**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3843**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Bamberg, Cobb‑Hunter, Hosey, Huggins and Martin

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Introduced in the House on February 5, 2019

Currently residing in the House Committee on **Judiciary**

Summary: Magistrates' Education and Improvement Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/5/2019 House Introduced and read first time ([House Journal‑page 25](file:///h:\hj\20190205.docx))

2/5/2019 House Referred to Committee on **Judiciary** ([House Journal‑page 25](file:///h:\hj\20190205.docx))

2/6/2019 House Member(s) request name added as sponsor: Huggins

2/26/2019 House Member(s) request name added as sponsor: Martin

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**VERSIONS OF THIS BILL**

[2/5/2019](file:///p:\pprever\2019-20\3843_20190205.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE “MAGISTRATES’ EDUCATION AND IMPROVEMENT ACT”, TO AMEND SECTION 22‑8‑40, RELATING TO THE SALARIES OF MAGISTRATES, SO AS TO REVISE BASE SALARIES AND SUPPLEMENT PROVISIONS FOR CHIEF AND ASSOCIATE CHIEF MAGISTRATES, AND TO REQUIRE THE SAME COST OF LIVING ADJUSTMENTS, MERIT INCREASES, AND OTHER SALARY INCREASES AS OTHER EMPLOYEES OF A COUNTY; AND BY ADDING SECTION 22‑3‑350 SO AS TO PROVIDE ASSESSMENTS ON FILING FEES IN MAGISTRATES COURT AND TO SET A SCHEDULE FOR REMITTANCE OF THOSE FEES.

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

SECTION 1. This act may be cited as the “Magistrates’ Education and Improvement Act”.

SECTION 2. 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 salary rate for his county’s population category as provided in item (2);~~

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

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

~~(2)~~(1) There is established a base salary for each population category as follows:

(a) for those counties 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~~ eighty thousand dollars;

(b) for those counties 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~~ seventy thousand dollars;

(c) for those counties 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~~ sixty thousand dollars.

~~(3)~~(2) The provisions of this subsection are effective July 1, ~~2000~~ 2019.

(C) The number of magistrates shall 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 county is required to have fewer than the equivalent of one full‑time magistrate and one part‑time magistrate. If a fraction of a magistrate in this ratio results, the county must round ~~off~~ up the fraction, establishing an additional part‑time magistrate as prescribed in subsection (E). No additional magistrates may be added until a county has less than the ratio.

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

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

(2) for counties which collect accommodations tax revenues 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 accommodations tax revenues 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 accommodations tax revenues 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) There is established a Chief and Associate Chief Magistrate Supplement as follows:

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

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

(H) Magistrates in a county are entitled to the same perquisites as ~~those~~ other employees of the county of similar position and salary. Magistrates in a county are entitled to the same cost of living adjustments, merit increases, and other salary increases as other employees of the county.

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

(J) A magistrate who is receiving 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 or on holdover status.

(K) No county may 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 a county from paying a magistrate more than the base 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 and a report to the Governor annually by January twentieth of each year any noncompliance or deviation of less than the base magistrate salary required in this section. Nothing contained in this section may be construed as prohibiting a county from paying salaries in excess of the minimum salaries 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.~~ Magistrates are to be considered employees of the State for the purposes of cost of living adjustments and other salary increases. Each county is required to provide the magistrates in the county the greater of the adjustments required by this section or the adjustment pursuant to subsection (H). Nothing in this section may be interpreted as prohibiting a county from providing the magistrates in that county with a greater increase in salary than prescribed in this section.”

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

“Section 22‑3‑350. (A) An assessment equal to fifteen dollars is imposed on all civil filings in magistrates court. The fees must be collected by the magistrates court and forwarded monthly to the county treasurer and remitted in turn by the county treasurer to the State Treasurer for allocation.

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

(1) to those counties with a population of less than fifty thousand, according to the latest official United States Decennial Census, twenty thousand dollars for each full‑time magistrate employed in that county and five thousand dollars for each part‑time magistrate employed in that county;

(2) to those counties 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, fifteen thousand dollars for each full‑time magistrate employed in that county and three thousand seven hundred fifty dollars for each part‑time magistrate employed in that county; and

(3) to those counties with a population of one hundred fifty thousand and above, according to the latest official United States Decennial Census, ten thousand dollars for each full‑time magistrate employed in that county and two thousand five hundred dollars for each part‑time magistrate employed in that county;

(4) to South Carolina Court Administration, the remaining revenue after the allocation of funds required by item (1) not to exceed twenty thousand dollars for costs associated with the educational requirements of Summary Court judges;

(5) to each county in an amount proportional to the amount remitted by each county, the remaining revenue after the allocation of funds required by items (1) through (4) to offset costs associated with the operation of the magistrates court.

(C) For the purposes of this section, a magistrate scheduled to work thirty‑five hours or more per week is considered full time. If, in a given year, the funds collected are insufficient to cover the allocations required by this item, the funds are to be allocated to each county proportionally.”

SECTION 4. This act takes effect upon approval by the Governor.

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