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LEGISLATIVE RESEARCH COMMISSION

REPORT

TO THE

1977

GENERAL ASSEMBLY OF NORTH CAROLINA



THE OFFICE OF MAGISTRATE

RALEIGH, NORTH CAROLINA

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
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January 12, 1977

TO THE MEMBERS OF THE GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1977 General Assembly, the findings and recommendations of its Committee on the Office of Magistrate, which study was authorized by Chapter 851 of the 1975 General Assembly (First Session, 1975).

Respectfully submitted,

John T. Henley

James C. Green

Co-Chairmen

Legislative Research Commission



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INTRODUCTION

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes (G.S.), is a general-purpose study group consisting of legislators. A list of the membership of the Legislative Research Commission will be found in Appendix A. Among the Commission's duties is that of making or causing to be made, upon the direction of the Co-Chairmen of the Commission,

such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner
G.S. § 120-30.17.

Section 1 of Chapter 851 of the 1975 Session Laws directed the Legislative Research Commission to conduct a variety of studies, among which, was an examination of the office of magistrate in this State. Relevant portions of the Chapter is attached as Appendix B. Section 3 of that law specified that the Commission was to examine the method of magistrates appointment and compensation and also the criteria by which the magistrates are allocated to each county in North Carolina.

The Commission assigned the study of the office of magistrate to its Committee on Criminal Law and State Property Matters (hereafter referred to as the "Committee"). Representative Liston B. Ramsey was appointed to chair the Committee. Senator Thomas H. Suddarth* and Representative William H. McMillan were appointed Co-Chairmen. The other members of the

Committee on Criminal Law and State Property Matters were Representatives Laurence A. Cobb*, John Ed Davenport, Conrad R. Duncan, Jr., H. Parks Helms and Aaron W. Plyler; Senators Henson P. Barnes, Cy N. Bahakel*, Luther J. Britt, Jr., Melvin R. Daniels, Jr., J. J. Harrington, Donald R. Kincaid and Thomas E. Strickland*; and Messrs. Zebulon D. Alley, an attorney and former Senator; and Nathan T. Lassiter, Past President of the North Carolina Magistrates Association.

* These individuals are not members of the 1977 General Assembly.

COMMITTEE PROCEEDINGS

The Committee on Criminal Law and State Property Matters devoted 6 of its meetings to the study of the office of magistrate. These meetings stretched over a 13 month period. A list of the witnesses appearing at the Committee's hearings on magistrates is attached as Appendix C.

The Committee at its organizational meeting decided to investigate all aspects of the Office of Magistrate but to focus the attention of its study on the three subjects specified to be investigated by the Section 3 of Chapter 851, they are Method of Appointment, Compensation and Criteria by Which Magistrates are Allocated to Each County.

Jurisdiction and Duties

Section 10 of Article IV of the North Carolina Constitution creates the office of magistrate and provides that its holders are officers of the district court. Cited provisions of the North Carolina Constitution and General Statutes will be found in Appendix D. The magistrate is the successor in interest to the office of justice of the peace. The latter office was abolished in each county of the State as the new district courts, authorized under the Judicial Article of the State Constitution rewritten in 1962, were established (G.S. §7A-176).

The magistrate is in many cases the judicial officer with whom members of the public first come into contact. The largest portion of most magistrates' time is spent in issuing arrest and search warrants. Besides the issuing of these warrants, the magistrate has the following powers in criminal actions -- to accept guilty pleas and enter judgments in certain minor misdemeanor traffic offense cases, and to grant bail in noncapital cases (G.S. §7A-273).

A major civil duty of magistrates is the adjudication of small claim actions (G.S. §7A-210 et seq.). These actions generally consist of certain suits in which the amount of money in controversy does not exceed \$500. A magistrate has the power to try small claim actions when he is assigned them by the chief district judge. The Administrative Officer of the Courts estimated that there are between 35 to 50 counties in which a particular magistrate or magistrates are assigned all small claims actions.

The magistrate may issue custody orders in involuntary commitment proceedings (G.S. §122-58.3). The general powers of magistrates include those to administer oaths; to punish for contempt, to take depositions and examinations, to issue subpoenas, to take affidavits, to take acknowledgements of certain instruments and to perform weddings (G.S. §7A-293).

Representative Ramsey appointed a Subcommittee to review the jurisdiction of magistrates. Representative William H. McMillan was designated Chairman of the Subcommittee. Other

members were Senators Henson P. Barnes and Luther J. Britt, Jr.; Representatives John Ed Davenport and H. Parks Helms; and Messrs. Zebulon D. Alley and Nathan T. Lassiter.

Work Assignment and Supervision

Because the State Constitution designates that magistrates as officers of the district court, the General Assembly has vested in the chief district judge administrative authority over the magistrates in his district. The chief district judge assigns matters to magistrates and prescribes their duty hours and locations for work (G.S. §§ 7A-146(4) and 7A-170).

The Committee in the Fall of 1975 conducted a survey of all the chief district judges to determine who actually assigns and schedules the work of the magistrates in each county. The survey also asked which official actually supervises the work of the magistrates in each county, that is, determines that the magistrates report to work and work the correct number of hours.

Twenty of the thirty chief district judges responded to the survey. Those responding represented 57 of the 100 counties in the State.

The chief district judge actually assigns the work of the magistrates in 52 of the counties covered by the responses. In 4 counties the clerk of the superior court actually assigns

the work; in 1 county the chief district judge shares this duty with the clerk; and in 1 county the magistrates themselves make their own work assignments.

The chief district judge actually supervises the work of magistrates under his charge in 24 of the 57 counties covered by the survey. A magistrate, whether or not designated by the chief district judge as a chief magistrate, supervises the work of his fellow magistrates in 22 counties. In the remaining counties responding this supervisory function is shared by the chief district judge and the clerk in 5 counties; by the chief district judge, clerk, and a magistrate in 3 counties; and by the chief district judge and a magistrate in 3 counties.

Mr. John Lea, then Vice President of the North Carolina Magistrates Association, stated that he believed that the chief district judges should have the power to delegate this supervisory function over magistrates. He also stated there were many districts throughout the State in which the chief district judge had appointed a "head" or "chief magistrate" for a particular county. This "chief magistrate" aids the chief district judge in scheduling the work of and supervising the magistrates of the county. Mr. Lea stated that a chief magistrate is ordinarily the one with the greatest amount of experience. Such an individual serves to train and counsel less experienced magistrates in the duties of their office and developments in the law. Mr. Lea said that

he believed chief magistrate system works well.

Method of Appointment

The Constitution of North Carolina provides a complex procedure for the appointment of magistrates. Section 10 of Article IV mandates that magistrates be nominated by the Clerk of Superior Court and be appointed by the senior regular resident Superior Court of the district. G.S. § 7A-171(b) requires the clerk to submit the names of at least two individuals for each magisterial office to the senior regular resident superior court judge not later than the second Monday in December of each even-numbered year. The clerk must submit additional names if the judge so requests. The senior regular resident superior court judge appoints the magistrates from those nominated by the clerk not later than the fourth Monday in December. The magistrate's term of office is two years beginning on January 1st of odd-numbered years.

Several individuals expressed to the Committee their dissatisfaction with the present procedure for appointing magistrates. The Director of the Administrative Office of the Courts stated that he believed there are too many judicial officials affecting the naming of magistrates and their work for the magistrate system to be well administered. He said that the supervisory and appointing function should be vested in one judicial official. Mr. Theodore Fillette, III, of

the Public Security and Safety Committee of Dimensions for Charlotte and Mecklenburg also cited the disorganization in the chain of responsibility for magistrates as a major problem in the present system.

Chief District Judge J. B. Allen, Jr., of the 15th Judicial District suggested in a letter to the Committee dated October 21, 1975, that the chief district judge not the clerk of court nominate individuals to be magistrates.

Number and Allocation to Counties

The North Carolina Constitution Article IV, Section 10 requires the General Assembly to determine the number of magistrates from time to time. The General Assembly has complied with this constitutional duty by setting a minimum and a maximum number of magistrates for each county (G.S. §§ 7A-132, 7A-133, and 7A-171).

The minimum number of magistrates for each county are appointed not later than the fourth Monday in each even-numbered year. If more magistrates are needed, the Administrative Officer of the Courts upon the request of the chief district judge may authorize the appointment of additional magistrates not to exceed the maximum number set for the county by the General Assembly.

Mr. Bert M. Montague, the Director of the Administrative Office of the Courts, stated that the original criteria for determining the number of magisterial offices in each county

were based upon the county's population and estimated workload. Over the years, individual legislators sponsored legislation which increased the number of magistrates in their particular counties. Mr. Montague stated that an increase in the number of magistrates in a particular county indicated a county with effective legislators in Raleigh.

Mr. Montague informed the Committee that the chief district judge decides which communities are to have magistrates. A list of all non-county municipalities to which magistrates have been assigned is attached as Appendix E.

Forsyth County is an exception to the general statements above regarding numbers and allocations of magistrates. The primary duty of magistrates, that is, the issuing of search and arrest warrants is performed in that county by seven assistant clerks of court, who perform that duty on a full-time basis. A list of the names, dates of employment and salaries of the warrant-issuing clerks in Forsyth County is attached in Appendix F. Clerks of court, their deputies and assistants have the power to issue these warrants pursuant to G.S. §§ 7A-180 and 7A-181. Mr. Montague stated that the three magistrates allocated to Forsyth County are primarily engaged in adjudicating small claim actions.

The Fiscal Research Division prepared and presented to the Committee a table showing various statistics concerning allocation of magisterial resources as of August 1, 1975 (See Appendix G). The table breaks down the counties of the

State by population grouping and shows for each county its population, the number of magistrates assigned to it, the total number of hours of work assigned to magistrates in the county, the number of magistrates per ten thousand inhabitants and the number of total hours assigned to magistrates each week per ten thousand inhabitants.

Qualifications and Training

Magistrates are required to be residents of the county for which they are appointed (G.S. § 7A-170).

The General Assembly in 1975 imposed a training requirement for individuals appointed to be magistrates for the first time. G.S. § 7A-177 requires those magistrates within six months of taking the oath of office

to attend and to satisfactorily complete a course of at least 40 hours in the civil and criminal duties of a magistrate.

Representatives of the North Carolina Magistrates Association stated their belief that the mandatory training course for new magistrates was an excellent and needed program. Mr. Otto DeBruhl, the then-President of that Association, added that previously appointed magistrates also are in need of periodic training in their duties. He said that his Association conducts periodic conferences in which those magistrates attending are trained in the fundamental responsibilities of and learn of developments in their office. These conferences

use personnel from the Institute of Government and the Administrative Office of the Courts to aid the Association in its training function. Mr. DeBruhl stated that the magistrates attending such conferences are not reimbursed by the Administrative Office of the Courts for travel and subsistence expenses incurred in that training. He added that this added expense works a serious hardship on a group of state officials who receive comparatively little by way of compensation. Mr. DeBruhl urged the Committee to recommend to the General Assembly that, in view of the need of adequately trained magistrates, magistrates be reimbursed, as are other judicial officials, for travel and subsistence expenses incurred in attending periodical courses of training in their duties.

Compensation

The Administrative Officer of the Courts prescribes the annual salary for each magisterial office prior to the nomination or appointment of individuals to fill the office. The Administrative Officer of the Courts sets that salary level only after consultation with the chief district judge. The consultation is to determine the amount of time which the chief district judge will require that the magistrate devote to his official duties.

The clerk of the superior court nominates individuals for a magistracy whose salary level is so determined and the senior regular resident superior court judge selects from

the nominees for each magistracy the magistrate. This salary-setting plan is contained in G.S. § 7A-171 (b) and (c).

An individual appointed to fill a vacant magistracy is paid at the same salary level as the previous office holder (G.S. § 7A-171(d)).

The Administrative Office of the Courts may set the salary level of any magistrate no lower than \$1,200 nor higher than \$10,776 a year (G.S. § 7A-172).

