

REPORT OF THE LEGISLATIVE SUBCOMMITTEE

(Pitts, Lowe, GM Smith, Hosey & Finlay – Staff Contact: Katie Owen)

HOUSE BILL 3744

H. 3744 -- Reps. G.M. Smith and Pitts: A BILL TO AMEND SECTION 22-8-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FULL-TIME AND PART-TIME MAGISTRATES AND THEIR SALARIES, SO AS TO REVISE THE METHOD OF SETTING A BASE SALARY FOR MAGISTRATES AND PROVIDE ADDITIONAL SUPPLEMENTS TO FULL-TIME CHIEF AND ASSISTANT CHIEF MAGISTRATES; AND BY ADDING SECTION 22-3-315 SO AS TO ADD AN ASSESSMENT OF FIFTEEN DOLLARS TO ALL CIVIL FILINGS IN MAGISTRATES COURT AND PROVIDE FOR DISTRIBUTION OF THE PROCEEDS.

Summary of Bill:

This bill revises the method of setting a base salary for magistrates and provides for additional supplements to full-time chief and assistant chief magistrates. The legislation adds an assessment of fifteen dollars to all civil filings in magistrates court and makes provisions so that proceeds fund these salary supplements and support magistrates courts and training for magistrates.

Estimated Revenue Impact:

This bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds. This bill will increase local government expenses by \$1,706,000. This bill will increase local government revenue by \$3,115,000.

Subcommittee Recommendation:

Favorable



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 3744 Introduced on February 14, 2017
Author: G.M. Smith
Subject: Salaries for Magistrates
Requestor: House Ways and Means
RFA Analyst(s): Gardner and Wren
Impact Date: March 9, 2017

Estimate of Fiscal Impact

	FY 2017-18	FY 2018-19
State Expenditure		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	\$0	\$0
Other and Federal	\$55,000	\$0
Local Expenditure	\$1,706,000	\$0
Local Revenue	\$3,115,000	\$0

Fiscal Impact Summary

This bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds. This bill will increase local government expenses by \$1,706,000. This bill will increase local government revenue by \$3,115,000.

Explanation of Fiscal Impact

Introduced on February 14, 2017

Judicial Department. The department reports that the bill, which requires South Carolina Court Administration to monitor counties compliance with statutory provisions governing magistrates' compensation and report annually to the Governor any noncompliance of the required magistrate base salary, will have no expenditure impact on the General Fund. The department currently monitors compliance with existing compensation requirements, and any costs associated with the generation of an annual report on noncompliance can be managed within existing resources.

State Revenue

The bill adds a \$15 assessment to all civil filings in magistrate court. In FY 2015-16, there were 211,308 civil cases filed in South Carolina magistrate courts. Should future fiscal years have a similar number of cases filed, the department expects approximately \$3,170,000 in revenue to be generated. Pursuant to the bill, \$15,000 of this revenue will be allocated to Court Administration to use for the operation of the mandatory magistrate school and for other educational requirements for summary court judges. In addition, the State Treasurer is authorized to retain \$40,000 each fiscal year for actual costs of collecting and processing the assessment. The

remaining \$3,115,000 will be distributed to the counties as explained in the Local Revenue Section of this statement.

Local Expenditure

This bill makes changes to the salary structure for magistrates. Under the existing structure, a magistrate's base salary is dependent upon the magistrate's years in office and the population of the county the magistrates serves. The bill deletes the portion of the formula that bases the salary on county population and replaces it with a uniform, statewide amount. The uniform amount is 55 percent of a circuit court judge's salary for the state's previous fiscal year. Years in office continues to be a factor in determining a magistrate's salary. Further, the bill increases the yearly supplement of a full-time chief magistrate from \$3,000 to \$10,000 and \$1,500 to \$5,000 for a part-time chief magistrate. The bill also requires a yearly supplement of \$5,000 for a full-time associate chief magistrate and \$2,500 for a part-time associate chief magistrate.

Based upon data provided by Court Administration, changing the salary structure for magistrates will increase expenses of county governments by approximately \$1,332,000. Additionally, adjusting the yearly supplement for full-time and part-time chief magistrates and adding a yearly supplement for full-time and part-time associate chief magistrates will increase expenses of county governments by \$374,000. In total, this bill will increase expenses of county governments by \$1,706,000. Although Section 22-8-10 defines a full-time magistrate as working 40 hours per week, for this analysis, we included magistrates working 38 or more hours per week as full-time. There are approximately 303 magistrates.

