~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 29, 2017

**H. 3744**

Introduced by Reps. G.M. Smith and Pitts

S. Printed 3/29/17--H.

Read the first time February 14, 2017.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 3744) to amend Section 22‑8‑40, Code of Laws of South Carolina, 1976, relating to full‑time and part‑time magistrates and their salaries, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, section 1, by deleting Section 22-8-40(M), and inserting:

/ (M) The South Carolina Court Administration shall monitor compliance with this section and report to the Governor annually by January twentieth any noncompliance or deviation of less than the base magistrate salary required by law. Chief Magistrates must report actual magistrate salaries annually as of June thirtieth to Court Administration. 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./

Renumber sections to conform.

Amend title to conform.

W. BRIAN WHITE for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**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

Revenue and Fiscal Affairs Office

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

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

~~(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;~~

~~(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;~~

~~(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.~~

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

(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 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) Chief and Associate Chief Magistrates Supplement:

(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 employees of the 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 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 report to the Governor annually by January twentieth any noncompliance or deviation of less than the base magistrate salary required by law. 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.”

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

“Section 22‑3‑315. (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 to the various counties.

(B) The State Treasurer may retain in a fiscal year the actual costs 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 to each county based on the following schedule:

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

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

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

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

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