

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1393

Short Title: Magistrates' Qual./Pay Plan.

(Public)

Sponsors: Senators Gulley, Blackmon, Marshall; and Ballantine.

Referred to: Judiciary II.

May 25, 1994

A BILL TO BE ENTITLED

AN ACT TO RAISE THE EDUCATIONAL QUALIFICATIONS FOR THE OFFICE OF MAGISTRATE AND TO MODIFY THE MAGISTRATE'S PAY PLAN ACCORDINGLY.

The General Assembly of North Carolina enacts:

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

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

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

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

The eligibility requirements prescribed by this subsection do not apply to individuals 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 **TABLE OF SALARIES OF FULL-TIME MAGISTRATES**

Number of Prior Years of Service	Annual Salary
<del>Less than 1</del>	<del>\$17,399</del>
<del>1 or more but less than 3</del>	<del>18,293</del>
<del>3 or more but less than 5</del>	<del>20,092</del>
<del>5 or more but less than 7</del>	<del>22,075</del>
<del>7 or more but less than 9</del>	<del>24,290</del>
<del>9 or more but less than 11</del>	<del>26,702</del>
<del>11 or more</del>	<del>29,333.</del>
	Annual Salary
	<u>1993-94</u>
<u>Entry Rate</u>	<u>\$22,075</u>
<u>Step 1</u>	<u>24,290</u>
<u>Step 2</u>	<u>26,702</u>
<u>Step 3</u>	<u>29,333</u>
<u>Step 4</u>	<u>32,214</u>
<u>Step 5</u>	<u>35,382</u>
<u>Step 6</u>	<u>38,866.</u>

1 A 'Full-time magistrate' is a magistrate who is assigned to work an  
2 average of not less than 40 hours a week during his term of office.  
3 Notwithstanding any other provision of this subdivision, a full-time  
4 magistrate, who was serving as a magistrate on December 31, 1978,  
5 and who was receiving an annual salary in excess of that which would  
6 ordinarily be allowed under the provisions of this subdivision, shall  
7 not have the salary, which he was receiving reduced during any  
8 subsequent term as a full-time magistrate. That magistrate's salary  
9 shall be fixed at the salary level from the table above which is nearest  
10 and higher than the latest annual salary he was receiving on December  
11 31, 1978, and, thereafter, shall advance in accordance with the  
12 schedule in the table above.

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

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

35 Notwithstanding any other provision of this subdivision, upon  
36 reappointment as a magistrate and being assigned to work the same or  
37 greater number of hours as he worked as a magistrate for a term of  
38 office ending on December 31, 1978, a person who received an annual  
39 salary in excess of that to which he would be entitled under the  
40 formula contained in this subdivision shall receive an annual salary  
41 equal to that received during the prior term. That magistrate's salary  
42 shall increase in accordance with the salary formula contained in this  
43 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  
20 described herein who became magistrates before July 1, 1979 are  
21 entitled to an increase of three, five and seven years, respectively, in  
22 their seniority, for pay purposes only. Full-time magistrates licensed to  
23 practice law in North Carolina who became magistrates before July 1,  
24 1979 are entitled to the pay of a magistrate with 9 or more years of  
25 service, and part-time magistrates holding a law degree or a license to  
26 practice law as described above who became magistrates before July 1,  
27 1979 are entitled to a proportionate adjustment in their pay. Pay  
28 increases authorized by this paragraph of this subdivision are not  
29 retroactive. Notwithstanding any other provision of this subsection, an  
30 individual who, when initially appointed as a full-time magistrate, is  
31 licensed to practice law in North Carolina, shall receive the annual  
32 salary provided in the Table in subdivision (1) of this subsection for  
33 Step 4. This magistrate's salary shall increase to the next step every  
34 two years on the anniversary of the date the magistrate was originally  
35 appointed. An individual who, when initially appointed as a part-time  
36 magistrate, is licensed to practice law in North Carolina, shall be paid  
37 an annual salary based on that for Step 4 and determined according to  
38 the formula in subdivision (2) of this subsection. This magistrate's  
39 salary shall increase to the next step every two years on the  
40 anniversary of the date the magistrate was originally appointed. The  
41 salary of a full-time magistrate who acquires a license to practice law  
42 in North Carolina while holding the office of magistrate and who at the  
43 time of acquiring the license is receiving a salary at a level lower than  
44 Step 4 shall be adjusted to Step 4 and, thereafter, shall advance in

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

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

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

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

<u>Less than 1 year of service</u>	<u>\$ 17,399</u>
<u>1 or more but less than 3 years of service</u>	<u>18,293</u>
<u>3 or more but less than 5 years of service</u>	<u>20,092.</u>

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

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

	<u>Salary Level on</u>
	<u>July 1, 1994</u>
<u>Salary Level on June 30, 1994</u>	<u>Entry Rate</u>
<u>5 or more but less than 7 years of service</u>	<u>Step 1</u>
<u>7 or more but less than 9 years of service</u>	<u>Step 2</u>
<u>9 or more but less than 11 years of service</u>	<u>Step 3.</u>
<u>11 or more years of service</u>	

1                    Thereafter, their salaries shall be set in accordance with the  
2                    provisions in subsection (a).

3            (3)    The salaries of magistrates who are licensed to practice law in North  
4            Carolina shall be adjusted to the annual salary provided in the table in  
5            subsection (a) as Step 4, and, thereafter, their salaries shall be set in  
6            accordance with the provisions in subsection (a).

7            (4)    The salaries of 'part-time magistrates' shall be set under the formula set  
8            out in subdivision (2) of subsection (a) but according to the rates set  
9            out in this subsection.

10        (5)    (b) The Administrative Officer of the Courts shall provide magistrates with  
11 longevity pay at the same rates as are provided by the State to its employees subject to  
12 the State Personnel Act.

13        (6)    (c) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the  
14 State for travel expenses incurred on official business within the county in which the  
15 magistrate resides."

16            Sec. 3. This act becomes effective July 1, 1994. Subsection (a1) of G.S. 7A-  
17 171.1, as added by Section 2 of this act, expires June 30, 1998.