Local Revenue

This bill imposes an assessment of \$15 on all civil filings in magistrates court. The fees must be collected by the magistrates court and forwarded to the county treasurer and remitted by the county treasurer to the State Treasurer for allocation to the various counties. The State Treasurer may retain the costs associated with the collection and processing of this assessment not to exceed \$40,000. The remainder of the assessment must be allocated to each qualifying county based on the difference between the actual salary of each magistrate within the county as of the end of the FY 2016-17 and 55 percent of a circuit court judge's salary as of the end of FY 2016-17. However, no county may receive more than the difference between the base salary required for that county and 55 percent of a circuit court judge's salary as of the end of FY 2016-17. If the revenue collected pursuant to this new assessment is insufficient to cover the increased costs, each qualifying county must receive a prorated share of the revenue collected. Additionally, \$15,000 must be allocated to Court Administration to cover the expenses associated with operating the mandatory magistrate school and any other educational requirements for summary court judges. Any remaining revenue generated from the new assessment must be allocated to each county equally to offset expenses associated with the operation of the magistrates court.

Based upon data provided by the South Carolina Court Administration, imposing a \$15 assessment on all civil filings in magistrate court will generate approximately \$3,170,000 in revenue. Assuming the State Treasurer's Office retains \$40,000 and Court Administration receives \$15,000, the remaining revenue of \$3,115,000 will be allocated to county governments to offset expenses for adjusting the salary structure for magistrates and for expenses associated with the operation of the magistrate court.



Frank A. Rainwater, Executive Director

South Carolina General Assembly
122nd Session, 2017-2018

H. 3744

STATUS INFORMATION

General Bill

Sponsors: Reps. G.M. Smith and Pitts

Document Path: I:\council\bill\7095ahb17.docx

Companion/Similar bill(s): 148

Introduced in the House on February 14, 2017

Currently residing in the House Committee on **Ways and Means**

Summary: Magistrates Court

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/14/2017	House	Introduced and read first time (<u>House Journal-page 45</u>)
2/14/2017	House	Referred to Committee on Ways and Means (<u>House Journal-page 45</u>)

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VERSIONS OF THIS BILL

2/14/2017

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A BILL

TO AMEND SECTION 22-8-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FULL-TIME AND PART-TIME MAGISTRATES AND THEIR SALARIES, SO AS TO REVISE THE METHOD OF SETTING A BASE SALARY FOR MAGISTRATES AND PROVIDE ADDITIONAL SUPPLEMENTS TO FULL-TIME CHIEF AND ASSISTANT CHIEF MAGISTRATES; AND BY ADDING SECTION 22-3-315 SO AS TO ADD AN ASSESSMENT OF FIFTEEN DOLLARS TO ALL CIVIL FILINGS IN MAGISTRATES COURT AND PROVIDE FOR DISTRIBUTION OF THE PROCEEDS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 22-8-40 of the 1976 Code is amended to read:

“Section 22-8-40. (A) A county is not required to have a full-time magistrate and may have only part-time magistrates.

(B) Each magistrate in this State must be paid as follows by the county which he serves:

(1) The following salary schedule shall be used to determine a magistrate’s annual compensation prior to the completion of his fourth year in office:

(a) upon being appointed a magistrate, a magistrate shall be paid seventy-five percent of the base salary ~~for his county’s population category~~ as provided in item (2);

(b) upon completing the requirements of Sections 22-1-10(C) and 22-1-16, a magistrate shall be paid eighty percent of the base salary ~~for his county’s population category~~ as provided in item (2);

(c) upon the magistrate’s completion of his second year in office, a magistrate shall be paid eighty-five percent of the ~~lowest~~

1 ~~salary rate for his county's population category base salary~~ as
2 provided in item (2);

3 (d) upon the magistrate's completion of his third year in
4 office, a magistrate shall be paid ninety percent of the ~~lowest salary~~
5 ~~rate for his county's population category base salary~~ as provided in
6 item (2);

7 (e) upon the magistrate's completion of his fourth year in
8 office, a magistrate shall be paid one hundred percent of the ~~lowest~~
9 ~~salary rate for his county's population category base salary~~ as
10 provided in item (2).

