

House Bill 765

By: Representatives Scoggins of the 14<sup>th</sup>, Gambill of the 15<sup>th</sup>, Powell of the 32<sup>nd</sup>, Benton of the 31<sup>st</sup>, and Gullett of the 19<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to provide for an increase in the minimum compensation for chief magistrates; to provide for the calculation of future increases in the minimum compensation for chief magistrates; to provide for an increase in the minimum compensation for other magistrates; to provide for an increase in the minimum compensation for clerks of magistrate courts; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising Code Section 15-10-23, relating to minimum compensation, annual salary, increases, and supplements of magistrates, as follows:

"15-10-23.

(a)(1) As used in this Code section, the term 'full-time capacity' means, in the case of a chief magistrate, a chief magistrate who regularly exercises the powers of a magistrate as set forth in Code Section 15-10-2 at least 40 hours per workweek. In the case of all other magistrates, such term means a magistrate who was appointed to a full-time magistrate position and who regularly exercises the powers of a magistrate as set forth in Code Section 15-10-2 at least 40 hours per workweek.

(2) Unless otherwise provided by local law, effective January 1, ~~2006~~ 2021, the chief magistrate of each county who serves in a full-time capacity other than those counties where the probate judge serves as chief magistrate shall receive a minimum annual salary of the amount fixed in the following schedule:

<u>Population</u>	<u>Minimum Salary</u>
0 - 5,999 .....	\$ <del>29,832.20</del> <u>36,288.19</u>

26	6,000 - 11,889	.....	<del>40,967.92</del>	<u>49,833.79</u>
27	11,890 - 19,999	.....	<del>46,408.38</del>	<u>56,451.65</u>
28	20,000 - 28,999	.....	<del>49,721.70</del>	<u>60,481.97</u>
29	29,000 - 38,999	.....	<del>53,035.03</del>	<u>64,512.39</u>
30	39,000 - 49,999	.....	<del>56,352.46</del>	<u>68,547.73</u>
31	50,000 - 74,999	.....	<del>63,164.60</del>	<u>76,834.09</u>
32	75,000 - 99,999	.....	<del>67,800.09</del>	<u>82,472.75</u>
33	100,000 - 149,999	.....	<del>72,434.13</del>	<u>88,109.64</u>
34	150,000 - 199,999	.....	<del>77,344.56</del>	<u>94,082.74</u>
35	200,000 - 249,999	.....	<del>84,458.82</del>	<u>102,736.58</u>
36	250,000 - 299,999	.....	<del>91,682.66</del>	<u>111,523.74</u>
37	300,000 - 399,999	.....	<del>101,207.60</del>	<u>123,109.97</u>
38	400,000 - 499,999	.....	<del>105,316.72</del>	<u>128,108.37</u>
39	500,000 or more	.....	<del>109,425.84</del>	<u>133,106.73</u>

The minimum salary for each affected chief magistrate shall be fixed from the table in this subsection according to the population of the county in which the chief magistrate serves as determined by the United States decennial census of ~~2000~~ 2010 or any future such census; provided, however, that such annual salary shall be recalculated in any year following a census year in which the Department of Community Affairs publishes a census estimate for the county prior to July 1 that is higher than the immediately preceding decennial census. Notwithstanding the provisions of this subsection, unless otherwise provided by local law, effective January 1, 1996, in any county in which more than 70 percent of the population according to the United States decennial census of 1990 or any future such census resides on property of the United States government which is exempt from taxation by this state, the population of the county for purposes of this subsection shall be deemed to be the total population of the county minus the population of the county which resides on property of the United States government.

(3) All other chief magistrates shall receive a minimum monthly salary equal to the hourly rate that a full-time chief magistrate of the county would receive according to paragraph (2) of this subsection multiplied by the number of actual hours worked by the chief magistrate as certified by the chief magistrate to the county governing authority.

(4) Unless otherwise provided by local law, each magistrate who serves in a full-time capacity other than the chief magistrate shall receive a minimum monthly salary of ~~\$3,851.46~~ \$4,685.00 per month or 90 percent of the monthly salary that a full-time chief magistrate would receive according to paragraph (2) of this subsection, whichever is less.

(5) All magistrates other than chief magistrates who serve in less than a full-time capacity or on call shall receive a minimum monthly salary of the lesser of ~~\$22.22~~ \$27.07 per hour for each hour worked as certified by the chief magistrate to the county governing authority or 90 percent of the monthly salary that a full-time chief magistrate would receive according to paragraph (2) of this subsection; provided, however, that notwithstanding any other provisions of this subsection, no magistrate who serves in less than a full-time capacity shall receive a minimum monthly salary of less than ~~\$592.58~~ \$720.86 unless a magistrate waives such minimum monthly salary in writing.

(6) Magistrates shall be compensated solely on a salary basis and not in whole or in part from fees. The salaries and supplements of all magistrates shall be paid in equal monthly installments from county funds.

(b) The amounts provided in subsection (a) of this Code section, as increased by the supplement, if any, provided by subsection (d) of Code Section 15-10-105, shall be increased by multiplying said amounts by the percentage which equals 5 percent times the number of completed four-year terms of office served by any chief magistrate or magistrate where such terms have been completed after December 31, 1995, effective the first day of January following the completion of each such period of service.

