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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



# ENROLLED

SENATE BILL NO. 360

(By Senators SCHOONOVER & LOUE)



PASSED APRIL 11, 1997

In Effect NINETY DAYS FROM Passage

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LEGISLATIVE DEPARTMENT  
MORGANTOWN, WEST VIRGINIA

## ENROLLED

### Senate Bill No. 360

(BY SENATORS SCHOONOVER AND LOVE)

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[Passed April 11, 1997; in effect ninety days from passage.]

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AN ACT to amend and reenact section two, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to magistrate courts; and providing an additional magistrate for Nicholas County.

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

That section two, article one, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

#### **ARTICLE 1. COURTS AND OFFICERS.**

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

- 1 (a) The number of magistrates to be elected in each
- 2 county of this state shall be determined in accordance
- 3 with the provisions of this section.

4 (b) On or before the thirty-first day of January, one  
5 thousand nine hundred ninety-six, and on or before the  
6 first day of January in every fourth year thereafter, the  
7 supreme court of appeals shall certify to the board of  
8 ballot commissioners of each county the number of  
9 magistrates to be elected in that county for the term of  
10 office commencing on the first day of January of the  
11 succeeding year. The number of magistrates so certified  
12 shall be determined in accordance with the following:

13 (1) The court may not provide:

14 (A) For the total number of magistrates in the state to  
15 exceed one hundred fifty-six in number: *Provided*, That,  
16 effective the first day of July, one thousand nine hundred  
17 ninety-seven, the total number of magistrates in the state  
18 may not exceed one hundred fifty-seven in number. An  
19 appointment shall be made on the effective date of this  
20 subsection to fill the additional magistrate position  
21 created herein;

22 (B) For the number of magistrates in any one county to  
23 exceed ten in number; or

24 (C) For the number of magistrates in any one county to  
25 be less than two in number.

26 (2) The court shall determine the number of magistrates  
27 that would be apportioned for each county by the applica-  
28 tion of an equal proportions formula, as follows:

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

30 (B) The population of the county shall be divided by a  
31 mathematical factor, as established by the equal propor-  
32 tion method, to establish each county's priority claim to  
33 additional magistrates above the two magistrates pro-  
34 vided for by paragraph (A) of this subdivision; and

35 (C) Additional numbers of magistrates shall be allocated  
36 to the several counties in order of priority claims, begin-  
37 ning with the largest claim, until magistrates have been  
38 assigned within the limits of this section.

39 For purposes of this article, a determination made in  
40 accordance with the provisions of this subdivision is the

41 “equal proportion number”.

42 (3) The court shall determine the number of magistrates  
43 elected in each county at the last general election in which  
44 magistrates were regularly elected next prior to the  
45 preceding census taken under the authority of the United  
46 States government. For purposes of this article, that  
47 number shall be referred to as the “election number”.

48 (4) The court shall determine the number of case filings  
49 per magistrate in each magistrate court for the most  
50 recent fiscal year preceding the date of certification, and  
51 shall rank the magistrate courts from one through  
52 fifty-five, in the order of their case filings per magistrate,  
53 with the court having the most filings per magistrate  
54 being ranked number one, and the court with the least  
55 filings per magistrate being ranked number fifty-five.

56 (5) If the court determines that the equal proportion  
57 number for a county is the same as the election number for  
58 that county, the court shall certify that number as the  
59 number of magistrates to be elected in that county at the  
60 next election.

61 (6) If the court determines that the equal proportion  
62 number for a county is different from the election number  
63 for that county, the court shall apply the ranking estab-  
64 lished by subdivision (4) of this subsection and determine  
65 the number of magistrates for the county, as follows:

66 (A) If the equal proportion number exceeds the election  
67 number, the number of magistrates to be elected in that  
68 county at the next election shall be the election number:  
69 *Provided*, That, if the county is ranked as one through ten,  
70 inclusive, in accordance with subdivision (4) of this  
71 subsection, the court shall certify the equal proportion  
72 number as the number of magistrates to be elected in that  
73 county at the next election;

74 (B) If the equal proportion number is less than the  
75 election number, the number of magistrates to be elected  
76 in that county at the next election shall be the equal  
77 proportion number: *Provided*, That if the county is  
78 ranked as one through ten, inclusive, in accordance with

79 subdivision (4) of this subsection, the court shall certify  
80 the election number as the number of magistrates to be  
81 elected in that county at the next election; and

82 (c) Any magistrate in office at the time of the effective  
83 date of this section shall continue as a magistrate, unless  
84 sooner removed or retired as provided by law, until the  
85 first day of January, one thousand nine hundred  
86 ninety-three.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Randy Schenover*  
.....  
Chairman Senate Committee

*Nick Fontuscia*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Carroll Ralston*  
.....  
Clerk of the Senate

*Bryan W. Boy*  
.....  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* this the *7<sup>th</sup>*.....  
day of *May*....., 1997.

*[Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/21/97

Time 11:18 AM