The Fiscal Research Division of the Legislative Services Office informed the Committee that, for magistrates serving an average of 40 or more hours a week in September, 1976, the average annual salary was \$8,928; and the median annual salary was \$9,120. Mr. Montague stated that the average annual salary for all magistrates was about \$7,200 in 1975, up from about \$4,200 in 1968.

The Committee was also told that in September, 1976, there were 166 different salary levels among the 440 full-time magistrates and 89 different salary levels among the 112 part-time magistrates.

Mr. Theodore Fillette, III, an attorney representing a Charlotte-Mecklenburg group concerned with the administration of justice, opined that increasing the salary level of magistrates will be necessary to attract and retain competent individuals in that office.

During the Committee's deliberations on the office of magistrates, the United States Department of Labor began an investigation into whether the State of North Carolina was paying its magistrates the minimum salary required under the Fair Labor Standards Act. In 1974 that Act was amended to extend the coverage of its minimum wage and maximum hour provisions to most employees of states and their political subdivisions. However, the United States Supreme Court ruled that those 1974 amendments were an invasion by the federal government into the functions of state and local governments in violation of the 10th Amendment to the United States Constitution (National League of Cities v. Usery ___ U. S. ___, 49 L. Ed 2d 245, 96 S.Ct. ___ (1976)).

The Administrative Officer of the Court mentioned two other factors, besides workloads, which he employs in setting salary levels. The first factor is the amount prior experience as a magistrate; the second factor is the economic condition in the county in which the magistrate is to serve. Because in economically depressed areas within the State individuals can be hired at a lower salary than in an economically-sound region, the Administrative Officer of the Courts sets salary levels for magistrates serving within the economically-depressed areas lower than for those serving in more economically-sound areas. Thus it is possible for one magistrate working the same number of hours and performing essentially the same duties at the identical level of ef-

iciency as another magistrate to be paid at a substantially different salary level.

Appendix H sets forth the salary and the average number of hours worked for each magistrate serving on September 1, 1976.

Removal of Magistrates

Section 17(3) of Article IV of the North Carolina Constitution states that:

The General Assembly shall provide by general law for the removal of magistrates for misconduct or mental or physical incapacity.

G.S. 7A-173 specifies the procedure for removal of magistrates. The division of authority in filling magistracies is mirrored somewhat in the procedure for removing magistrates. Sworn written charges against a magistrate are to be filed in the relevant office of clerk of superior court. If the chief district judge finds that the charges, if true, would constitute grounds for dismissal, he may suspend the magistrate from performing his duties and order a hearing before the senior regular resident superior court judge on the matter. During the period of suspension the magistrate continues to receive his salary. If that superior court judge determines that grounds exist for the magistrate's removal he orders the magistrate "permanently" removed from office and the magistrate's salary is then terminated. The magistrate may appeal from such an order.

Subsection (a) of G.S. § 7A-173 provides that the grounds for suspension or removal of a magistrate are the same as for a judge of the General Court of Justice. These grounds are

wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude or conduct prejudicial to the administration of justice that brings the judicial office into disrepute [G.S. § 7A-376].

Mr. Montague told the Committee that there have been a "very small number of instances" in which a complaint against a magistrate has gone to the hearing stage. Mr. Montague stated that he could remember only one instance in which a magistrate was removed. He added that most complaints are settled administratively.



FINDINGS AND RECOMMENDATIONS

After having reviewed the information brought forth during its meetings, the Legislative Research Commission's Committee on Criminal Law and State Property Matters makes the following findings and recommendations concerning the Office of Magistrate.

FINDING 1. The constitutionally-established Office of Magistrate is a vital link in this State's justice system. The magistrate's judicial function, among which are the issuing of search and arrest warrants and rendering decisions in small claims actions, each day vitally affect the freedom and property of many of North Carolina's citizens.

FINDING 2. Salaries of Magistrates.--(a) The present salary levels for magistrates are inadequate in view of the important duties of their office. The average annual salary of full-time magistrates as of September, 1976, was \$8,928. Low salary levels make difficult the attracting and retaining of competent individuals to serve as a magistrate.

(b) No state-wide plan exists by which salaries are set for magistrates according to a uniform classification plan. The absence of such a plan is reflected in the large number of individual salary levels (255) for the 552 magistrates of the State.

Under the present statutes, a salary is set for a magisterial office prior to the nomination or appointment of

a person for that office. The Administrative Officer of the Courts, by statute, is to prescribe the salary for each magisterial office upon consideration of the time which the particular magistrate will be required by the chief district judge to devote to the performance of the duties of his office.

The Administrative Officer of the Courts also considers factors not specified by statute in setting the salaries for magisterial offices. He takes into account, among other matters, the experience, education and quality of work of the most likely appointee to a particular office and the economy of the particular location in which the magisterial office is to be placed.

If an office is vacated for any reason, the statute prescribes that the new magistrate is to receive the same salary as the prior holder of that office.

The present procedure for setting magistrates salaries is confusing and leads to discontent among the magistrates of this State.

RECOMMENDATION 1. The General Assembly should establish a new salary setting plan for magistrates. The Committee's suggested plan is contained in Sections 3, 4 and 5 of the Legislative Proposal in Appendix I.

Under the proposed plan, the Administrative Officer of the Courts would set a salary of a full-time magistrate (one working an average of 40 or more hours a week) accord-

ing to the number of years that the magistrate has served as a magistrate. The salaries of full-time magistrates would be fixed in a schedule of six salary steps from \$7,668 a year for a full-time magistrate having less than one year of prior service to \$11,892 a year for one having 9 or more years of that service.

The Committee recommends this salary scale based upon the salaries of magistrates as they existed on September 1, 1976. The Committee cannot foresee what adjustments the General Assembly may make to state employees salaries in the future. Therefore, the Committee recommends that the salary scale should be revised to take into account any cost-of-living salary adjustments granted to state employees in the future as these adjustments occur.

A part-time magistrate would be paid a proportion of the salary of the full-time magistrate having the same number of years of prior service according to the average number of hours a week which the part-time magistrate is assigned work.

The proposal contains provisions to insure that those magistrates serving prior to the beginning of the 1979 term of service who are reappointed and assigned to work an average of the same or greater number of hours as in the previous term will not have the salaries they were receiving reduced.

Because magistrates will have already been appointed for the 1977-1979 term of office when the 1977 General Assembly begins consideration of this proposal, the Committee re-

commends that the salary plan become effective for magistrates beginning their term of office on or after January 1, 1979.

The Fiscal Research Division of the Legislative Services Office estimates that the new salary classification plan would require an additional annual appropriation of \$500,000. As the new plan would be in effect only during the last 6 months of the 1977-1979 biennium, the Committee recommends that the General Assembly appropriate \$250,000 to establish the salary classification plan for magistrates during the 1978-1979 fiscal year. The Committee's recommendation concerning the appropriation is contained in Section 7 of the Legislative Proposal. The suggested appropriation should be amended to reflect any changes in the salary classification plan.

FINDING 3. Minimum levels of education for and continuous training of magistrates are required to adequately protect the right of the citizens of this State to a fair, effective, and efficient system of justice. The Committee has learned that 15.4% of the magistrates of this State have not graduated from high school (see Appendix J).

The Committee recognizes the excellence of the course of basic training in the civil and criminal duties of a magistrate which is conducted by the Institute of Government for newly-appointed magistrates. The Committee also recognizes the need, which was voiced by magistrates, for continuing training of all magistrates.

RECOMMENDATION 2. The General Assembly should by statute impose minimum educational or training qualifications for magistrates. The Committee's suggestion, found in Section 6 of the Legislative Proposal, Appendix I, would contain the requirement, which is presently in G.S. § 7A-171(a), that the magistrate be a resident of the county for which he is appointed.

The Committee proposes that in order to be eligible for nomination as a magistrate an individual must have successfully completed a high school education or its equivalent or the course of basic training in magisterial duties. The Committee believes that one who can pass the course of basic training as a magistrate need not also have a high school education in order to qualify as a magistrate. Those administering the training course can establish procedures by which prospective magistrates not having a high school education may be permitted to take the course prior to nomination.

The proposed § 7A-171.2 would also demand of those magistrates seeking renomination that they successfully complete the course of basic training set forth in G.S. 7A-177.

The proposal contains a grandfather clause, exempting all individuals who served as magistrates on July 1, 1977, from all the requirements of this section except that of residency.

These new qualifications would become effective on July 1, 1977.

RECOMMENDATION 3. The Administrative Office of the Courts

should establish a systematic plan for the continuous and periodic training of all magistrates in the duties of their office. The periodic meetings of the North Carolina Magistrates Association could be used for such training. Magistrates should be encouraged to attend training sessions by having their travel and subsistence expenses reimbursed incurred in such training.

RECOMMENDATION 4. The General Assembly should statutorily permit the chief district judge to delegate his authority to assign the hours and locations of work of the magistrates under his supervision to an employee of the General Court of Justice within the particular county. Such a course would recognize and would sanction the practice now in effect in many judicial districts according to representatives of the magistrates.

In many districts it is difficult if not impossible for a chief district judge to adequately supervise magistrates who may work in another county many miles distant. The provision contained in Section 1 of the Legislative Proposal would permit the chief district judge to delegate that authority in his discretion.

FINDING 4. During emergency situations, such as civil disturbances or outbreaks of disease, magistrates may need to be transferred to counties outside their judicial districts. The chief district judge in his discretion may assign magistrates to work temporarily in another county of the same judicial district during an emergency (G.S. § 7A-146(9)).

RECOMMENDATION 5. G.S. § 7A-146(9) should be amended to permit the interdistrict assignment of magistrates in emergency situations. The Committee's suggestion, contained in Section 1 of the Legislative Proposal (Appendix I), would allow the chief district judge the discretion to make these assignments to a district adjoining that in which the magistrates are resident. The assignment of magistrates could only be made upon the request of the chief district judge and the approval of the Administrative Office of the Courts.

FINDING 5. Method of Appointment. The present method of appointing magistrates results in a system in which the responsibility for individual magistrates is needlessly divided among different judicial officials. The present system by which magistrates are nominated by the clerk of the superior court and appointed by the senior regular resident superior court judge is set out in the Constitution of North Carolina. As an officer of the district court the magistrate is assigned work and is supervised by the chief district judge. The product of this division of authority is disorganization in the administration of the magistrates system.

The Committee believes, however, that there is not at the present time a consensus among the concerned groups -- clerks of court, senior regular resident superior court judges, and chief district judges -- as to which type or types of judicial officials should have the power to appoint magistrates.

Because a constitutional amendment would be necessary

to change the present method of appointment of magistrates, the Committee also believes that such an amendment would need the support of all the groups which would be affected. Therefore the Committee does not recommend a change in the present authority of those nominating and appointing magistrates.

Under the present G.S. § 7A-171 (b) the clerk of the superior court makes nominations for magistrates not later than the second Monday in December of even-numbered years. The clerk's term of office begins on the first Monday in December next after his election (G.S. § 163-1). Thus, there exists the possibility of an out-going clerk making nominations for magistrates who will serve during his successor's term.

RECOMMENDATION 6. G.S. 7A-171(b) should be amended to provide that persons be nominated for the office of magistrate only by the newly-elected or re-elected clerk of the superior court. See the language of the proposed § subsection 7A-171(b) contained in Section 3 of the Legislative Proposal in Appendix I.

FINDING 6. Allocation of Magistrates to Counties. The present system by which magisterial offices are allocated to individual counties is in most cases an efficient and effective method of distribution.

Responding to the constitutional mandate to periodically determine the number of magistrates in this State, the General Assembly has established a minimum and maximum quota for the

number of magistrates in each county. The minimum number is first appointed. Upon the certification of the chief district judge, approved by the Administrative Office of the Courts, that more magistrates are needed, additional magistrates for the county may be appointed up to the maximum number established by law.

This system of allocation contains the flexibility to respond to the differing factors affecting the various counties, for example, work load, uneven distribution of population, military installations, resort areas, and geography. Yet, the system retains in the Administrative Office of the Courts a check sufficient to restrain abuses.

