

Senators Continue Tradition of Keeping Magistrates on Short Leashes

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By Rick Brundrett - The Nerve

With S 2420 Carolina, state senators largely control the selection of more than 300 county magistrates, who handle thousands of relatively minor criminal and civil cases annually.

That power is amplified when magistrates finish their terms without being reappointed, a period known as “holdover” status in which they can serve indefinitely – and potentially feel more pressure to please their local senators.

State court records provided Tuesday to The Nerve show that 73, or 23 percent, of 312 magistrates statewide are in holdover status. It’s been an ongoing problem for years, as The Nerve first [reported](#) in 2010.

A [bill](#) introduced last week by Sen. Brad Hutto, D-Orangeburg and a lawyer, would specifically allow magistrates to continue working while in holdover status. The legislation, which also would give mostly double-digit base pay raises to magistrates, was referred to the Senate Judiciary Committee, chaired by Sen. Luke Rankin, R-Horry, who also is an attorney.

Eighteen, or 39 percent, of the Senate’s 46 members are lawyers, according to the S.C. Bar, the state’s professional organization for lawyers.

In Hutto’s home county of Orangeburg, eight of nine magistrates are in holdover status, state court records show. In Spartanburg County, that number is 18 out of 20; in Colleton, Lee and Pickens counties, all of the magistrates are affected.

Records show that at least one magistrate is in holdover status in 25 of the state’s 46 counties. The Nerve previously has [reported](#) that magistrates in some cases have served in that situation for years.

Hutto, who serves on the Senate Ethics and Judiciary committees, did not respond Monday to a phone message from The Nerve seeking comment. Contacted Monday, Sen. Ronnie Cromer, R-Newberry, who is the bill’s co-sponsor and a pharmacist, said he hadn’t read the bill “in its entirety” and didn’t know about the specific language allowing holdovers.

“We don’t want to put a holdover status to mean something that’s accepted – at least I don’t,” he said. “We may want to change that when the bill goes to committee or even on the Senate floor.”

Current law says the tenure of magistrates, who are appointed to four-year terms, “continues at the expiration of a term if the incumbent is reappointed.” The bill adds the words “or on holdover” to the end of that sentence.

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The problem with holdover status, said Cromer, chairman of the Senate Banking and Insurance Committee, is that affected magistrates “don’t really have a permanent job.”
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“It puts them in a position where they can’t really make any plans on finances because they don’t know whether some senator will appoint someone else in their place,” he said. “To me, it sort of gives a little bit of an unfair advantage to the senator over the magistrates because once we appoint them, they have oversight by the court administration.”

Under state law, magistrates are recommended by their respective county senatorial delegations, appointed by the governor – usually a given after background checks – and confirmed by the Senate in typically perfunctory voice votes.

Senators can’t remove magistrates during their terms, though the S.C. Supreme Court can sanction the judges – including removal from office – for ethical violations.

The Governor’s Office did not respond to a written message Tuesday from The Nerve seeking comment on what Gov. Henry McMaster was doing to address the holdover issue.

Magistrates, who aren’t required to be lawyers, handle speeding tickets and other relatively minor traffic offenses, crimes that carry maximum jail sentences of 30 days, and civil cases involving \$7,500 or less.

Under state law, their base pay is a percentage of a circuit court judge’s salary, determined by the population size of their respective county and how long they have served. Magistrates in counties with populations of at least 150,000 and who have completed their fourth year in office earn the highest base pay.

State court records show that base pay ranges from \$37,105 to \$77,744. Hutto’s bill would set base pay at \$60,000, \$70,000 or \$80,000 depending on the size of the county. If enacted into law, it would result in raises ranging from about 3 percent to 62 percent.

Cromer said the main intent of bill is to “equalize” magistrates’ pay, noting that in larger counties, “they make more money,” while the “problem is that the smaller counties do an equal amount of work because they have fewer of them to hear the cases.”

Counties already are free to pay magistrates more than the base salaries. The Nerve, for example, found magistrate pay last year as high as \$95,035 in Charleston County and \$114,795 in Richland County.

Under Hutto’s bill, all magistrates in a county would be “entitled to the same cost of living adjustments, merit increases, and other salary increases as other employees of the county”; and counties would have to pay magistrates the greater of the increased base salaries or any required county adjustments. It also would classify magistrates as state employees “for the purposes of cost

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of living adjustments and other salary increases”
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The legislation would impose a \$15 “assessment” on all civil filings, though Cromer didn’t know whether that would be in addition to existing magistrate court fees or replace an existing charge.

The Nerve in December [revealed](#) that S.C. Supreme Court Chief Justice Donald Beatty, who heads the state Judicial Department, is asking for a 33-percent pay hike next fiscal year for himself and other appellate and lower-court judges.

If that raise is approved by lawmakers, separate retirement paychecks issued to eligible judges still on the bench – equaling 90 percent of their regular salaries – would grow by the same rate.

Even if Hutto’s bill doesn’t pass, magistrates would see their base salaries grow under Beatty’s proposal, given the existing pay formula.

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