

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 1078

Short Title: Business Ct Judges/End Special Sup Ct Judges. (Public)

Sponsors: Representatives Burr and Davis (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Appropriations.

May 19, 2014

A BILL TO BE ENTITLED

AN ACT TO PHASE OUT THE USE OF SPECIAL SUPERIOR COURT JUDGES, TO PROVIDE FOR THE APPOINTMENT OF BUSINESS COURT JUDGES BY THE GOVERNOR IN CONSULTATION WITH THE CHIEF JUSTICE, AND TO PROVIDE FOR THE RENEWED USE OF EMERGENCY SUPERIOR COURT JUDGES, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON JUDICIAL EFFICIENCY AND EFFECTIVE ADMINISTRATION OF JUSTICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a8) Notwithstanding any other provision of this section, effective on and after July 1, 2014, any seat established by this section is abolished when any of the following first occurs:

- (1) Retirement of the incumbent judge.
- (2) Resignation of the incumbent judge.
- (3) Removal from office of the incumbent judge.
- (4) Death of the incumbent judge.
- (5) Expiration of the term of the incumbent judge."

SECTION 2. G.S. 7A-52 reads as rewritten:

"§ 7A-52. **Retired district and superior court judges may become emergency judges subject to recall to active service; compensation for emergency judges on recall.**

(a) Judges of the district court ~~and judges of the superior court~~ who have not reached the mandatory retirement age specified in ~~G.S. 7A-4.20, G.S. 7A-4.20~~ and judges of the superior court who have not reached their seventy-sixth birthday, but who have retired under the provisions of G.S. 7A-51, or under the Uniform Judicial Retirement Act after having completed five years of creditable service, may apply as provided in G.S. 7A-53 to become emergency judges of the court from which they retired. The Chief Justice of the Supreme Court may order any emergency judge of the district or superior court who, in his opinion, is competent to perform the duties of a judge of the court from which such judge retired, to hold regular or special sessions of such court, as needed. Order of assignment shall be in writing and entered upon the minutes of the court to which such emergency judge is assigned. Emergency superior court judges are subject to the annual continuing legal education requirements set by the State Bar.

(b) In addition to the compensation or retirement allowance the judge would otherwise be entitled to receive by law, each emergency judge of the district or superior court who is assigned to temporary active service by the Chief Justice shall be paid by the State the judge's



1 actual expenses, plus four hundred dollars (\$400.00) for each day of active service rendered
2 upon recall. No recalled retired trial judge shall receive from the State total annual
3 compensation for judicial services in excess of that received by an active judge of the bench to
4 which the judge is recalled."

5 **SECTION 3.** G.S. 7A-53 reads as rewritten:

6 "**§ 7A-53. Application to the Governor; commission as emergency judge.**

7 No retired judge of the district or superior court may become an emergency judge except
8 upon his written application to the Governor certifying his desire and ability to serve as an
9 emergency judge. If the Governor is satisfied that the applicant qualifies under G.S. 7A-52(a)
10 to become an emergency judge and that he is physically and mentally able to perform the
11 official duties of an emergency judge, he shall issue to such applicant a commission as an
12 emergency judge of the court from which he retired. The commission shall be effective upon
13 the date of its issue and shall terminate when ~~the a district court judge~~ to whom it is issued
14 reaches the maximum age for judicial service under ~~G.S. 7A-4.20(a)~~. G.S. 7A-4.20(a) or when a
15 superior court judge to whom it is issued reaches that judge's seventy-sixth birthday."

16 **SECTION 4.** G.S. 7A-45.3 reads as rewritten:

17 "**§ 7A-45.3. Superior court judges designated for complex business cases.**

18 (a) ~~The Chief Justice may exercise the authority under rules of practice prescribed~~
19 ~~pursuant to G.S. 7A-34 to designate one or more of the special superior court judges authorized~~
20 ~~by G.S. 7A-45.1 Governor, in consultation with the Chief Justice, shall appoint up to three~~
21 special superior court judges to hear and decide complex business cases as prescribed by the
22 rules of practice. Any judge so ~~designated~~ appointed shall be known as a Business Court Judge
23 and shall preside in the Business Court. If there is more than one business court judge, the
24 Chief Justice may designate one of them as the Senior Business Court Judge. If there is no
25 designation by the Chief Justice, the judge with the longest term of service on the court shall
26 serve as Senior Business Court Judge until the Chief Justice makes an appointment to the
27 position.

28 (b) The three special superior court judges designated by the Chief Justice as of January
29 1, 2014, as business court judges shall serve as the business court judges authorized under
30 subsection (a) of this section until each judge's retirement, resignation, removal, or death or
31 until the expiration of that judge's term. Upon the occurrence of each judge's retirement,
32 resignation, removal, or death or until the expiration of the judge's term, the Governor shall
33 appoint a successor as provided in subsection (a) of this section. Thereafter, each special
34 superior court judge appointed to serve as a business court judge shall serve an eight-year
35 term."

36 **SECTION 5.** It is the intent of the General Assembly that, effective upon the
37 abolition of each special superior court judgeship position as provided in G.S. 7A-45.1(a8), as
38 enacted in Section 1 of this act, the Judicial Department shall:

- 39 (1) Make use of emergency superior court judges authorized under G.S. 7A-52
40 and G.S. 7A-53 for the performance of duties previously performed by that
41 judge.
- 42 (2) Evaluate the need for additional regular superior court judges in high need
43 areas of the State and make any recommendations for the creation of
44 additional judgeships in those areas.

45 **SECTION 6.** This act becomes effective July 1, 2014.