The Committee investigated other allocation plans such as ones based solely on population or on population and work load. The Committee is of the opinion that none of the plans investigated have the desirable flexibility and restraint which are contained in the present plan.

FINDING 7. The civil and criminal jurisdiction of magistrates should not now be modified. The Committee solicited suggestions concerning the jurisdiction of magistrates from various sources including the Supreme Court, the Court of Appeals and the magistrates themselves. The Committee received only one specific proposal which regarded summary ejectment. The Committee determined that the proposal affected substantive law and thus was outside the scope of the Committee's authority.

The Committee notes also that the General Assembly modified

the criminal jurisdiction of magistrates (G.S. 7A-273) as recently as 1975 and the jurisdiction of magistrates in small claims actions in 1974.

APPENDICES



APPENDIX A

LEGISLATIVE RESEARCH COMMISSION MEMBERS

1975-76

<u>Name</u>	<u>Business Address</u>	<u>Phone</u>
Speaker James C. Green Co-Chairman	Box 185 Clarkton, N. C. 28433	(919) 647-4191
Sen. John T. Henley Co-Chairman	200 S. Main Street Hope Mills, N. C. 28348	(919) 424-0261
Sen. Bob L. Barker	P. O. Box 30369 Raleigh, N. C. 27612	(919) 782-1314
Sen. Luther J. Britt, Jr.	P. O. Box 1015 Lumberton, N. C. 28358	(919) 739-2331
Sen. Cecil James Hill	The Legal Bldg. Brevard, N. C. 28712	(704) 884-4113
Sen. William D. Mills	P. O. Box 385 Swansboro, N. C. 28584	(919) 326-8743
Rep. Glenn A. Morris	P. O. Box 1111 Marion, N. C. 28752	(704) 652-2455
Rep. Liston B. Ramsey	Marshall, N. C. 28753	(704) 649-3961
Rep. Hector E. Ray	310 Green Street Fayetteville, N.C. 28303	(919) 483-8188
Rep. J. Guy Revelle, Sr.	Route 1, Box 123 Conway, N. C. 27820	(919) 587-4257
Rep. Thomas B. Sawyer	Suite 527-528 Northwestern Bldg. Greensboro, N. C. 27401	(919) 275-4150
Sen. Willis P. Whichard	P. O. Box 3843 Durham, N. C. 27702	(919) 682-5654

APPENDIX B

H. B. 296

CHAPTER 851

AN ACT TO DIRECT THE LEGISLATIVE RESEARCH COMMISSION TO
STUDY VARIOUS MATTERS.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission is directed to study the following issues, designing the individual study efforts as described in the other sections of this act:

. . .

(2) The office of magistrate (H. 720);

. . .

Sec. 3. In its study of the office of magistrate the Legislative Research Commission shall examine the office of magistrate in North Carolina, including, but not restricted to, the method of appointment, compensation, and criteria by which allocation of magistrates are determined for each county.

. . .

Sec. 15. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1975.

APPENDIX C

WITNESSES APPEARING

Mrs. Joan Brannon
Institute of Government
Chapel Hill, North Carolina

Mr. Otto DeBruhl
Immediate Past President
North Carolina Magistrates Association
Asheville, North Carolina

Mr. Theodore Fillette, III
Public Security and Safety Committee
Dimensions for Charlotte-Mecklenburg

Mr. Ed Hinsdale
Institute of Government
Chapel Hill, North Carolina

Mr. John Lea, President
North Carolina Magistrates Association
Burlington, North Carolina

Mr. Bert Montague
Executive Director
Administrative Office of the Courts

Mr. Taylor McMillan
Administrative Office of the Courts

APPENDIX D

CONSTITUTION OF NORTH CAROLINA

ARTICLE IV
JUDICIAL

Sec. 10. *District Courts.* The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint for a term of two years, from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office.

Sec. 12. *Jurisdiction of the General Court of Justice.*

. . .

(4) *District Courts; Magistrates.* The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of the District Courts and Magistrates.

. . .

(6) *Appeals.* The General Assembly shall by general law provide a proper system of appeals. Appeals from Magistrates shall be heard de novo, with the right of trial by jury as defined in this Constitution and the laws of this State.

. . .

Sec. 17. *Removal of Judges, Magistrates and Clerks.*

. . .

(3) *Removal of Magistrates.* The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

. . .

Sec. 19. *Vacancies.* Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly that is held more than 30 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held, and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified.

. . .

Sec. 21. *Fees, salaries, and emoluments.* The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article, but the salaries of Judges shall not be diminished during their continuance in office. In no case shall the compensation of any Judge or Magistrate be dependent upon his decision or upon the collection of costs.

CH. 7A. JUDICIAL DEPARTMENT

SUBCHAPTER IV. DISTRICT COURT DIVISION OF THE
GENERAL COURT OF JUSTICE.

ARTICLE 13.

Creation and Organization of the District Court Division.

§ 7A-132. Judges, solicitors, full-time assistant solicitors and magistrates for district court districts. — Each district court district shall have one or more judges and one solicitor. Each county within each district shall have at least one magistrate.

For each district the General Assembly shall prescribe the numbers of district judges, and the numbers of full-time assistant solicitors. For each county within each district the General Assembly shall prescribe a minimum and a maximum number of magistrates. (1965, c. 310, s. 1; 1967, c. 1049, s. 5.)

§ 7A-133. Numbers of judges by districts; numbers of magistrates and additional seats of court, by counties. — Each district court district shall have the numbers of judges and each county within the district shall have the numbers of magistrates and additional seats of court, as set forth in the following table:

District	Judges	County	Magistrates Min.-Max.		Additional Seats of Court
1	2	Camden	1	2	
		Chowan	2	3	
		Currituck	1	2	
		Dare	2	3	
		Gates	2	3	
		Pasquotank	3	4	
		Perquimans	2	3	
2	2	Martin	3	5	
		Beaufort	4	5	
		Tyrrell	1	2	
		Hyde	2	3	
		Washington	3	4	
3	4	Craven	5	7	
		Pitt	9	11	Farmville Ayden
4	4	Pamlico	2	3	
		Carteret	4	7	
		Sampson	5	7	
		Duplin	9	10	
		Jones	2	3	
		Onslow	8	10	
5	3	New Hanover	6	9	
		Pender	4	6	
6	3	Northampton	5	6	
		Halifax	7	11	Roanoke Rapids, Scotland Neck
7	4	Bertie	4	5	
		Hertford	5	6	
		Nash	7	10	Rocky Mount
		Edgecombe	4	6	Rocky Mount
8	5	Wilson	4	6	
		Wayne	5	7	Mount Olive
		Greene	2	3	
		Lenoir	4	7	

District	Judges	County	Magistrates Min.-Max.		Additional Seats of Court
9	4	Person	3	4	
		Granville	3	5	
		Vance	3	4	
		Warren	3	4	
		Franklin	3	5	
10	6	Wake	12	16	Apex Wendell Fuquay-Varina
11	4	Harnett	7	10	Dunn
		Johnston	10	12	Benson and Selma
12	5	Lee	3	5	
		Cumberland	10	15	
13	3	Hoke	2	3	
		Bladen	4	6	
14	3	Brunswick		6	Shalotte
		Columbus	6	8	Tabor City
15	4	Durham	6	8	
		Alamance	7	9	Burlington
16	4	Chatham	3	6	Siler City
		Orange	4	8	Chapel Hill
17	4	Robeson	8	12	Fairmont
		Scotland	2	3	Maxton Red Springs Rowland St. Pauls
18	8	Caswell	2	4	
		Rockingham	4	8	Reidsville Eden Madison
19	5	Stokes	2	3	
		Surry	4	6	Mt. Airy
20	4	Guilford	17	22	High Point
		Cabarrus	4	7	Kannapolis
21	5	Montgomery	2	3	
		Randolph	4	7	Liberty
22	4	Rowan	4	8	
		Stanly	5	6	
23	2	Union	4	6	
		Anson	4	5	
24	2	Richmond	5	6	Hamlet
		Moore	5	7	Southern Pines
25	5	Forsyth	3	15	Kernersville
		Alexander	2	3	
26	4	Davidson	5	8	Thomasville
		Davie	2	3	
27	2	Iredell	4	8	Mooreville
		Alleghany	1	2	
28	2	Ashe	2	3	
		Wilkes	4	6	
29	2	Yadkin	2	3	
		Avery	2	3	
30	2	Madison	3	4	
		Mitchell	3	4	
31	2	Watauga	3	4	
		Yancey	2	3	

District	Judges	County	Magistrates Min.-Max.		Additional Seats of Court
25	5	Burke	4	6	Hickory
		Caldwell	4	7	
		Catawba	6	9	
26	8	Mecklenburg	15	25	
27	5	Cleveland	5	8	
		Gaston	10	18	
28	4	Lincoln	3	5	
		Buncombe	6	12	
29	3	Henderson	4	6	
		McDowell	3	4	
		Polk	2	3	
		Rutherford	6	8	
		Transylvania	2	3	
30	3	Cherokee	3	4	Canton
		Clay	1	2	
		Graham	2	3	
		Haywood	5	7	
		Jackson	3	4	
		Macon	3	4	
		Swain	2	3	

ARTICLE 14.

District Judges.

§ 7A-146. Administrative authority and duties of chief district judge.—The chief district judge, subject to the general supervision of the Chief Justice of the Supreme Court, has administrative supervision and authority over the operation of the district courts and magistrates in his district. These powers and duties include, but are not limited to, the following:

- (1) Arranging schedules and assigning district judges for sessions of district courts;
- (2) Arranging or supervising the calendaring of noncriminal matters for trial or hearing;
- (3) Supervising the clerk of superior court in the discharge of the clerical functions of the district court;
- (4) Assigning matters to magistrates, and prescribing times and places at which magistrates shall be available for the performance of their duties;
- (5) Making arrangements with proper authorities for the drawing of civil court jury panels and determining which sessions of district court shall be jury sessions;
- (6) Arranging for the reporting of civil cases by court reporters or other authorized means;
- (7) Arranging sessions, to the extent practicable for the trial of specialized cases, including traffic, domestic relations, and other types of cases, and assigning district judges to preside over these sessions so as to permit maximum practicable specialization by individual judges;
- (8) Promulgating a schedule of traffic offenses for which magistrates and clerks of court may accept written appearances, waivers of trial, and pleas of guilty, and establishing a schedule of fines therefor;
- (9) Assigning magistrates, in an emergency, to temporary duty outside the county of their residence, but within the district; and
- (10) Designating another district judge of his district as acting chief district judge, to act during the absence or disability of the chief district judge.

ARTICLE 16.

Magistrates.

§ 7A-170. **Nature of office; oath; office and court hours.**—A magistrate is an officer of the district court. Before entering upon the duties of his office, a magistrate shall take the oath of office prescribed for a magistrate of the General Court of Justice. The times and places at which each magistrate is required to maintain regular office and court hours and to be otherwise available for the performance of his duties is prescribed by the chief district judge of the district in which he is resident, but a magistrate possesses all the powers of his office at all times during his term.

§ 7A-171. **Numbers; fixing of salaries; appointment and terms; vacancies.**—(a) The General Assembly shall establish a minimum and a maximum quota of magistrates for each county. In no county shall the minimum quota be less than one. A magistrate shall be a resident of the county for which appointed.

(b) Not later than the first Monday in September of each even-numbered year, the Administrative Officer of the Courts, after consultation with the chief district judge shall prescribe and notify the clerk of superior court of the salaries to be paid to the various magistrates to be appointed to fill the minimum quota established for the county. A salary shall be prescribed for each office within the minimum quota upon consideration of the time which the particular magistrate will be required by the chief district judge to devote to the performance of the duties of his office. Not later than the second Monday in December of each even-numbered year, the clerk of superior court shall submit to the senior regular resident superior court judge of his district the names of two (or more, if requested by the judge) nominees for each magisterial office in the minimum quota established for the county, specifying as to each nominee the salary level for which nominated. Not later than the fourth Monday in December, the senior regular superior court judge shall, from the nominations submitted by the clerk of superior court, appoint magistrates to fill the minimum quota established for each county of his district, such appointments to be at the various salary levels prescribed by the Administrative Officer of the Courts. The term of a magistrate so appointed shall be two years, commencing on the first day in January of the calendar year next ensuing the calendar year of appointment.