11 (2) There is established a base salary ~~for each population~~
12 ~~category as follows: of fifty-five percent of a circuit judge's salary~~
13 ~~for the state's previous fiscal year. The provisions of this section~~
14 ~~have no effect on the salary of any magistrate whose salary exceeds~~
15 ~~fifty-five percent of a circuit judge's salary.~~

16 (a) ~~for those counties with a population of one hundred~~
17 ~~fifty thousand and above, according to the latest official United~~
18 ~~States Decennial Census, the base salary is fifty five percent of a~~
19 ~~circuit judge's salary for the state's previous fiscal year;~~

20 (b) ~~for those counties with a population of at least fifty~~
21 ~~thousand but not more than one hundred forty nine thousand, nine~~
22 ~~hundred ninety nine, according to the latest official United States~~
23 ~~Decennial Census, the base salary is forty five percent of a circuit~~
24 ~~judge's salary for the state's previous fiscal year;~~

25 (c) ~~for those counties with a population of less than fifty~~
26 ~~thousand, according to the latest official United States Decennial~~
27 ~~Census, the base salary is thirty five percent of a circuit court~~
28 ~~judge's salary for the state's previous fiscal year.~~

29 (3) ~~The provisions of this subsection are effective July 1,~~
30 ~~2000.~~

31 (C) The number of magistrates shall be determined using the
32 following factors:

33 (1) There is established a ratio of one magistrate for every
34 twenty-eight thousand persons in each county of the State based on
35 the latest official United States Decennial Census.

36 (2) There is established a ratio of one magistrate for every one
37 hundred fifty square miles of area in each county of the State ~~as a~~
38 ~~factor to be used in determining the base salary as provided in this~~
39 ~~section.~~

40 (3) Notwithstanding the provisions of subsection (D), the
41 maximum number of magistrates in each county is the greater of that
42 number determined by taking one magistrate for every twenty-eight
43 thousand persons in each county or that number determined by

1 taking the average of the ratio of one magistrate for every
2 twenty-eight thousand persons in each county as provided by item
3 (1) ~~of this subsection~~ and the ratio of one magistrate for every one
4 hundred fifty square miles of area in each county as provided in item
5 (2) ~~of this subsection~~. However, no county is required to have fewer
6 than the equivalent of one full-time magistrate and one part-time
7 magistrate. If a fraction of a magistrate results, the county must
8 round off up the fraction, establishing an additional part-time
9 magistrate as prescribed in subsection (E). No additional magistrates
10 may be added until a county has less than the ratio.

11 (D) In addition to the maximum number of magistrates
12 prescribed in subsection (C), additional magistrates may be
13 appointed as determined using the following formula:

14 (1) for counties which collect accommodations tax revenues
15 of five hundred thousand to nine hundred ninety-nine thousand, nine
16 hundred ninety-nine dollars, one additional magistrate may be
17 appointed;

18 (2) for counties which collect accommodations tax revenues
19 of one million to two million, nine hundred ninety-nine thousand,
20 nine hundred ninety-nine dollars, two additional magistrates may be
21 appointed;

22 (3) for counties which collect accommodations tax revenues
23 of three million to four million, nine hundred ninety-nine thousand,
24 nine hundred ninety-nine dollars, three additional magistrates may
25 be appointed; and

26 (4) for counties which collect accommodations tax revenues
27 of five million dollars and above, four additional magistrates may
28 be appointed.

29 (E) Part-time magistrates are to be computed at a ratio of four
30 part-time magistrates equals one full-time magistrate.

31 (F) Part-time magistrates are entitled to a proportionate
32 percentage of the salary provided for full-time magistrates. This
33 percentage is computed by dividing by forty the number of hours a
34 week the part-time magistrate spends in the performance of his
35 duties. The number of hours a week that a part-time magistrate
36 spends in the exercise of the judicial function, and scheduled to be
37 spent on call, must be the average number of hours worked and is
38 fixed by the county governing body upon the recommendation of
39 the chief magistrate. However, a part-time magistrate must not work
40 more than forty hours a week, unless directed to do so on a limited
41 and intermittent basis by the chief magistrate.

