

H. B. 2862

(By Delegates P. Smith, Miller, McGeehan, Householder, Arvon, Pasdon,
Kurcaba, Frich, Folk, Moye and Duke)

[Introduced February 20, 2015; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §50-1-9a of the Code of West Virginia, 1931, as amended, relating
to adding additional magistrate court deputy clerks.

Be it enacted by the Legislature of West Virginia:

That §50-1-9a of the Code of West Virginia, 1931, as amended, be amended and reenacted
to read as follows:

ARTICLE 1. COURTS AND OFFICERS.

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

(a) Whenever required by workload and upon the recommendation of the judge of the circuit
court, or the chief judge of the circuit court if there is more than one judge of the circuit court, the
Supreme Court of Appeals may, by rule, provide for the appointment of magistrate court deputy
clerks, not to exceed seventy-two in number. Effective July 1, 2015, the court may, by rule, provide
for the appointment of an additional twenty-one deputy clerks. Of those twenty-one additional
deputy clerks, Berkeley County shall receive three positions, Cabell County shall receive two

1 positions, Hancock County shall receive one position, Harrison County shall receive one position,
2 Jefferson County shall receive one position, Kanawha County shall receive three positions, Lewis
3 County shall receive one position, Logan County shall receive one position, Mercer County shall
4 receive two positions, Mineral County shall receive one position, Monongalia County shall receive
5 one position and Raleigh County shall receive one position. The court, in its discretion, may allocate
6 the additional three clerks to any of the fifty-five counties at a time it may choose. The magistrate
7 court deputy clerks shall be appointed by the judge of the circuit court, or the chief judge if there is
8 more than one judge of the circuit court, to serve at his or her will and pleasure under the immediate
9 supervision of the magistrate court clerk.

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

15 (c) A magistrate court deputy clerk may not be an immediate family member of any
16 magistrate, magistrate court clerk, magistrate assistant or judge of the circuit court within the same
17 county, may not have been convicted of a felony or any misdemeanor involving moral turpitude and
18 must reside in this state. For purposes of this subsection, “immediate family member” means a
19 mother, father, sister, brother, child or spouse.

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

1 (e) Notwithstanding any provision of this code to the contrary, the amendments made to
2 section nine of this article during the 2013 First Extraordinary Session, and the effects of those
3 amendments on subsection (d) of this section, are effective upon passage and are retroactive to
4 January 1, 2013.

5 (f) Beginning January 1, 2017, the annual salary of all magistrate court deputy clerks is
6 \$39,348. After the effective date of this section, a general salary increase granted to state employees,
7 whose salaries are not set by statute, expressed as a percentage increase or an across-the-board
8 increase, may also be granted to magistrate court deputy clerks.

NOTE: The purpose of this bill is to increase the magistrate court deputy clerks to a maximum of ninety-three.

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