(c) After the biennial appointment of the minimum quota of magistrates, additional magistrates in a number not to exceed, in total, the maximum quota established for each county may be appointed in the following manner. The chief district judge, with the approval of the Administrative Officer of the Courts, may certify to the clerk of superior court that the minimum quota is insufficient for the efficient administration of justice and that a specified additional number, not to exceed the maximum quota established for the county, is required at salary levels specified by the Administrative Officer for each additional office. Within 15 days after the receipt of this certification the clerk of superior court shall submit to the senior regular resident superior court judge of his district the names of two (or more, if requested by the judge) nominees for each additional magisterial office, specifying as to each nominee the salary level for which nominated. Within 15 days after receipt of the nominations the senior regular resident superior court judge shall from the nominations submitted appoint magistrates in the number and at the salary levels specified in the certification. A magistrate so appointed shall serve a term commencing immediately and expiring on the same day as the terms of office of magistrates appointed to fill the minimum quota for the county.

(d) A vacancy in the office of magistrate is filled in the following manner. Whether the magistrate in whose office a vacancy occurs was appointed to fill the minimum quota or as an additional appointment, the clerk of the superior court shall within 30 days after such vacancy occurs submit to the senior regular resident superior court judge the names of two (or more, if requested by the judge) nominees for the office vacated, and at the same salary level. Within 15 days after receipt of the nominations, the senior regular resident superior court judge shall appoint from the nominations received a magistrate who shall take office immediately and serve for the remainder of the unexpired term.

§ 7A-172. Minimum and maximum salaries. — Magistrates shall receive not less than one thousand two hundred dollars (\$1,200) and not more than ten thousand seven hundred seventy-six dollars (\$10,776) per year.

§ 7A-173. Suspension; removal; reinstatement. — (a) A magistrate may be suspended from performing the duties of his office by the chief district judge, or removal from office by the senior regular resident superior court judge or any regular superior court judge holding court in the district. Grounds for suspension or removal are the same as for a judge of the General Court of Justice.

(b) Suspension from performing the duties of the office may be ordered upon filing of sworn written charges in the office of clerk of superior court for the county in which the magistrate resides. If the chief district judge, upon examination of the sworn charges, finds that the charges, if true, constitute grounds for removal, he may enter an order suspending the magistrate from performing the duties of his office until a final determination of the charges on the merits. During suspension the salary of the magistrate continues.

(c) If a hearing, with or without suspension, is ordered, the magistrate against whom the charges have been made shall be given immediate written notice of the proceedings and a true copy of the charges, and the matter shall be set by the chief district judge for hearing before the senior regular resident superior court judge or a regular superior court judge holding court in the district. The hearing shall be held within the district not less than 10 days nor more than 30 days after the magistrate has received a copy of the charges. The hearing shall be open to the public. All testimony offered shall be recorded. At the hearing the superior court judge shall receive evidence, and make findings of fact and conclusions of law. If he finds that grounds for removal exist, he shall enter an order permanently removing the magistrate from office, and terminating his salary. If he finds that no such grounds exist, he shall terminate the suspension, if any.

(d) A magistrate may appeal from an order of removal to the Court of Appeals on the basis of error of law by the superior court judge. Pending decision of the case on appeal, the magistrate shall not perform any of the duties of his office. If, upon final determination, he is ordered reinstated, either by the appellate division or by the superior court on remand, his salary shall be restored from the date of the original order of removal.

§ 7A-174. Bonds.—Prior to taking office, magistrates shall be bonded, individually or collectively, in such amount or amounts as the Administrative Officer of the Courts shall determine. The bond or bonds shall be conditioned upon the faithful performance of the duties of the office of magistrate. The Administrative Officer shall procure such bond or bonds from any indemnity or guaranty company authorized to do business in North Carolina, and the premium or premiums shall be paid by the State. (1965, c. 310, s. 1.)

§ 7A-175. Records to be kept.—A magistrate shall keep such dockets, accounts, and other records, under the general supervision of the clerk of superior court, as may be prescribed by the Administrative Office of the Courts. (1965, c. 310, s. 1.)

§ 7A-176. Office of justice of the peace abolished. — The office of justice of the peace is abolished in each county upon the establishment of a district court therein. (1965, c. 310, s. 1.)

§ 7A-177. Training course in duties of magistrate. — Within six months of taking the oath of office as a magistrate for the first time, a magistrate is required to attend and satisfactorily complete a course of basic training of at least 40 hours in the civil and criminal duties of a magistrate. The Administrative Office of the Courts is authorized to contract with the Institute of Government or with any other qualified educational organization to conduct this training, and to reimburse magistrates for travel and subsistence expenses incurred in taking such training. (1975, c. 956, s. 11.)

ARTICLE 19.

Small Claim Actions in District Court.

§ 7A-211. **Small claim actions assignable to magistrates.**—In the interest of speedy and convenient determination, the chief district judge may, in his discretion, by specific order or general rule, assign to any magistrate of his district any small claim action pending in his district if the defendant is a resident of the county in which the magistrate resides. If there is more than one defendant, at least one of them must be a bona fide resident of the county in which the magistrate resides. (1965, c. 310, s. 1, 1967, c. 1165.)

SUBCHAPTER V. JURISDICTION AND POWERS OF THE TRIAL
DIVISIONS OF THE GENERAL COURT OF JUSTICE

ARTICLE 22.

Jurisdiction of the Trial Divisions in Criminal Actions.

§ 7A-273. **Powers of magistrates in criminal actions.** — In criminal actions, any magistrate has power:

- (1) In misdemeanor cases, other than traffic offenses, in which the maximum punishment which can be adjudged cannot exceed imprisonment for 30 days, or a fine of fifty dollars (\$50.00), exclusive of costs, to accept guilty pleas and enter judgment;
- (2) In misdemeanor cases involving traffic offenses, to accept written appearances, waivers of trial and pleas of guilty, in accordance with a schedule of offenses and fines promulgated by the chief district judge, and, in such cases, to enter judgment and collect the fine and costs;
- (3) To issue arrest warrants valid throughout the State;
- (4) To issue search warrants valid throughout the county; and
- (5) To grant bail before trial for any noncapital offense;
- (6) Notwithstanding the provisions of subdivision (1) of this section, to hear and enter judgment in all worthless check cases brought under G.S. 14-107, when the amount of the check is fifty dollars (\$50.00) or less;
- (7) To conduct an initial appearance as provided in G.S. 15A-511;
- (8) To accept written appearances, waivers of trial and pleas of guilty to violations of G.S. 14-107 and enter such judgments as the chief district judge shall direct, when the amount of the check is three hundred dollars (\$300.00) or less, restitution is made, and the warrant does not charge a fourth or subsequent violation of this statute.

ARTICLE 26.

Additional Powers of District Court Judges and Magistrates.

§ 7A-292. **Additional powers of magistrates.**—In addition to the jurisdiction and powers assigned in this Chapter to the magistrate in civil and criminal actions, each magistrate has the following additional powers:

- (1) To administer oaths;
- (2) To punish for contempt;

- (3) When authorized by the chief district judge, to take depositions and examinations before trial;
- (4) To issue subpoenas and capiases valid throughout the county;
- (5) To take affidavits for the verification of pleadings;
- (6) To issue writs of habeas corpus ad testificandum, as provided in G.S. 17-41;
- (7) To assign a year's allowance to the surviving spouse and a child's allowance to the children as provided in Chapter 30, Article 4, of the General Statutes;
- (8) To take acknowledgments of instruments, as provided in G.S. 47-1;
- (9) To perform the marriage ceremony, as provided in G.S. 51-1;
- (10) To take acknowledgment of a written contract or separation agreement between husband and wife, and to make a private examination of the wife, as provided in G.S. 52-6;
- (11) Repealed by Session Laws 1973, c. 503, s. 9, effective October 1, 1973.
- (12) To assess contribution for damages or for work done on a dam, canal, or ditch, as provided in G.S. 156-15; and
- (13) Repealed by Session Laws 1973, c. 503, s. 9, effective October 1, 1973. (1965, c. 310, s. 1; 1967, c. 691, s. 25; 1971, c. 377, s. 17; 1973, c. 503, s. 9.)

§ 7A-293. Special authority of a magistrate assigned to a municipality located in more than one county of a district court district. — A magistrate assigned to an incorporated municipality, the boundaries of which lie in more than one county of a district court district, may, in criminal matters, exercise the powers granted by G.S. 7A-273 as if the corporate limits plus the territory embraced within a distance of one mile in all directions therefrom were located wholly within the magistrate's county of residence. Appeals from a magistrate exercising the authority granted by this section shall be taken in the district court in the county in which the offense was committed. A magistrate exercising the special authority granted by this section shall transmit all records, reports, and monies collected to the clerk of the superior court of the county in which the offense was committed. (1967, c. 691, s. 26.)

APPENDIX E



ADMINISTRATIVE OFFICE OF THE COURTS
JUSTICE BUILDING
RALEIGH, NORTH CAROLINA 27602

27 October 1975

BERT M. MONTAGUE
DIRECTOR

FRANKLIN E. FREEMAN, JR.
ASSISTANT DIRECTOR

MEMORANDUM

TO: The Honorable Liston B. Ramsey, Chairman
Committee on Criminal Law and State Property Matters
North Carolina House of Representatives

FROM: Bert M. Montague

SUBJECT: Magistrates' Headquarters

Listed below, by Judicial Districts, are the non-county seat municipalities which have magistrates assigned:

<u>Judicial District</u>	<u>Municipality</u>
1	South Mills Hatteras Kill Devil Hills
2	Belhaven Creswell Engelhard
3	Ayden Grifton Farmville Fountain Bethel Ft. Barnwell Havelock Newport Atlantic Beach Cape Carteret
4	(no report)

Judicial District

Municipality

5	Topsail Beach Hampstead Willard Wrightsville Beach Carolina Beach
6	Roanoke Rapids Scotland Neck Enfield Littleton Hollister Conway Gaston Rich Square Ahoskie Murfreesboro Colerain Aulander
7	Stantonsbury Lucama Pinetops Sharpsburg Middlesex Bailey Spring Hope Whitakers Rocky Mount
8	Mount Olive Fremont LaGrange Pink Hill
9	Creedmoor Franklinton Norlina
10	Wendell Zebulon Apex Fuquay-Varina Wake Forest

Judicial District

Municipality

11

Angier
Coats
Erwin
Dunn
Benson
Four Oaks
Clayton
Kenly
Selma
Princeton

12

Hope Mills
Spring Lake

13

Clarkton
Bladenboro
Fair Bluff
Chadbourn
Tabor City
Bolton
Leland
Winnabow

14

None

15

Burlington
Siler City
Chapel Hill

16

St. Pauls
Red Springs
Maxton
Pembroke
Rowland
Fairmont

17

Elkin
Pilot Mountain
Walnut Cove
King
Mount Airy
Madison
Reidsville
Eden

18

High Point
Gibsonville
Guilford College

<u>Judicial District</u>	<u>Municipality</u>
19	Kannapolis / Archdale Liberty
20	Ellerbe Hamlet Southern Pines
21	Kernersville Rural Hall Clemmons
22	Mooreville Thomasville Denton
23	Jonesville
24	Spruce Pine Mars Hill
25	(no report)
26	Pineville Matthews Huntersville Davidson
27	Kings Mountain Boiling Springs Lawndale Cherryville Mount Holly Belmont Stanley Denver
28	None
29	Forest City Tryon Old Fort
30	Canton Highlands Andrews



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ADMINISTRATIVE OFFICE OF THE COURTS
JUSTICE BUILDING
RALEIGH, NORTH CAROLINA 27602
LEGISLATIVE SERVICES OFFICE

BERT M. MONTAGUE
DIRECTOR

November 4, 1975

FRANKLIN E. FREEMAN, JR.
ASSISTANT DIRECTOR

MEMORANDUM

TO: Mr. Terry Sullivan
Legislative Services Office

FROM: Bert M. Montague

Please add the following to the memorandum furnished you last week indicating the non-county-seat municipalities which have a magistrate assigned.

