

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2862

FISCAL
NOTE

2015 Carryover

(BY DELEGATES P. SMITH, MILLER, HOUSEHOLDER,
ARVON, KURCABA, FRICH, FOLK AND DUKE)

[Introduced January 13, 2016; referred to the
Committee on the Judiciary then Finance.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. COURTS AND OFFICERS.

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

1 (a) Whenever required by workload and upon the recommendation of the judge of the
2 circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit
3 court, the Supreme Court of Appeals may, by rule, provide for the appointment of magistrate court
4 deputy clerks, not to exceed seventy-two in number. Effective July 1, 2015, the court may, by
5 rule, provide for the appointment of an additional twenty-one deputy clerks. Of those twenty-one
6 additional deputy clerks, Berkeley County shall receive three positions, Cabell County shall
7 receive two positions, Hancock County shall receive one position, Harrison County shall receive
8 one position, Jefferson County shall receive one position, Kanawha County shall receive three
9 positions, Lewis County shall receive one position, Logan County shall receive one position,
10 Mercer County shall receive two positions, Mineral County shall receive one position, Monongalia
11 County shall receive one position and Raleigh County shall receive one position. The court, in
12 its discretion, may allocate the additional three clerks to any of the fifty-five counties at a time it
13 may choose. The magistrate court deputy clerks shall be appointed by the judge of the circuit
14 court, or the chief judge if there is more than one judge of the circuit court, to serve at his or her
15 will and pleasure under the immediate supervision of the magistrate court clerk.

16 (b) Magistrate court deputy clerks shall have the duties, clerical or otherwise, as may be
17 assigned by the magistrate court clerk and as may be prescribed by the rules of the Supreme

18 Court of Appeals or the judge of the circuit court or the chief judge if there is more than one judge
19 of the circuit court. Magistrate court deputy clerks may also exercise the power and perform the
20 duties of the magistrate court clerk as may be delegated or assigned by the magistrate court clerk.

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

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

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

33 (f) Beginning January 1, 2017, the annual salary of all magistrate court deputy clerks is
34 \$39,348. After the effective date of this section, a general salary increase granted to state
35 employees, whose salaries are not set by statute, expressed as a percentage increase or an
36 across-the-board 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.