42 (G) Chief and Associate Chief Magistrates Supplement:

1 (1) A full-time chief magistrate must be paid a yearly
2 supplement of ~~three~~ ten thousand dollars and reimbursed for travel
3 expenses as provided by law while in the actual performance of his
4 duties. A part-time chief magistrate must be paid a yearly
5 supplement of ~~fifteen hundred~~ five thousand dollars and reimbursed
6 for travel expenses as provided by law while in the actual
7 performance of his duties.

8 (2) A full-time associate chief magistrate must be paid a
9 yearly supplement of five thousand dollars and reimbursed for travel
10 expenses as provided by law while in the actual performance of his
11 duties. A part-time associate chief magistrate must be paid a yearly
12 supplement of twenty-five hundred dollars and reimbursed for travel
13 expenses as provided by law.

14 (H) Magistrates in a county are entitled to the same perquisites
15 as those employees of the county of similar position and salary.

16 (I) A ministerial magistrate is entitled to the same compensation
17 as a part-time magistrate.

18 (J) A magistrate who is receiving a salary greater than provided
19 for his position under the provisions of this chapter must not be
20 reduced in salary during his tenure in office, and must be paid the
21 same percentage annual increase in salary as other magistrates.
22 Tenure in office continues at the expiration of a term if the
23 incumbent magistrate is reappointed or on holdover status.

24 (K) No county may pay a magistrate a salary lower than the base
25 salary established ~~for that county~~ by the provisions of subsection (B)
26 ~~of this section.~~

27 (L) Nothing in this section may be interpreted as prohibiting a
28 county from paying a magistrate more than the base salary
29 established ~~for that county~~ or from paying a magistrate a merit raise
30 in addition to the salary established ~~for that county.~~

31 (M) The South Carolina Court Administration shall monitor
32 compliance with this section and report to the Governor annually by
33 January twentieth any noncompliance or deviation of less than the
34 base magistrate salary required by law. Nothing contained in this
35 section may be construed as prohibiting a county from paying
36 salaries in excess of the minimum salaries provided for in this
37 section.

38 (N) For purposes of the salary phase-in provided in subsection
39 (B)(1) ~~of this section~~, a magistrate with prior service as a magistrate
40 who after a break in service is again appointed magistrate, is allowed
41 credit for the prior service.”

42

1 SECTION 2. Article 3, Chapter 3, Title 22 of the 1976 Code is
2 amended by adding:

3
4 “Section 22-3-315. (A) An assessment equal to fifteen dollars is
5 imposed on all civil filings in magistrates court. The fees must be
6 collected by the magistrates court and forwarded monthly to the
7 county treasurer and remitted in turn by the county treasurer to the
8 State Treasurer for allocation to the various counties.

9 (B) The State Treasurer may retain in a fiscal year the actual
10 costs associated with the collection and processing of this
11 assessment not to exceed forty thousand dollars. The State
12 Treasurer shall allocate and transfer yearly the remaining revenue to
13 each county based on the following schedule:

14 (1) To each qualifying county, the difference between the
15 actual salary of each magistrate within the county as of the end of
16 the 2016-2017 Fiscal Year and fifty-five percent of a circuit court
17 judges salary as of the end of the 2016-2017 Fiscal Year, including
18 the increase in mandatory employer contributions to State Pension,
19 Social Security, and Medicare. However, no county shall receive
20 more than the difference between the base salary required for that
21 county and fifty-five percent of a circuit court judge’s salary as of
22 the end of the 2016-2017 Fiscal Year. If in any given fiscal year,
23 the revenue collected pursuant to this section is insufficient to cover
24 the increased costs, each qualifying county shall receive a prorated
25 share of the revenue collected.

26 (2) To South Carolina Court Administration, fifteen thousand
27 dollars for the cost associated with operating the Mandatory
28 Magistrate School required by the Chief Justice of the South
29 Carolina Supreme Court and any other educational requirements for
30 summary court judges.

31 (3) To each county equally, the remaining revenue after the
32 allocation of funds required by items (1) and (2) to offset costs
33 associated with the operation of the magistrates court.”

34
35 SECTION 3. This act takes effect upon approval by the Governor.

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