District Number 4

Beulaville, Faison, Garland, Holly Ridge, Maysville, Newton Grove, Pollocksville, Richlands, Roseboro, Rose Hill, Swansboro, Wallace, Warsaw.

A handwritten signature in cursive script, appearing to read "Bert M. Montague", written over a horizontal line.

BMM/dd

OCTOBER 8, 1975

WARRANT ISSUING CLERKS IN FORSYTH COUNTY¹

<u>NAME</u>	<u>DATE OF EMPLOYMENT</u>	<u>SALARY</u>
ROBERT J. SULEK	12-13-72	\$8,112
DAVID C. CARTER	4-24-69	9,708
LARRY G. KING	2-7-72	8,484
LARRY E. COUNCILMAN	12-2-68	9,708
TERRY L. HOLBROOK	2-15-73	7,752
RICHARD A. RODDEN	8-27-73	8,112
THOMAS M. VERNON	4-2-75	7,080

¹ Supplied by the Administrative Office of the Courts

STATISTICS ON THE OFFICE OF MAGISTRATE¹

<u>Jurisdiction</u>	<u>Population</u> ²	<u>No. of Magistrates</u>	<u>Total # of hours assigned magistrates per week</u> ³	<u>Per Ten Thousand Inhabitants</u>	
				<u>Number of Magistrates</u>	<u>Hours Assigned Magistrates Per Week</u>
NORTH CAROLINA <u>150,000 and Over</u>	5,363,000	551	20,159 ⁴	1.0	37.6
Mecklenburg	373,700	21	772	0.6	20.7
Guilford	299,200	19	657 ⁴	0.6	22.0
Forsyth	223,200	3	118	0.1	5.3
Cumberland	223,100	11	440	0.5	19.7
Wake	256,600	12	440	0.5	17.1
Gaston	155,300	13	480	0.8	30.9
Buncombe	150,000	12	480	0.8	32.0
<u>75,000 - 149,000</u>					
Durham	138,900	8	320	0.6	23.0
Davidson	100,600	8	320	0.8	31.8
Alamance	99,400	9	360	0.9	36.2
Catawba	98,200	8	320	0.8	32.6
Onslow	95,100	7	230 ⁴	0.7	24.2
New Hanover	95,100	9	334	0.9	35.1
Rowan	91,900	8	270	0.9	29.4
Robeson	90,600	12	440	1.3	48.6
Wayne	89,500	7	270	0.8	30.2
Randolph	82,400	6	240	0.7	29.1
Cabarrus	78,200	6	240	0.8	30.7
Iredell	77,500	8	320	1.0	41.3
Cleveland	77,200	7	280	0.9	36.3

STATISTICS ON THE OFFICE OF MAGISTRATE ¹

<u>Jurisdiction</u>	<u>Population</u> ²	<u>No. of Magistrates</u>	<u>Total # of hours assigned magistrates per week</u> ³	<u>Per Ten Thousand-Inhabitants</u>	
				<u>No. of Magistrates</u>	<u>Hours Assigned Magistrates Per Week</u>
Rockingham	76,700	7	270	0.9	35.2
<u>50,000 - 74,999</u>					
Pitt	74,600	11	375	1.5	50.3
Orange	66,800	8	320	1.2	47.9
Craven	65,000	7	238	1.1	36.6
Burke	64,300	6	240	0.9	37.3
Johnston	64,000	12	395	1.9	61.7
Nash	63,800	10	323	1.6	50.6
Union	60,300	4	160	0.7	26.5
Caldwell	60,100	7	280	1.2	46.6
Wilson	59,400	6	219	1.0	36.9
Lenoir	58,700	7	260	1.2	44.3
Halifax	54,600	10	385	1.8	70.5
Wilkes	54,000	5	144	0.9	26.7
Surry	53,700	6	240	1.1	44.7
Harnett	53,300	10	340	1.9	63.8
Edgecombe	52,000	6	172	1.2	33.1
Rutherford	50,000	5	200	1.0	40.0
<u>25,000 - 49,999</u>					
Columbus	49,700	7	270	1.4	54.3
Henderson	46,900	5	225	1.1	48.0
Sampson	46,900	8	270 ⁴	1.7	57.6
Stanly	44,800	4	160	0.9	35.7
Haywood	43,200	6	225	1.4	52.1
Moore	41,700	6	240	1.4	57.6
Richmond	40,200	6	222	1.5	55.2

9-2

STATISTICS ON THE OFFICE OF MAGISTRATE¹

<u>Jurisdiction</u>	<u>Population</u> ²	<u>No. of Magistrates</u>	<u>Total # of hours assigned magistrates per week</u> ³	<u>Per Ten Thousand Inhabitants</u>	
				<u>No. of Magistrates</u>	<u>Hours Assigned Magistrates Per Week</u>
Duplin	38,900	9	330	2.3	84.8
Beaufort	37,000	5	170	1.4	45.9
Lincoln	36,800	5	184	1.4	50.0
Carteret	34,900	7	240	2.0	68.8
Granville	33,300	5	200	1.5	60.1
Vance	33,200	4	150	1.2	45.2
Lee	33,100	5	200	1.5	60.4
McDowell	32,500	4	145	1.2	44.6
Brunswick	31,900	6	200 ⁴	1.9	62.7
Chatham	29,700	6	240	2.0	80.8
Scotland	28,900	3	120	1.0	41.5
Watauga	28,300	3	120	1.1	42.4
Bladen	28,000	4	160	1.4	57.1
Pasquotank	28,000	3	120	1.1	42.9
Franklin	27,700	4	140	1.4	50.5
Stokes	27,600	3	120	1.1	43.5
Person	27,000	4	125	1.5	46.3
Yadkin	26,500	3	120	1.1	45.3
<u>10,000 - 24,999</u>					
Martin	24,900	4	120 ⁴	1.6	48.2
Jackson	24,800	4	145	1.6	58.5
Anson	23,700	4	160	1.7	67.5
Northampton	23,400	5	200	2.1	85.5
Hertford	23,100	5	200	2.2	86.6
Alexander	21,800	3	103	1.4	47.2
Davie	20,800	3	84	1.4	40.4

STATISTICS ON THE OFFICE OF MAGISTRATE¹

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<u>Jurisdiction</u>	<u>Population²</u>	<u>No. of Magistrates</u>	<u>Total # of hours assigned magistrates per week³</u>	<u>Per Ten Thousand Inhabitants</u>	
				<u>No. of Magistrates</u>	<u>Hours Assigned Magistrates Per Week</u>
Transylvania	20,600	2	55	1.0	26.7
Bertie	20,100	4	135	2.0	67.2
Ashe	20,000	3	103	1.5	51.5
Pender	20,000	5	135	2.5	67.5
Montgomery	19,600	3	120	1.5	61.2
Caswell	19,100	3	90	1.6	47.1
Macon	17,700	3	105	1.7	59.3
Warren	17,000	3	100	1.8	58.8
Hoke	16,900	3	112	1.8	66.3
Cherokee	16,500	3	120	1.8	72.7
Madison	16,400	3	110	1.8	67.1
Greene	14,900	2	80	1.3	53.7
Washington	14,000	3	95	2.1	67.9
Avery	13,900	2	80	1.4	57.6
Mitchell	13,700	3	110	2.2	80.3
Yancey	13,200	2	80	1.5	60.6
Polk	12,800	2	80	1.6	62.5
Chowan	11,000	2	80	1.8	72.7
<u>Under 10,000</u>					
Jones	9,600	3	85	3.1	88.5
Currituck	9,500	2	55	2.1	57.9
Swain	9,500	2	80	2.1	84.2
Pamlico	9,400	1	40	1.1	42.6
Dare	9,000	3	70	3.3	77.8
Alleghany	8,700	2	61	2.3	70.1

<u>Jurisdiction</u>	<u>Population</u> ²	<u>No. of Magistrates</u>	<u>Total # of hours assigned magistrates per week</u> ³	<u>Per Ten Thousand Inhabitants</u>	
				<u>No. of Magistrates</u>	<u>Hours Assigned Magistrates Per Week</u>
Gates	8,300	2	70	2.4	84.3
Perquimans	8,300	2	55	2.4	66.3
Graham	6,500	2	60	3.1	92.3
Camden	5,800	2	55	3.4	94.8
Clay	5,400	1	40	1.9	74.1
Hyde	5,300	2	58	3.8	109.4
Tyrell	3,800	2	40 ⁴	5.3	105.3

¹ Based on information supplied by the Administrative Office of the Courts as of August 1, 1975.

² Estimate of population as of 1974, prepared by the Office of State Planning of the Dept. of Administration.

³ These figures do not include hours magistrates are on call or stand-by status.

⁴ This figure does not include the hours of part-time magistrates whose positions were vacant as of August 1, 1975.

Prepared by the Legislative Services Office 10/3/75.

APPENDIX H
 ADMINISTRATIVE OFFICE OF THE COURTS
 MAGISTRATES
 AS OF SEPTEMBER 1, 1976

County	Name	Position Number	Annual Salary	Position Status			No. Full Terms Served
				Full-time	Part-time	Hours	
Alamance	Loy, Joseph F.	00114	8,208	X			2
	Barringer, D. R.	00116	8,208	X			2
	Terrell, W. B.	00117	10,392	X			4
	Lea, John D.	00118	10,776	X			4
	Bivins, Charles F.	00119	8,208	X			1
	Moon, Doris M.	00121	9,672	X			3
	Boswell, Sarah W.	00122	9,672	X			3
	Pearce, Allen D.	00123	8,892	X			2
Wilkinson, Frank D.	00124	7,668	X			1	
Alexander	Sherrill, Kermit	01114	9,120	X			3
	Feimster, Harvey C.	01115	9,120	X			3
	James, Joe	01117	2,952		X	23	1
Alleghany	Estep, Woodrow H.	02114	6,312	X			3
	Nichols, Walter C.	02115	4,392		X	21	3
Anson	Burns, James A.	03114	10,440	X			4
	Ingold, Lola D.	03115	8,208	X			1
	Jarman, Edward T.	03116	8,208	X			1
	Jones, Frank E.	03117	8,208	X			4
Ashe	Jones, Loyd S.	04114	7,956	X			1
	Lawrence, Fred E.	04115	5,328		X	24	3
	Colvard, Charles B.	04116	5,328		X	39	3
Avery	Caraway, Kenny B.	05114	9,120	X			1
	Sudderth, William H.	05115	9,120	X			1
Beaufort	Stowe, William T.	06114	9,708	X			4
	Cutler, Chant B.	06115	9,708	X			4
	Allen, Hampton B.	06116	5,040		X	35	2
	Vacant	06117	2,016		X		
	Swindell, Kenneth V.	06118	9,708	X			3
Bertie	Barnes, Jimmie R.	07114	7,080		X	30	1
	Baker, John C.	07115	9,192	X			4
	Darden, George T.	07116	3,792		X	39	1
	Chamblee, John M.	07117	7,860		X	26	3
Bladen	Register, Leroy, Jr.	08114	8,904	X			4
	Britt, Rufus A.	08115	8,556	X			4
	Gore, Charlie G.	08116	8,184	X			4
	McKeithan, Dougald	08117	6,552	X			4
Brunswick	Osborne, Lela	09114	8,556	X			4
	Sue, Samuel A.	09115	8,184	X			4
	Gore, Ernest F.	09116	8,184	X			4
	Cheers, R. W.	09117	6,852	X			4
	Reed, George B.	09118	2,520		X	19	1
	Swain, Ephriam E.	09119	7,824	X			2

