

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 150*

Short Title: Magistrates' Qual./Pay Plan.

(Public)

Sponsors: Representatives Holt; Flaherty, Thompson, Robinson, Morgan, Spears, Wainwright, Alphin and McCrary.

Referred to: Courts and Justice.

February 14, 1994

1 A BILL TO BE ENTITLED
2 AN ACT TO RAISE THE EDUCATIONAL QUALIFICATIONS FOR THE OFFICE
3 OF MAGISTRATE AND TO MODIFY THE MAGISTRATE'S PAY PLAN
4 ACCORDINGLY.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 7A-171.2 reads as rewritten:

7 "**§ 7A-171.2. Qualifications for nomination or renomination.**

8 (a) In order to be eligible for nomination or for renomination as a magistrate an
9 individual ~~must~~ shall be a resident of the county for which he is appointed.

10 (b) ~~To be eligible for nomination as a magistrate, an individual must have~~
11 ~~successfully completed a high school education, or have qualified for a certificate of~~
12 ~~high school equivalency, or have successfully completed the course of basic training~~
13 ~~prescribed by G.S. 7A-177.~~ To be eligible for nomination as a magistrate, an individual
14 shall have a four-year degree from an accredited senior institution of higher education
15 or shall have a two-year associate degree and four years of work experience in a related
16 field, including teaching, social services, law enforcement, arbitration or mediation, the
17 court system, or counseling. The Administrative Officer of the Courts may determine
18 whether the work experience is sufficiently related to the duties of the office of
19 magistrate for the purposes of this subsection. In determining whether an individual's
20 work experience is in a related field, the Administrative Officer of the Courts shall
21 consider the requisite knowledge, skills, and abilities for the office of magistrate.

22 The eligibility requirements prescribed by this subsection do not apply to individuals
23 holding the office of magistrate on June 30, 1994, and do not apply to individuals who

1 have been nominated by June 30, 1994, but who have not been appointed or taken the
 2 oath of office by that date.

3 (c) In order to be eligible for renomination as a magistrate an individual ~~must~~
 4 shall have successfully completed the course of basic training for magistrates prescribed
 5 by G.S. 7A-177.

6 (d) Notwithstanding any other provision of this subsection, an individual who
 7 holds the office of magistrate on July 1, 1977, shall not be required to have successfully
 8 completed the course of basic training for magistrates prescribed by G.S. 7A-177 in
 9 order to be eligible for renomination as a magistrate."

10 Sec. 2. G.S. 7A-171.1 reads as rewritten:

11 "**§ 7A-171.1. Duty hours, salary, and travel expenses within county.**

12 (a) The Administrative Officer of the Courts, after consultation with the chief
 13 district judge and pursuant to the following provisions, shall set an annual salary for
 14 each magistrate.

15 (1) ~~A full-time magistrate, so designated by the Administrative Officer of~~
 16 ~~the Courts, magistrate shall be paid the annual salary indicated in the~~
 17 ~~table below according to the number of years he has served as a~~
 18 ~~magistrate. The salary steps shall take effect on the anniversary of the~~
 19 ~~date the magistrate was originally appointed: set out in this~~
 20 subdivision. A full-time magistrate is a magistrate who is assigned to
 21 work an average of not less than 40 hours a week during the term of
 22 office. The Administrative Officer of the Courts shall designate
 23 whether a magistrate is full-time. Initial appointment shall be at the
 24 entry rate. A magistrate's salary shall increase to the next step every
 25 two years on the anniversary of the date the magistrate was originally
 26 appointed.

27
 28 **TABLE OF SALARIES OF FULL-TIME MAGISTRATES**

Number of Prior Years of Service	Annual Salary
Less than 1 \$17,058	
1 or more but less than 3	17,934
3 or more but less than 5	19,698
5 or more but less than 7	21,642
7 or more but less than 9	23,814
9 or more but less than 11	26,178
11 or more	28,758
	<u>Annual Salary</u>
	<u>1994-95</u>
<u>Entry Rate</u>	<u>\$21,642</u>
<u>Step 1</u>	<u>23,814</u>
<u>Step 2</u>	<u>26,178</u>
<u>Step 3</u>	<u>28,758</u>
<u>Step 4</u>	<u>31,582</u>
<u>Step 5</u>	<u>34,688</u>

1 Step 6 38,104.

2 A 'Full-time magistrate' is a magistrate who is assigned to work an average of
3 not less than 40 hours a week during his term of office.

4 Notwithstanding any other provision of this subdivision, a full-time
5 magistrate, who was serving as a magistrate on December 31, 1978,
6 and who was receiving an annual salary in excess of that which would
7 ordinarily be allowed under the provisions of this subdivision, shall
8 not have the salary, which he was receiving reduced during any
9 subsequent term as a full-time magistrate. That magistrate's salary
10 shall be fixed at the salary level from the table above which is nearest
11 and higher than the latest annual salary he was receiving on December
12 31, 1978, and, thereafter, shall advance in accordance with the
13 schedule in the table above.

14 (2) A part-time magistrate, so designated by the Administrative
15 Officer of the Courts, is included, in accordance with G.S. 7A-170,
16 under the provisions of G.S. 135-1(10) and 135-40.2(a) and
17 magistrate is a magistrate who is assigned to work an average of less
18 than 40 hours of work a week during the term, except that no
19 magistrate shall be assigned an average of less than 10 hours of work
20 a week during the term. A part-time magistrate is included, in
21 accordance with G.S. 7A-170, under the provisions of G.S. 135-
22 1(10) and G.S. 135-40.2(a). The Administrative Officer of the
23 Courts designates whether a magistrate is a part-time magistrate. A
24 part-time magistrate shall receive an annual salary based on the
25 following formula: The average number of hours a week that a part-
26 time magistrate is assigned work during his—the term shall be
27 multiplied by the annual salary payable to a full-time magistrate who
28 has the same number of years of service prior to the beginning of
29 that term as does the part-time magistrate and the product of that
30 multiplication shall be divided by the number 40. The quotient shall
31 be the annual salary payable to that part-time magistrate.

