1   **Senate Bill No. 453**

2   (By Senator Beach)

3   _____

4   [Introduced March 5, 2013; referred to the Committee on the

5   Judiciary; and then to the Committee on Finance.]

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FISCAL NOTE

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10 A BILL to amend and reenact §50-1-2 of the Code of West Virginia,

11   1931, as amended, relating to requiring the Supreme Court of

12   Appeals to reimplement the number of magistrates in each

13   county by July 1, 2013.

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

15   That §50-1-2 of the Code of West Virginia, 1931, as amended,

16 be amended and reenacted to read as follows:

17 **ARTICLE 1. COURTS AND OFFICERS.**

18 **§50-1-2. Number of magistrates.**

19   (a) The number of magistrates to be elected in each county of

20 this state shall be determined in accordance with the provisions of

21 this section.

22   (b) On or before July 1, 2013, and on or before January 1 in

23 every fourth year thereafter, the Supreme Court of Appeals shall

1 certify to the board of ballot commissioners of each county the

2 number of magistrates to be elected in that county for the term of

3 office commencing on January 1 of the succeeding year. The number

4 of magistrates so certified shall be determined in accordance with

5 the following:

6   (1) The court shall not provide:

7   (A) For the total number of magistrates in the state to exceed

8 one hundred fifty-six in number;

9   (B) For the number of magistrates in any one county to exceed

10 ten in number; or

11   (C) For the number of magistrates in any one county to be less

12 than two in number.

13   (2) The court shall determine the number of magistrates that

14 would be apportioned for each county by the application of an equal

15 proportions formula, as follows:

16   (A) Two magistrates shall be allocated to each county;

17   (B) The population of the county shall be divided by a

18 mathematical factor, as established by the equal proportion method,

19 to establish each county's priority claim to additional magistrates

20 above the two magistrates provided for by paragraph (A) of this

21 subdivision; and

22   (C) Additional numbers of magistrates shall be allocated to

23 the several counties in order of priority claims, beginning with

24 the largest claim, until magistrates have been assigned within the

1 limits of this section.

2   For purposes of this article, a determination made in
3 accordance with the provisions of this subdivision is the "equal
4 proportion number."

5   (3) The court shall determine the number of magistrates
6 elected in each county at the last general election in which
7 magistrates were regularly elected next prior to the preceding
8 census taken under the authority of the United States government.
9 For purposes of this article, that number shall be referred to as
10 the "election number."

11   (4) The court shall determine the number of case filings per
12 magistrate in each magistrate court for the most recent fiscal year
13 preceding the date of certification, and shall rank the magistrate
14 courts from one through fifty-five, in the order of their case
15 filings per magistrate, with the court having the most filings per
16 magistrate being ranked number one, and the court with the least
17 filings per magistrate being ranked number fifty-five.

18   (5) If the court determines that the equal proportion number
19 for a county is the same as the election number for such county,
20 the court shall certify that number as the number of magistrates to
21 be elected in that county at the next election.

22   (6) If the court determines that the equal proportion number
23 for a county is different from the election number for such county,
24 the court shall apply the ranking established by subdivision (4) of

1 this subsection and determine the number of magistrates for such

2 county, as follows:

3   (A) If the equal proportion number exceeds the election

4 number, the number of magistrates to be elected in that county at

5 the next election shall be the election number: *Provided,* That if

6 the county is ranked as one through five, inclusive, in accordance

7 with subdivision (4) of this subsection, the court shall certify

8 the equal proportion number as the number of magistrates to be

9 elected in that county at the next election.

10   (B) If the equal proportion number is less than the election

11 number, the number of magistrates to be elected in that county at

12 the next election shall be the equal proportion number*: Provided,*

13 That if the county is ranked as one through five, inclusive, in

14 accordance with subdivision (4) of this subsection, the court shall

15 certify the election number as the number of magistrates to be

16 elected in that county at the next election.

17   (c) If the number of magistrates in a county would have been

18 increased but for the application of the proviso contained in

19 paragraph (A), subdivision (6), subsection (b) of this section, and

20 if the county is ranked as six through ten, inclusive, in

21 accordance with the provisions of subdivision (4), subsection (b)

22 of this section, then the Supreme Court of Appeals shall provide

23 for the appointment of an additional magistrate court deputy clerk

24 for that county, notwithstanding the limitation on the total number

1 of deputy clerks otherwise provided for under the provisions of

2 section nine-a of this article.

3   (d) Any magistrate in office at the time of the effective date

4 of this section shall continue as a magistrate, unless sooner

5 removed or retired as provided by law, until January 1, 2014.

    NOTE: The purpose of this bill is to require the Supreme Court
of Appeals to reimplement the number of magistrates in each county
according to the formula in place prior to 2000.

    This section has been completely rewritten; therefore strike-
throughs and underscoring have been omitted.