Buncombe	Moffitt, Garry D.	10114	9,768	X			3
	Carter, G. Kimberly	10115	8,472	X			1
	London, Clay W.	10116	7,020	X			1
	Puckridge, Jackie R.	10117	8,868	X			2
	DeBruhl, Otto W.	10118	10,464	X			3
	Lucas, Mary C.	10119	8,868	X			2
	Harrison, Pauline P.	10120	9,768	X			2
	Goodman, Inez D.	10121	7,668	X			2
	Talley, Marie B.	10124	7,332	X			1
	Burleson, Gray A.	10125	9,156	X			2
Harris, Coleman F.	10126	7,788	X			3	
Burke	Page, Julius S.	11114	10,626	X			5
	Walker, Frederick W.	11115	7,020	X			0
	Morgan, Ellis M.	11116	7,524	X			1
	Cannon, Francis R.	11117	7,872	X			1
	Tise, Frank W.	11118	8,772	X			1
	Connelly, Marvin	11119	7,392	X			1
Cabarrus	Goodman, Carolyn M.	12114	10,620	X			3
	Baggs, William W.	12115	9,804	X			2
	Slawson, Bruce L.	12116	8,832	X			1
	Moore, Raymond J.	12118	9,432	X			2
	Roberts, Douglas B.	12119	10,176	X			3
	Polk, Richard K.	12121	9,804	X			2
Caldwell	Beshears, Robert D.	13114	10,776	X			5
	Parlier, J. Felix	13115	9,996	X			5
	Greer, Robert H.	13116	8,064	X			1
	Thomas, Sylvester	13117	7,932	X			1
	Alley, Clem M.	13118	8,772	X			4
	Hailey, Cecil W.	13119	7,932	X			3
	Wakefield, Robert C.	13120	7,932	X			1
Camden	Forehand, Edward G.	14113	2,352		X	15	/
	Leary, H. Ashburn	14114	8,064	X			5
Carteret	Dill, George W., Jr.	15114	9,012	X			3
	Young, Norwood R.	15115	10,776	X			4
	Cassiano, Frank A.	15116	8,040	X			3
	Garner, Prentiss	15117	3,192		X	25	4
	Rae, John C.	15118	8,040	X			4
	Harrell, Brinkley G.	15119	3,516		X	30	3
Trigleth, Joseph A.	15120	8,340	X			1	
Caswell	Allen, Raymond Y.	16114	9,636	X			1
	Chandler, Gilbert C.	16115	5,724		X	30	2
	Angle, Montrose S.	16116	2,904		X	20	3
Catawba	Setzer, Hubert M.	17114	9,168	X			4
	Fleming, Rickman N.	17115	10,188	X			4
	Lemons, Donald	17116	9,168	X			3
	Lackey, William P.	17117	8,568	X			2
	Felts, C. Duncan	17118	8,340	X			2
	McDaniel, Kenneth H.	17119	9,384	X			3
	Taylor, Banks V.	17120	8,040	X			2
	Brown, Marcenia B.	17121	8,340	X			4

Chatham	Stone, A. M.	18114	9,672	X			4
	Torbert, Joe T.	18115	9,672	X			4
	Webb, W. C.	18116	9,120	X			4
	Parker, Earl F.	18117	10,776	X			4
	Womble, Harvey C.	18118	7,668	X			1
Cherokee	Jones, Vincent F.	19114	7,104	X			2
	Rose, Andrew J.	19115	6,492	X			1
	Craig, Hubert	19116	6,168	X			1
Chowan	Tarkington, R. A.	20114	7,056	X			4
	Perry, Carlton N.	20115	6,204	X			1
Clay	Bradley, William P.	21114	7,020	X			1
Cleveland	Bass, David L.	22114	10,776	X			4
	Gaskey, Agnes L.	22115	9,528	X			4
	Costner, Kenneth W.	22116	9,576	X			4
	Carpenter, Charles T.	22117	9,528	X			1
	Greene, J. R.	22118	8,952	X			4
	Mintz, Fred D., Sr.	22119	9,828	X			4
	Ellis, Bruce H.	22120	8,568	X			1
Columbus	Mooney, John W.	23114	9,324	X			4
	Wilson, John	23115	9,528	X			4
	Edwards, Ralph	23116	9,528	X			4
	Watts, Ted	23117	9,528	X			4
	Bullard, Ralph J.	23118	6,540	X			4
	Fisher, Thomas J.	23119	5,640		X	30	0
	Freeman, William T.	23120	9,528	X			2
Craven	Putnam, James C.	24114	9,084	X			2
	Stevens, Henry P.	24115	10,776	X			4
	Phipps, Robert A.	24116	9,900	X			2
	Sanders, Norwood R.	24117	6,060		X	30	4
	Vacant	24118	3,336		X		0
	Newell, Marie A.	24119	4,680		X	30	4
	Provost, John D.	24120	9,084	X			4
Cumberland	Mitchell, Lewis	25114	10,776	X			5
	Darden, James B.	25115	10,776	X			5
	Parrish, Robert L.	25116	10,776	X			5
	Rose, Keith L.	25117	10,776	X			5
	Waldrop, Louis G.	25118	10,200	X			5
	Autry, Stacy	25119	10,200	X			5
	Drake, Thomas S.	25120	8,064	X			1
	Oakley, S. L.	25121	8,064	X			1
	McLean, Boyd L.	25122	9,720	X			3
	Semel, Phillip J.	25123	9,600	X			2
	Morgan, Otto R.	25124	9,420	X			2
	Currituck	Sanderlin, Sam W.	26114	8,412	X		
Brickhouse, Noah A.		26116	2,148		X	15	3
Dare	Swain, Ralph L.	27114	9,216	X			5
	O'Neal, Ephriam N.	27115	2,256		X	15	2
	Sheetz, John C.	27116	2,052		X	15	2

Davidson	Ashmore, Anne G.	28114	7,176	X			0
	Myers, Mattie B.	28115	8,940	X			1
	Pierce, Carol L.	28116	8,364	X			1
	Hunt, K.	28117	7,668	X			1
	Lawson, Charles L.	28118	8,364	X			1
	Lowery, Eddie R.	28119	8,556	X			2
	Meachum, Edward J., Jr.	28120	8,364	X			1
	Lopp, Curry F.	28121	7,668	X			3
Davie	Howell, Samuel W.	29114	9,120	X			2
	Purvis, Ruby A.	29115	4,740		X	22	3
	Green, Tony S.	29116	4,740		X	22	2
Duplin	Sheffield, Dorothy K.	30114	9,264	X			2
	Williamson, R. F.	30115	9,264	X			0
	Cording, Melvin G.	30116	9,264	X			1
	Williams, Perry	30117	9,264	X			0
	Precythe, Carlton A.	30119	6,540	X			4
	Price, Hubert M.	30120	6,540		X	30	4
	Hursey, Robert J.	30121	9,660	X			4
	Phillips, H. L.	30122	8,328	X			0
Durham	Spell, Sarah H.	31114	8,772	X			1
	Merritt, Audrey P.	31115	10,776	X			5
	Hilliard, Wilbur L.	31116	10,644	X			5
	Berryman, Chester A.	31117	9,660	X			3
	West, M. J.	31118	10,644	X			5
	Parrish, Ruby J.	31119	10,212	X			5
	Taylor, Monroe P.	31120	9,168	X			2
	Guthrie, Ray P., Jr.	31121	7,668	X			1
Edgecombe	Painter, Harold D.	32114	4,680		X	12	2
	Pate, Emmett G.	32115	9,528	X			4
	Sessoms, David C.	32116	5,988		X	25	4
	Godwin, Charles B.	32117	4,680		X	15	2
	Ward, William H.	32118	10,188	X			4
	Harrell, Jack W.	32119	10,776	X			3
Forsyth	Thomerson, Harold W.	33114	10,776	X			4
	Lewter, Joseph C.	33115	10,776	X			1
	Rothrock, Emma C.	33116	6,852		X	38	4
Franklin	Collins, William F.	34114	9,948	X			4
	Pace, William J.	34115	9,576	X			4
	Goodwin, Alfred M.	34116	7,956		X	30	1
	Pearce, William P. Jr.	34117	6,192		X	30	4
Gaston	Terrell, Robert W.	35114	10,776	X			4
	Ellington, Jack O'Brian	35115	9,336	X			1
	Moller, Gerard J.	35116	9,996	X			2
	Ballard, Lillian M.	35117	9,996	X			4
	Beatty, Mina L.	35118	10,776	X			4
	Crocker, William P.	35119	9,996	X			4
	Mauney, Ralph L.	35120	10,440	X			2
	Scates, Jerry R.	35121	10,440	X			3
	Bynum, Jean B.	35122	9,996	X			4
	Robinson, Charles W.	35123	10,776	X			4
	Hovis, C. Hugh	35124	3,192		X	20	1
	Medlock, B. Eugene	35125	3,444		X	20	4
	Nation, Howard E.	35126	8,988	X			1

Gates	Morris, Floyd G.	36114	8,604	X				5
	Jones, John D.	36115	5,292		X		30	
Graham	Hooper, Reo C.	37114	3,300		X		20	
	Crisp, William A.	37115	6,168	X				2
Granville	Wheeler, J. G., Jr.	38114	10,392	X				4
	Patterson, Marshall V.	38115	9,168	X				4
	Currin, George A.	38116	9,168	X				2
	Chappell, Wallace P.	38117	9,168	X				4
	Bernard, Herbert F.	38118	9,168	X				1
Greene	Croom, Emory E., Sr.	39114	9,576	X				4
	Croom, Martha E.	39115	7,056	X				4
Guilford	Clark, Robert G.	40114	10,440	X				4
	Dean, James A.	40116	10,212	X				4
	Foutch, Wallace G.	40117	10,236	X				2
	Henderson, J. D.	40118	9,948	X				0
	Marshall, William R.	40119	10,536	X				4
	Mattocks, Sterling M.	40120	10,212	X				4
	Shoffner, Harvey G.	40122	10,236	X				4
	Skinner, James B.	40123	10,212	X				4
	Walker, Ira B.	40124	10,476	X				3
	Talbott, Gordon E.	40125	10,776	X				4
	Greene, Alice B.	40126	10,776	X				2
	Carroll, Janie T.	40127	10,776	X				3
	Wharton, Juanita J.	40128	10,776	X				4
	Rook, Bennie A.	40129	10,212	X				4
	Smith, Louis E.	40130	10,236	X				1
	Fulbright, John D.	40131	3,972			X	10	
	Burke, Edward M.	40132	2,700			X	7	
	Vacant	40133	2,460			X		
	Embry, Raymond C.	40134	10,176	X				4
	Halifax	Daniel, John R.	41114	2,700			X	16
Bell, Herbert H.		41115	7,332	X				4
Ivey, George R.		41116	6,696	X				4
Barrow, Leonard G.		41117	10,776	X				4
Shearin, James M.		41118	7,188	X				2
Draper, William T.		41119	4,356	X				1
Qualls, James H.		41120	5,928			X	25	4
Ward, Alma H.		41121	3,804	X				1
Boyd, Betty G.		41122	4,956	X				3
Gay, Woodrow M.		41123	9,168	X				3
King, W. F.		41124	6,000	X				0
Harnett		McDonald, Wyatt	42114	9,048	X			
	Joseph, Nicholas A.	42115	8,364	X				2
	Holder, Clayborn L.	42116	9,576	X				2
	Watkins, Carolyn J.	42117	6,540			X	30	4
	Langdon, Doris C.	42118	10,308	X				3
	Butler, N. Mangum	42119	7,836	X				4
	Lloyd, C. T.	42120	8,340			X	30	4
	Neighbors, Virginia M.	42121	7,140	X				3
	Cameron, Neil C.	42122	5,112			X	20	1
	Flowers, Verle P.	42123	4,668			X	20	1

