**South Carolina General Assembly**

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**H. 3106**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Rutherford, H.B. Brown and Clyburn

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

Summary: Magistrates' salaries

**HISTORY OF LEGISLATIVE ACTIONS**

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12/7/2010 House Referred to Committee on **Ways and Means**

1/11/2011 House Introduced and read first time ([House Journal‑page 47](file:///h:\hj%20archive\2011\01-11-11.docx))

1/11/2011 House Referred to Committee on **Ways and Means** ([House Journal‑page 47](file:///h:\hj%20archive\2011\01-11-11.docx))

**VERSIONS OF THIS BILL**

[12/7/2010](file:///p:\pprever\2011-12\3106_20101207.docx)

**A** **BILL**

TO AMEND SECTION 22‑8‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MAGISTRATES’ SALARIES, SO AS TO PROVIDE A MAGISTRATE WHO IS A LICENSED ATTORNEY IN GOOD STANDING WITH THE SOUTH CAROLINA BAR MUST BE PAID A BASE SALARY EQUAL TO FIFTY‑FIVE PERCENT OF A CIRCUIT COURT JUDGE’S SALARY FOR THE STATE’S IMMEDIATELY PREVIOUS FISCAL YEAR, REGARDLESS OF THE POPULATION CATEGORY OF THE COUNTY HE SERVES OR THE LENGTH OF HIS TENURE AS A MAGISTRATE.

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)(1) ~~Each~~ Except as provided in item (2) of this subsection, a magistrate in this State must be paid as follows by the county ~~which~~ where he serves:

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

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

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

(~~c~~iii) upon the magistrate’s completion of his second year in office, ~~a magistrate shall~~ he must be paid eighty‑five percent of the lowest salary rate for his county’s population category as provided in ~~item (2)~~ subitem (b);

(~~d~~iv) upon the magistrate’s completion of his third year in office, ~~a magistrate shall~~ he must be paid ninety percent of the lowest salary rate for his county’s population category as provided in ~~item (2)~~ subitem (b);

(~~e~~v) upon the magistrate’s completion of his fourth year in office, ~~a magistrate shall~~ he must be paid one hundred percent of the lowest salary rate for his county’s population category as provided in ~~item (2)~~ subitem (b).

~~(2)~~(b) There is established a base salary for each population category as follows:

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

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

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

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

(2) A magistrate who is licensed as an attorney in this State and is in good standing with the bar of this State must be paid an amount equal to fifty‑five percent of a circuit court judge’s salary for the previous year, regardless of the population of the county he serves or the length of his tenure as a magistrate.

(C) The number of magistrates ~~shall~~ must be determined using the following factors:

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

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

(3) Notwithstanding the provisions of subsection (D), the maximum number of magistrates in each county is the greater of that number determined by taking one magistrate for every twenty‑eight thousand persons in each county or that number determined by taking the average of the ratio of one magistrate for every twenty‑eight thousand persons in each county as provided by item (1) of this subsection and the ratio of one magistrate for every one hundred fifty square miles of area in each county as provided in item (2) of this subsection. However, ~~no~~ a county is not required to have fewer than the equivalent of one full‑time magistrate and one part‑time magistrate. If a fraction of a magistrate results, the county must round off the fraction, establishing an additional part‑time magistrate. ~~No~~ An additional ~~magistrates~~ magistrate ~~may~~ must not be added until a county has less than the ratio.

(D) In addition to the maximum number of magistrates prescribed in subsection (C), an additional ~~magistrates~~ magistrate ~~may~~ must be appointed as determined using the following formula:

(1) for ~~counties which collect~~ a county that collects accommodations tax ~~revenues~~ revenue of five hundred thousand to nine hundred ninety‑nine thousand, nine hundred ninety‑nine dollars, one additional magistrate ~~may~~ must be appointed;

(2) for ~~counties which collect~~ a county that collects accommodations tax ~~revenues~~ revenue of one million to two million, nine hundred ninety‑nine thousand, nine hundred ninety‑nine dollars, two additional magistrates may be appointed;

(3) for ~~counties which collect~~ a county that collects accommodations tax ~~revenues~~ revenue of three million to four million, nine hundred ninety‑nine thousand, nine hundred ninety‑nine dollars, three additional magistrates may be appointed; and

(4) for ~~counties which collect~~ a county that collects accommodations tax ~~revenues~~ revenue of five million dollars and above, four additional magistrates may be appointed.

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

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

(G) A full‑time chief magistrate must be paid a yearly supplement of three thousand dollars and reimbursed for travel expenses as provided by law while in the actual performance of his duties. A part‑time chief magistrate must be paid a yearly supplement of fifteen hundred dollars and reimbursed for travel expenses as provided by law while in the actual performance of his duties.

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

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

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

(K) ~~No~~ A county may not pay a magistrate a salary lower than the base salary established for that county by the provisions of subsection (B) of this section.

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

(M) ~~The~~ South Carolina Court Administration shall monitor compliance with this section. Nothing contained in this section may be construed ~~as prohibiting~~ to prohibit a county from paying ~~salaries~~ a salary in excess of the minimum ~~salaries~~ salary provided for in this section.

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

SECTION 2. Upon approval by the Governor, this act takes effect January 1, 2010.

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