32 A 'part-time magistrate' is a magistrate who is assigned to work an
33 average of less than 40 hours of work a week during his term. No
34 magistrate may be assigned an average of less than 10 hours of work a
35 week during his term.

36 Notwithstanding any other provision of this subdivision, upon
37 reappointment as a magistrate and being assigned to work the same or
38 greater number of hours as he worked as a magistrate for a term of
39 office ending on December 31, 1978, a person who received an annual
40 salary in excess of that to which he would be entitled under the
41 formula contained in this subdivision shall receive an annual salary
42 equal to that received during the prior term. That magistrate's salary
43 shall increase in accordance with the salary formula contained in this
44 subdivision.

1 (3) ~~Notwithstanding any other provision of this section, a~~
2 ~~magistrate with a two-year Associate in Applied Science degree in~~
3 ~~criminal justice or paralegal training from a North Carolina~~
4 ~~community college or the equivalent degree from a private~~
5 ~~educational institution in North Carolina, shall receive the annual~~
6 ~~salary provided in the table above for a magistrate with three years~~
7 ~~of service in addition to those which the magistrate has served; a~~
8 ~~magistrate with a four-year degree from an accredited senior~~
9 ~~institution of higher education shall receive the annual salary~~
10 ~~provided in the table above for a magistrate with five years of~~
11 ~~service in addition to those which the magistrate has served; a~~
12 ~~magistrate who holds a law degree from an accredited law school~~
13 ~~shall receive the annual salary provided in the table above for a~~
14 ~~magistrate with seven years of service in addition to those which the~~
15 ~~magistrate has served; and a magistrate who is licensed to practice~~
16 ~~law in North Carolina shall receive the annual salary provided in the~~
17 ~~table above for a magistrate with nine years of service in addition to~~
18 ~~those which the magistrate has served.~~

19 ~~Magistrates with a two or four year degree or a law degree described~~
20 ~~herein who became magistrates before July 1, 1979 are entitled to an~~
21 ~~increase of three, five and seven years, respectively, in their seniority,~~
22 ~~for pay purposes only. Full-time magistrates licensed to practice law in~~
23 ~~North Carolina who became magistrates before July 1, 1979 are~~
24 ~~entitled to the pay of a magistrate with 9 or more years of service, and~~
25 ~~part-time magistrates holding a law degree or a license to practice law~~
26 ~~as described above who became magistrates before July 1, 1979 are~~
27 ~~entitled to a proportionate adjustment in their pay. Pay increases~~
28 ~~authorized by this paragraph of this subdivision are not retroactive.~~
29 Notwithstanding any other provision of this subsection, an individual
30 who, when initially appointed as a full-time magistrate, is licensed to
31 practice law in North Carolina, shall receive the annual salary provided
32 in the Table in subdivision (1) of this subsection for Step 4. This
33 magistrate's salary shall increase to the next step every two years on
34 the anniversary of the date the magistrate was originally appointed.
35 An individual who, when initially appointed as a part-time magistrate,
36 is licensed to practice law in North Carolina, shall be paid an annual
37 salary based on that for Step 4 and determined according to the
38 formula in subdivision (2) of this subsection. This magistrate's salary
39 shall increase to the next step every two years on the anniversary of the
40 date the magistrate was originally appointed. The salary of a full-time
41 magistrate who acquires a license to practice law in North Carolina
42 while holding the office of magistrate and who at the time of acquiring
43 the license is receiving a salary at a level lower than Step 4 shall be
44 adjusted to Step 4 and, thereafter, shall advance in accordance with the

Table's schedule. The salary of a part-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving an annual salary as determined by subdivision (2) of this subsection based on a salary level lower than Step 4 shall be adjusted to a salary based on Step 4 in the Table and, thereafter, shall advance in accordance with the provision in subdivision (2) of this subsection.

(4) ~~Notwithstanding any other provision of this section, a magistrate with 10 years' experience within the last 12 years as a sheriff or deputy sheriff, administrative officer for a district attorney, city or county police officer, campus police officer, wildlife officer, or highway patrolman in the State of North Carolina, or with 20 years' experience as a sheriff or deputy sheriff, city or county police officer, campus police officer, wildlife officer, or highway patrolman in the State of North Carolina, or with 10 years' experience within the last 12 years as clerk of superior court or an assistant or deputy clerk of court in the State of North Carolina shall receive the annual salary provided in the table in subdivision (1) for a magistrate with five years of service in addition to those the magistrate has served. A magistrate who qualifies for the increased salary under both subdivisions (3) and (4) of this subsection shall receive either the salary determined under subdivision (3) or that determined under subdivision (4), whichever is higher, but no more.~~

(a1) Notwithstanding subsection (a), the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less	than	1	year	of	service
<hr/>					
\$17,058					
<u>1 or more but less than 3 years of service</u>					
17,934					
<u>3 or more but less than 5 years of service</u>					

19,698.

Upon completion of four years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).

(2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on	June 30, 1994	Salary Level on	July 1, 1994
<hr/>		<hr/>	
<u>5 or more but less than 7 years</u>		<u>Entry Rate</u>	
<u>of service</u>			
<u>7 or more but less than 9 years</u>			