Haywood	Moody, Jerry W.	43114	7,512	X			1
	Davis, Joseph S.	43115	4,572		X	25	2
	Franklin, I. G.	43116	8,736	X			5
	Moody, Hugh A.	43117	8,364	X			5
	Lee, Arthur D.	43119	8,736	X			2
	Queen, George C.	43120	6,864	X			1
Henderson	Maxwell, William F.	44114	9,384	X			4
	Bagenstos, Billy G.	44115	8,328	X			1
	Hill, David L.	44116	5,472	X			0
	Adams, Hoyle	44117	8,484	X			4
	Hill, Atlas R.	44118	8,484	X			1
Hertford	Early, James C.	45114	6,732	X			4
	Purvis, Harvey J.	45115	6,600	X			2
	White, John D.	45116	6,864	X			4
	Hill, James W.	45117	5,916	X			0
	Brady, Robert B.	45118	6,864	X			4
Hoke	Barrington, Helen S.	46114	9,600	X			5
	Thornberg, Brian H.	46115	8,700	X			1
	Hedgpeth, George S.	46116	6,840		X	32	/
Hyde	Marshall, Dancy W.	47114	4,980	X			4
	Snell, Donald M.	47115	2,352		X	18	4
Iredell	Neel, Samuel W.	48114	9,120	X			3
	Fox, Henry C.	48115	9,120	X			3
	Beaver, Larry J.	48116	8,940	X			3
	Wilson, A. J.	48117	9,120	X			3
	Ritchie, Rona E.	48118	9,120	X			3
	Pennell, William H.	48119	8,940	X			3
	Ash, Ludwig, Jr.	48120	7,788	X			1
	Waugh, Roy W.	48121	7,788	X			0
Jackson	Allison, Dan M., Jr.	49114	4,356		X	25	5
	Morris, John H., Jr.	49115	8,364	X			2
	Hooper, Barbara C.	49116	6,720	X			1
	Vacant	49117	7,788	X			
Johnston	Hill, Ransom E.	50114	8,688	X			3
	Lassiter, Nathan T.	50115	10,776	X			4
	Jernigan, H. B., Jr.	50116	7,452		X	30	4
	Adams, Robert G.	50117	6,792		X	30	2
	Smith, J. T.	50118	9,480	X			4
	Atkinson, C. Marvin	50119	6,252		X	25	4
	Beasley, Eva J.	50120	4,020		X	25	4
	Floors, Ray M.	50121	4,020		X	20	3
	Johnson, Archie, Jr.	50122	9,480	X			4
	Martin, Oscar H.	50123	9,480	X			4
	Castleberry, Larry W.	50124	5,568		X	25	2
	Hobgood, Luther W., Jr.	50125	9,480	X			2
Jones	Becton, Joe H.	51114	7,752	X			4
	Harrison, Raymond	51115	6,228		X	30	1
	Creagh, John W., Jr.	51116	2,532		X	15	2
Lee	Miller, Johnny C.	52114	8,976	X			4
	Alcaras, Frances T.	52115	9,168	X			4

	Mason, Hubert C.	52116	9,384	X			4
	Godfrey, Joseph W.	52117	8,976	X			4
	Spivey, Aubrey G.	52118	8,220	X			1
Lenoir	Jones, Levin K.	53114	10,368	X			4
	Davis, Claude C.	53115	10,776	X			4
	Tunstall, Kenneth R.	53116	10,368	X			3
	Myers, Sid J.	53117	4,776		X	30	4
	Hill, Ethro D.	53118	4,008		X	30	4
	Jenkins, George L., Sr.	53119	10,680	X			4
	Dail, Harold L.	53121	10,032	X			2
Lincoln	Broome, J. Curtis	54114	9,744	X			4
	Bradshaw, H. Austin	54115	9,744	X			2
	Culberson, Donnie	54116	9,744	X			4
	Burgin, David M.	54117	9,120	X			1
	Graham, Harry	54118	5,124		X	24	4
Macon	Waldroop, William H.	55114	8,364	X			3
	Henson, J. E.	55115	4,428		X	25	0
	Boring, Charles H.	55116	6,864	X			1
Madison	Fowler, Loyd F.	56114	8,412	X			1
	Roberts, William M.	56115	8,412	X			1
	Murray, Roger V.	56116	7,788	X			1
Martin	Tetterton, W. M.	57114	9,120	X			4
	Ray, Horace A.	57115	8,736	X			3
	Keel, James P.	57116	8,736	X			2
	Vacant	57117	1,908		X		3
McDowell	Adkins, Frances L.	58114	10,632	X			4
	Elliott, Douglas G.	58115	9,480	X			2
	Gibbs, Frank M.	58116	5,772	X			3
	Greene, Worley B.	58117	3,948		X	25	
Mecklenburg	Poe, H. J.	59114	8,736	X			0
	Dixon, James R.	59115	9,948	X			2
	Figgatt, J. B., Jr.	59116	9,588	X			3
	Cook, L. Carl	59118	10,776	X			4
	Knighten, Allen E.	59120	10,776	X			4
	Roseberry, Jackie M.	59121	10,776	X			2
	Stilwell, Eloise M.	59122	10,776	X			4
	Edwards, Joe F.	59123	10,776	X			4
	Williams, Robert N.	59124	9,636	X			4
	Crosland, J. Miller	59125	4,512		X	28	4
	Sadler, Wilson M.	59126	4,356		X	28	3
	Sirginson, Rebecca G.	59127	3,864		X	18	2
	Mayes, Hilda H.	59128	3,660		X	18	1
	McKinney, R. D.	59129	10,392	X			1
	Nance, G. R.	59130	9,528	X			0
	Liner, Virgil C.	59131	9,948	X			2
	McElroy, D. H.	59132	9,528	X			0
	Douglas, Stephen C.	59133	9,576	X			1
	Laney, Marion L.	59134	10,440	X			3
	Moore, Vernon O.	59135	9,576	X			3
Burnette, Geneva B.	59136	9,996	X			3	
Mitchell	Thompson, Robert D.	60114	8,208	X			1
	Snyder, Mae E.	60115	8,208	X			4
	Young, Glenn D.	60116	4,848		X	30	1

Montgomery	Green, Hubert C.	61114	9,168	X			2
	Thomas, Frank R.	61115	9,996	X			3
	Greene, Thomas W.	61116	9,168	X			3
Moore	Fry, Robert G., Jr.	62114	10,680	X			4
	Suggs, George K.	62115	8,604	X			4
	Edwards, J. B.	62116	8,604	X			4
	Tulloch, John B.	62117	8,208	X			3
	Allen, Joseph H.	62118	8,208	X			4
	Marion, Luke L. Jr.	62119	8,208	X			1
Nash	Moore, Paul A.	63114	8,736	X			4
	Searcy, Odelle G.	63115	8,412	X			1
	Earnhardt, Ralph H.	63116	7,332		X	30	1
	Barnes, Henry G.	63117	3,540	X			4
	Dixon, A. R.	63118	8,736	X			3
	Lamm, Stanley L.	63119	3,540		X	15	4
	Bass, Leslie R., Jr.	63120	6,444		X	24	5
	Downing, Ralph W.	63121	7,668	X			4
	Evans, Warren T.	63122	4,200		X	24	0
Robbins, Wiley G.	63123	7,188		X	30	3	
New Hanover	Boykin, Hartford E.	64114	8,316	X			1
	Smith, Joel S.	64115	9,444	X			3
	Howard, Herbert L.	64116	9,996	X			4
	Chestnut, Robert T.	64117	10,776	X			4
	Collins, Serena H.	64118	9,996	X			4
	Burnett, Walter L., Jr.	64119	6,876	X			4
	Beach, Fred G.	64120	3,120		X	22	4
	Coates, James L.	64121	8,832	X			0
	Glisson, Jack V.	64122	5,472		X	32	2
Northampton	Shaw, Robert	65114	5,760	X			0
	Hughes, N. B.	65115	6,864	X			4
	Taylor, L. R.	65116	6,864	X			4
	Thompson, Ralph	65117	4,608	X			4
	Ricks, Otis	65118	4,392	X			4
Onslow	Mattocks, G. L.	66114	9,852	X			4
	Mills, Alton	66115	9,852	X			4
	Hines, W. Gerald	66116	9,852	X			4
	Cole, Edward T., Sr.	66117	6,660		X	30	1
	Meadows, Sybil	66118	6,660		X	30	4
	Murrill, Margaret H.	66119	9,852	X			4
	Horne, Wilbur R.	66120	9,852	X			4
Parker, Dorine C.	66121	9,036	X			0	
Orange	Merritt, June C.	67114	9,432	X			2
	Hackney, Henry B.	67115	8,952	X			4
	Haithcock, Clayton L.	67116	7,668	X			3
	Phelps, Henry W.	67117	9,672	X			2
	Cheshire, Carl D.	67118	8,016	X			1
	Cogdell, Newell C.	67119	8,208	X			2
	Tyler, William N.	67120	7,668	X			1
	Vacant	67121	7,788	X			
Pamlico	Miller, Troy B.	68114	8,196	X			2

Pasquotank	Gaskill, Jack S.	69114	8,412	X			3
	Lane, Logan B.	69115	8,412	X			4
	Sawyer, Lloyd S.	69116	8,412	X			4
	Venters, Richard T.	69117	4,164		X	21	0
Pender	Croom, Catherine M.	70114	10,776	X			4
	Howard, Florence	70115	6,480		X	30	4
	Bradsher, Linda L.	70116	5,736		X	28	2
	Frye, James R.	70117	5,196		X	25	1
	Leeseberg, Phillip K.	70118	2,040		X	12	2
Perquimans	Dail, Broughton T., Sr.	71114	5,556	X			1
	Young, J. Dilbon	71115	2,328		X	15	1
Person	Gillis, Darrow B.	72114	9,948	X			3
	Merritt, John W.	72115	8,412	X			2
	Tingen, Wallace I.	72116	6,492		X	30	1
	Brooks, John P.	72117	2,820		X	15	3
Pitt	Wooten, James R.	73114	9,900	X			3
	Hudson, Carl G. (LWOP)	73115	3,132		X	25	2
	Whitehurst, William E.	73116	9,192	X			1
	Forrest, Alonza	73117	10,074	X			1
	David, Stanley J.	73118	9,480	X			4
	Taylor, Joney E.	73119	9,900	X			3
	Whitley, A. I.	73120	4,056		X	30	4
	Adams, H. H.	73121	4,056		X	20	4
	Hodges, Lewis F.	73122	10,776	X			4
	Peele, Leonard	73123	5,472		X	30	4
Turcotte, Edward	73124	8,364	X			0	
Polk	West, Sarah W.	74114	6,696	X			1
	McCown, William V.	74115	6,024	X			3
Randolph	Hicks, Hurley D.	75114	9,264	X			1
	Crotts, Noel	75115	8,172	X			0
	Wright, Bruce W.	75116	10,176	X			1
	Teague, Curtis, P., Jr.	75117	8,664	X			1
	Harrison, Barbara B.	75118	9,960	X			2
	Crotts, Jacob C.	75119	8,172	X			1
Richmond	Jackson, W. H.	76114	10,248	X			4
	Herring, J. L.	76115	7,620	X			0
	Gunter, E. Burke	76116	8,988	X			4
	McIntosh, W. R.	76117	9,108	X			1
	Parsons, W. Clarence	76118	4,416		X	22	4
	Smith, O. Brown	76119	8,628	X			1
Robeson	Adams, F. LeVerne	77114	7,056		X	35	5
	Prevatte, Elbert V.	77115	5,232		X	25	4
	Duffie, Judson Y.	77116	8,232	X			2
	Schell, John R.	77117	7,056		X	35	1
	Misenheimer, Robert W.	77118	6,048		X	30	2
	McGirt, William C.	77119	8,064	X			5
	Hendrix, David E.	77120	10,776	X			4
	Cummings, Jerry	77121	7,056		X	35	4
	Musselwhite, E. L., Jr.	77122	10,692	X			4
	Nye, Joseph B., Jr.	77123	10,692	X			5
	French, James Lee, Jr.	77124	10,104	X			5
	Hunt, Tony	77125	9,636	X			0