(c)(1) Whenever the state employees subject to compensation plans authorized and approved in accordance with Code Section 45-20-4 receive a cost-of-living increase or general performance based increase of a certain percentage or a certain amount, the amounts provided in subsection (a) of this Code section, as increased by the supplement, if any, provided by subsection (d) of Code Section 15-10-105 and as increased by the application of longevity increases pursuant to subsection (b) of this Code section, shall be increased by the same percentage or same amount applicable to such state employees. If the cost-of-living increase or general performance based increase received by state employees is in different percentages or different amounts as to certain categories of employees, the amounts provided in subsection (a) of this Code section, as increased by the supplement, if any, provided by subsection (d) of Code Section 15-10-105 and as increased by the application of longevity increases pursuant to subsection (b) of this Code section, shall be increased by a percentage or an amount not to exceed the average percentage or average amount of the general increase in salary granted to the state employees. The Office of Planning and Budget shall calculate the average percentage increase or average amount increase when necessary. The periodic changes in the amounts provided in subsection (a) of this Code section, as increased by the supplement, if any, provided by subsection (d) of Code Section 15-10-105 and as increased by the application of longevity increases pursuant to subsection (b) of this Code section, as authorized by this subsection, shall become effective on the first day of January following

the date that the cost-of-living increases or general performance based increases received by state employees become effective; provided, however, that if the cost-of-living increases received by state employees become effective on January 1, such periodic changes in the amounts provided in subsection (a) of this Code section, as increased by the supplement, if any, provided by subsection (d) of Code Section 15-10-105 and as increased by the application of longevity increases pursuant to subsection (b) of this Code section, as authorized by this subsection, shall become effective on the same date that the cost-of-living increases or general performance based increases received by state employees become effective.

(2) Any cost-of-living increases or general performance based increases that have been applied prior to January 1, 2021, have been included in all minimum salary calculations. Effective January 1, 2021, any new cost-of-living increases or general performance based increases shall be calculated as provided in this Code section.

(d) The county governing authority may supplement the minimum annual salary of the chief or other magistrate in such amount as it may fix from time to time, but no such magistrate's compensation or supplement shall be decreased during any term of office. Nothing contained in this subsection shall prohibit the General Assembly by local law from supplementing the annual salary of any magistrates.

(e) The General Assembly may by local law fix the compensation of any or all of a county's magistrates. The chief magistrate or magistrate shall be entitled to the greater of the compensation established by local law, including any supplement by the county governing authority, or the minimum annual salary stated in subsection (a) of this Code section but in no event to both.

(f) This Code section shall apply to any chief magistrate who is also serving as a judge of a civil court which is provided for in Article VI, Section I, Paragraph I of the Constitution of the State of Georgia of 1983. In such case, the salary of such chief magistrate shall be as provided by the local governing authority of the county.

(g) The salaries and supplements of senior magistrates shall be paid from county funds at a per diem rate equal to the daily rate that a full-time chief magistrate of the county would receive under paragraph (2) of subsection (a) of this Code section; provided, however, that the minimum annual and monthly salaries provided for in this Code section shall not apply to senior magistrates."

## SECTION 2.

Said title is further amended by revising subsections (b), (c), and (d) of Code Section 15-10-105, relating to selection, compensation, and eligibility of clerks of magistrate courts, as follows:

"(b) With the consent of the clerk of superior court, the county governing authority may provide that the clerk of superior court shall serve as clerk of magistrate court and shall be compensated for his or her ~~services~~ service as clerk of magistrate court in an amount not less than ~~\$323.59~~ \$393.66 per month. With the consent of the clerk of the superior court and clerk of the state court, the county governing authority may provide that the state court clerk shall serve as clerk of magistrate court and shall be compensated for his or her service as clerk of magistrate court in an amount not less than ~~\$323.59~~ \$393.66 per month. Such compensation shall be retained by the clerk of superior court as his or her personal funds without regard to whether he or she is otherwise compensated on a fee basis or salary basis or both.

(c) If the clerk of superior court or the clerk of state court does not serve as clerk of magistrate court, then the county governing authority may provide for the appointment by the chief magistrate of a clerk to serve at the pleasure of the chief magistrate. A clerk of magistrate court so appointed shall be compensated in an amount fixed by the county governing authority at not less than ~~\$323.59~~ \$393.66 per month.

(d) If there is no clerk of magistrate court, the chief magistrate or some other magistrate appointed by the chief magistrate shall perform the duties of clerk. A chief magistrate performing the duties of clerk, or another magistrate appointed by the chief magistrate to perform the duties of clerk, shall receive, in addition to any other compensation to which he or she is entitled, compensation for performing the duties of clerk, the amount of which compensation shall be fixed by the county governing authority at not less than ~~\$323.59~~ \$393.66 per month."

### SECTION 3.

Said title is further amended by revising subsection (a) of Code Section 15-9-63.1, relating to compensation for services as magistrate or chief magistrate and longevity increases, as follows:

"(a) Beginning January 1, 2021, in any county in which the probate judge serves as chief magistrate or magistrate, he or she shall be compensated for such ~~services~~ service based on a minimum annual amount of ~~\$13,223.25~~ \$14,162.10; provided, however, that compensation for a probate judge shall not be reduced during his or her term of office. A county governing authority shall not be required to pay the compensation provided by this subsection beyond the term for which such probate judge serves as a chief magistrate or magistrate."

### SECTION 4.

This Act shall become effective on January 1, 2021.

169

**SECTION 5.**

170

All laws and parts of laws in conflict with this Act are repealed.