Judiciary;
reported February 4, 2011.]

A BILL to amend and reenact §50-1-1 of the Code of West Virginia, 1931, as amended, relating to the election of magistrates by division; providing that all magistrates will be elected by division, at large from the entire county he or she serves; and requiring the Supreme Court of Appeals to assign magistrates to divisions.

Be it enacted by the Legislature of West Virginia:

That §50-1-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. COURTS AND OFFICERS.

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

- 1 (a) There is hereby created in each county of ~~this~~ the state
- 2 a magistrate court ~~with such numbers~~ consisting of the

3 number of magistrates for each court ~~as are hereafter~~
4 ~~provided~~ that is authorized by the provisions of this article.
5 ~~There shall be elected by the voters of each county, at the~~
6 ~~general election to be held in the year one thousand nine~~
7 ~~hundred seventy-six, and in every fourth year thereafter,~~
8 ~~such number of magistrates as is provided in section two of~~
9 ~~this article. The filing fee for the office of magistrate shall be~~
10 ~~one percent of the annual salary. Each magistrate is elected~~
11 ~~at large by the voters of the county in which he or she will~~
12 ~~serve. The term of magistrates shall be~~ office for a magistrate
13 is for four years and shall begin on January 1 of the year
14 following the year of election. The filing fee for the office of
15 magistrate is one percent of the annual salary.

16 (b) Beginning with the primary and general elections to be
17 conducted in 2012, in every county there shall be, for
18 election purposes, numbered divisions corresponding to the
19 number of magistrates in each county. There may not be less
20 than two nor more than ten magisterial divisions in each
21 county. The Supreme Court of Appeals shall make the initial
22 assignment of divisions for each county by administrative
23 order. The court shall enter additional orders as necessary in
24 the event the Legislature increases or decreases the number

25 of magistrates serving in any county. In each numbered
26 division of the county, the candidates for nomination or
27 election shall be voted upon and the votes cast for the
28 candidates in each division shall be tallied separately from
29 the votes cast for candidates in other numbered divisions
30 within the county. The candidate receiving the highest
31 number of the votes cast within a numbered division shall be
32 either nominated or elected, whatever the case may be.

33 (c) In counties where voting machines or electronic voting
34 systems are used, the procedures of section eleven, article
35 four, chapter three of this code and section twelve, article
36 four-a of said chapter shall apply respectively to the election
37 of magistrates in the same manner as they apply to the
38 election of members of the House of Delegates.

39 ~~Notwithstanding the provisions of section seven, article~~
40 ~~five, chapter three of this code, for purposes of the primary~~
41 ~~election to be held in the year one thousand nine hundred~~
42 ~~seventy-six, the last day for filing certificates of candidacy~~
43 ~~for the office of magistrate shall be extended to the twenty-~~
44 ~~seventh day of February of that year.~~