Rockingham	Allen, Sidney F.	78114	9,216	X			3
	Stultz, J. Hoyte, Jr.	78115	9,684	X			3
	Collins, Rush C., Jr.	78116	8,736	X			3
	Peters, Herman L.	78117	9,876	X			3
	Hudson, Robert J., Jr.	78118	9,876	X			3
	Lemons, James B.	78119	4,656		X	30	3
	Dodson, William T.	78122	7,272	X			2
Rowan	Williams, Robert M.	79114	9,960	X			3
	Vacant	79115	10,776	X			
	Moore, Fred H.	79116	9,444	X			0
	Hamilton, Garvis W.	79117	9,792	X			3
	Julian, Frances E.	79118	9,960	X			3
	Terry, Tyson, Jr.	79119	3,060		X	15	3
	Miller, Luther R.	79120	9,528	X			0
Roberts, Hoyle E.	79122	9,792	X			2	
Rutherford	Holland, Edward M.	80114	10,584	X			4
	Rash, Wayne R.	80115	7,500	X			0
	Price, James D.	80116	8,424	X			1
	Hudson, A. Ross	80117	8,124	X			4
	Biggerstaff, Joseph N.	80118	8,496	X			4
	Littlejohn, Wallace M.	80120	8,424	X			1
Sampson	Croom, Oliver L., Sr.	81114	8,988	X			2
	Spencer, Carroll L.	81115	9,384	X			2
	Brown, Thomas E.	81116	6,876		X	30	2
	Vacant	81117	5,688		X		0
	Carter, Milton	81118	6,120	X			2
	Matthews, Cornelius E.	81119	10,476	X			4
	Hondros, William G.	81120	8,388	X			2
Wilson, William W.	81121	6,120	X			1	
Scotland	McCall, W. Vivian	82114	9,756	X			5
	McPherson, Donald	82115	8,988	X			0
	Woodward, Robert C.	82116	9,036	X			5
Stanly	Miller, R. Parker	83114	10,776	X			4
	Morton, Jesse M.	83115	8,988	X			3
	Freeman, James W.	83116	7,368	X			3
	Davis, Edmund L.	83117	6,840	X			4
Stokes	Snyder, Wayne	84114	9,168	X			3
	Leake, P. J.	84115	8,412	X			3
	Montgomery, Don S.	84116	7,692	X			0
Surry	Badgett, Donald G.	85114	8,160	X			0
	Shumate, James B.	85115	8,736	X			1
	Wheeler, Charles T.	85116	7,188	X			1
	Reid, Richard W.	85117	8,724	X			3
	Brendle, Jay A.	85118	9,576	X			2
	White, Gary L.	85119	8,016	X			2
Swain	Burnett, William G.	86114	6,720	X			0
	Pedersen, Lester E.	86115	6,948	X			1
Transylvania	Gilstrap, Ernest	87115	8,520	X			4
	Blythe, Dale A.	87116	4,776		X	15	1
Tyrrell	Mitchell, Robert L.	88114	4,752	X			1
	Vacant	88115	1,548		X		0

Union	Helms, Wiley K.	89114	10,680	X			2
	Helms, Jane H.	89115	8,976	X			4
	Griffin, Oliver H.	89116	10,680	X			4
	Boshnyak, Betty R.	89117	8,976	X			3
Vance	Hardie, Tom D.	90114	9,948	X			4
	King, James H.	90115	8,772	X			1
	Catlett, Kenneth S.	90116	6,192		X	30	3
	White, Lewis C.	90117	9,168	X			3
Wake	Garner, Albert Lee, Jr.	91114	10,776	X			2
	Raynor, Harvey W.	91115	9,840	X			1
	Ray, Jerry P.	91116	10,776	X			2
	Brown, Allen W.	91117	10,776	X			2
	Brown, Harry R.	91118	9,552	X			2
	Ashley, Jay L.	91119	9,480	X			1
	Burton, Leroy	91120	5,868		X	20	4
	Adams, Thomas W.	91121	9,960	X			1
	Castlebury, Philip C.	91123	9,960	X			1
	Powell, William R., Jr.	91124	5,304		X	20	3
	Hocutt, Maude P.	91125	9,612	X			4
	Baker, Charles E.	91126	10,776	X			3
Warren	Pridgen, Carson S.	92114	8,412	X			3
	Rooker, J. Edward	92115	8,412	X			3
	Rodwell, Robert S.	92116	4,548		X	20	1
Washington	Blackburn, William B.	93114	9,240	X			1
	Sikes, Robert W.	93115	3,972		X	25	0
	Chesson, Hilton O.	93116	4,308		X	30	4
Watauga	Johnson, Boyd L.	94114	9,120	X			1
	Reese, Norman L.	94115	9,120	X			1
	Ruppert, Dennis Z.	94116	9,120	X			1
Wayne	Pate, Troy W., Sr.	95114	10,368	X			4
	Greenfield, Warren H.	95115	9,192	X			1
	Jernigan, Othar L.	95116	9,192	X			1
	Yelverton, R. P.	95117	10,716	X			4
	Underhill, Edna T.	95118	8,196	X			4
	Shackleford, Dan L.	95119	4,164		X	30	3
	Hicks, Carlton D.	95120	10,680	X			2
Wilkes	Tedder, Ernest A.	96114	9,564	X			3
	Reeves, Glenn	96115	5,232		X	22	2
	Lankford, Ray	96116	9,564	X			3
	White, Warren R.	96117	5,028		X	22	1
	Hoover, Raymond E.	96118	5,232		X	20	2
Wilson	Stewart, Douglas	97114	9,336	X			4
	Hawley, June	97115	9,336	X			4
	Gardner, Roland	97116	3,540		X	24	4
	Batts, Benjamin, Jr.	97117	8,988	X			1
	Jones, James P.	97118	8,568	X			3
	Ivey, Johnnie C.	97119	3,540		X	35	1
Yadkin	Evans, Hubert L.	98114	8,184	X			3
	Scott, Orlice C.	98115	7,152	X			2
	Moxley, Arthur G.	98116	7,764	X			3
Yancey	Higgins, W. A.	99114	9,120	X			4
	Roberts, W. W.	99115	9,120	X			4

APPENDIX I

LEGISLATIVE PROPOSAL

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE STATUS AND EFFECTIVENESS OF MAGISTRATES IN THE NORTH CAROLINA SYSTEM OF JUSTICE, TO ESTABLISH A SALARY CLASSIFICATION PLAN FOR MAGISTRATES AND TO MAKE AN APPROPRIATION THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-146, as the same appears in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is amended by

- (a) rewriting subsection (4) to read as follows:

"(4) Assigning matters to magistrates, and, consistent with the salaries set by the Administrative Officer of the Courts, prescribing times and places at which magistrates shall be available for the performance of their duties; however, the chief district judge may in writing delegate his authority to prescribe times and places at which magistrates in a particular county shall be available for the performance of their duties to an employee of the General Court of Justice within that particular county, and the person to whom such authority is delegated shall make monthly reports to the chief district judge of the times and places actually served by each magistrate;"
- (b) by rewriting subsection (9) to read as follows:

"(9) Assigning magistrates during an emergency to temporary duty outside the county of their residence but within that district; and, upon the request of a chief district judge of an adjoining district and upon the approval of the Administrative Officer of the Courts, to temporary duty in the district of the requesting chief district judge; and".

Sec. 2. G.S. 7A-170 is rewritten to read as follows:

"§ 7A-170. Nature of office and oath.--A magistrate is an officer of the district court. Before entering upon the duties of his office, a magistrate shall take the oath of office prescribed for a magistrate of the General Court of Justice. A magistrate possesses all the powers of his office at all times during his term."

Sec. 3. The short-title and subsections (a) and (b) of G.S. 7A-171 are rewritten to read as follows:

"§ 7A-171. Numbers; appointment and terms; vacancies.--

(a) The General Assembly shall establish a minimum and a maximum quota of magistrates for each county. In no county shall the minimum quota be less than one.

(b) Not earlier than the Tuesday after the first Monday nor later than the third Monday in December of each even-numbered year, the clerk of the superior court shall submit to the senior regular resident superior court judge of his district the names of two (or more, if requested by the judge) nominees for each magisterial office in the minimum quota established for the county. Not later than the fourth

Monday in December, the senior regular resident superior court judge shall, from the nominations submitted by the clerk of the superior court, appoint magistrates to fill the minimum quota established for each county of his district. The term of a magistrate so appointed shall be two years, commencing on the first day in January of the calendar year next ensuing the calendar year of appointment."

Sec. 4. Subsections (c) and (d) of G.S. 7A-171 are rewritten to read as follows:

"(c) After the biennial appointment of the minimum quota of magistrates, additional magistrates in a number not to exceed, in total, the maximum quota established for each county may be appointed in the following manner. The chief district judge, with the approval of the Administrative Officer of the Courts, may certify to the clerk of superior court that the minimum quota is insufficient for the efficient administration of justice and that a specified additional number, not to exceed the maximum quota established for the county, is required. Within 15 days after the receipt of this certification the clerk of superior court shall submit to the senior regular resident superior court judge of his district the names of two (or more, if requested by the judge) nominees for each additional magisterial office. Within 15 days after receipt of the nominations the senior regular resident superior court judge shall from the nominations submitted appoint magistrates in the number specified in the certification. A magistrate so appointed shall serve a term commencing immedi-

ately and expiring on the same day as the terms of office of magistrates appointed to fill the minimum quota for the county.

(d) Within 30 days after a vacancy in the office of magistrate occurs the clerk of superior court shall submit to the senior regular resident superior court judge the names of two (or more, if so requested by the judge) nominees for the office vacated. Within 15 days after receipt of the nominations the senior regular resident superior court judge shall appoint from the nominations received a magistrate who shall take office immediately and shall serve for the remainder of the unexpired term."

Sec. 5. G.S. 7A-172 is repealed and a new section G.S. 7A-171.1 is inserted in Article 16 of Chapter 7A of the General Statutes to read as follows:

"§ 7A-171.1. Duty hours and salary.--The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

(1) A full-time magistrate, so designated by the Administrative Officer of the Courts, shall be paid the annual salary indicated in the table below according to the number of years he has served as a magistrate prior to the beginning of that term:

Table of Salaries of Full-Time Magistrates

<u>Number of Prior Years of Service</u>	<u>Annual Salary</u>
Less than 1	\$ 7,668
1 or more but less than 3	8,346
3 or more but less than 5	9,120
5 or more but less than 7	9,948
7 or more but less than 9	10,872
9 or more	11,892

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

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

(2) A part-time magistrate, so designated by the Administrative Officer of the Courts, shall re-

ceive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during his term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

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

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

this subsection."

Sec. 6. A new section is added to Article 16 of Chapter 7A of the General Statutes to read as follows:

"§ 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 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.

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

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

Sec. 7. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of two hundred and fifty thousand dollars (\$250,000) for fiscal year 1978-1979. The sum appropriated shall be placed in a reserve entitled "Salary Classification Revisions for Magistrates" and shall be used exclusively for the salary changes

for magistrates specified by this Act. Any unused portion of the appropriation shall revert to the General Fund at the end of the fiscal year.

Sec. 8. Sections 1, 2, 3, 6, 7 and 8 of this Act shall become effective on July 1, 1977. Sections 4 and 5 of this Act shall become effective on September 1, 1978; however, salaries of magistrates serving on that date shall remain the same during the remainder of that term of office, and the salaries of magistrates appointed to serve between September 1, 1978 and December 31, 1978 shall be set in accordance with the statutes in existence prior to the date of effectiveness of these sections.

APPENDIX J

Educational Level of Magistrates

Total filled positions	529
Vacancies	23
Number of High School Graduates	453 or 85.6%
Number who attended college	186 or 35.2%
Average number of years attended	2.4 years
Number attended law school	11 or 2.1%

Prepared by the Fiscal
Research Division



