

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH, NC 27601



April 3, 2014

TO THE MEMBERS OF THE LEGISLATIVE RESEARCH COMMISSION:

Attached for your consideration is the report to the 2014 Regular Session of the 2013 General Assembly. This report was prepared by the Legislative Research Commission's House Committee on Judicial Efficiency and Effective Administration of Justice, pursuant to G.S. 120-30.17(1).

Representative Justin P. Burr
Co-Chair

Representative Ted Davis, Jr.
Co-Chair

Co-Chairs

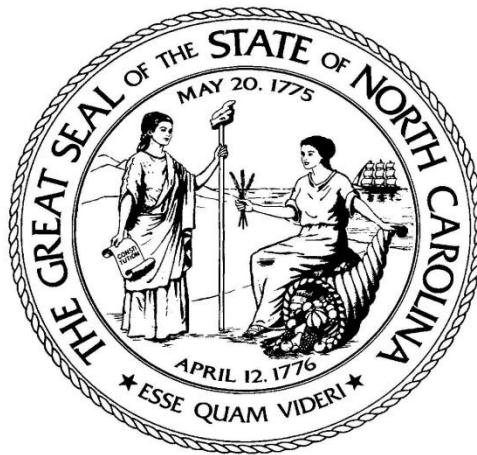
House Committee on Judicial Efficiency and Effective Administration of Justice
Legislative Research Commission

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LEGISLATIVE RESEARCH COMMISSION

**HOUSE COMMITTEE ON JUDICIAL
EFFICIENCY AND EFFECTIVE
ADMINISTRATION OF JUSTICE**

NORTH CAROLINA GENERAL ASSEMBLY



**REPORT TO THE
2014 SESSION
of the
2013 GENERAL ASSEMBLY
OF NORTH CAROLINA**

APRIL 2014

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DRAFT

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TRANSMITTAL LETTER

April 3, 2014

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TO THE MEMBERS OF THE 2014 REGULAR SESSION
OF THE 2013 GENERAL ASSEMBLY

The Legislative Research Commission herewith submits to you for your consideration its report and recommendations to the 2014 Regular Session of the 2013 General Assembly. The report was prepared by the Legislative Research Commission's House Committee on Judicial Efficiency and Effective Administration of Justice, pursuant to G.S. 120-30.17(1).

Respectfully submitted,

Senator Thomas M. Apodaca

Representative Timothy K. Moore

Co-Chairs
Legislative Research Commission

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LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

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2013 – 2014

Senator Thomas M. Apodaca
Co-Chair

Representative Timothy K. Moore
Co-Chair

Senator Dan Blue
Senator Harry Brown
Senator Martin L. Nesbitt, Jr.

Representative John M. Blust
Representative Justin P. Burr
Representative Becky Carney
Representative Mike D. Hager

PREFACE

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The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is co-chaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation 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(1)).

The Legislative Research Commission authorized the study of **House Judicial Efficiency and Effective Administration of Justice**, under authority of G.S. 120-30.17(1). The Committee was chaired by Representative Justin P. Burr and Representative Ted Davis, Jr., Co-Chairs of the Committee. The full membership of the Committee is listed under [Committee Membership](#). A committee notebook containing the committee minutes and all information presented to the committee will be filed in the Legislative Library by the end of the **2013-2014** biennium.

COMMITTEE PROCEEDINGS

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The Legislative Research Commission's House Committee on Judicial Efficiency and Effective Administration of Justice met four times after the 2013 Regular Session. The Committee's Charge can be found [here](#). The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library. The electronic documents accompanying each presentation can be found [here](#).

November 21, 2013

The first meeting was held on Thursday, November 21, 2013, at 10:00 AM in Room 544 of the Legislative Office Building. Susan Sitze, Staff Attorney, delivered the Committee charge. Next, William Childs, Fiscal Research Division, provided an overview of the history and budget of the Administrative Office of the Courts (AOC). Additionally, Judge John Smith, AOC Director, presented judicial department workload formulas and tools, and provided detailed logistical data on court filings in the various courts. Finally, David Vanderweide, Fiscal Research Division, provided an overview of salary plans for assistant clerks, deputy clerks, magistrates, and the State Highway Patrol.

January 23, 2014

The second meeting was held on Thursday, January 23, 2014, at 9:00 AM in Room 544 of the Legislative Office Building. The Committee heard a presentation on the history of the court system from James Drennan, North Carolina School of Government (SOG). Next, Dona Lewandowski, SOG, discussed the statutory authority, qualifications, and training of magistrates. Bradley Fowler, AOC Planning and Organizational Development Officer, presented a survey administered by AOC that showed the authority granted to the magistrates by the district court judges in all 100 counties. Next, Judge John Jolly, Chief Special Superior Court Judge of the North Carolina Business Court, discussed the caseload and needs of the Business Court. The Committee heard presentations by Jon Williams, AOC Senior Deputy Director, and Jeff Marecic, AOC Chief Information Officer, pertaining to the status of AOC technology and the Court Information Technology Fund.

After a recess, Susan Sitze, Staff Attorney, detailed the current law regarding mediation in North Carolina, and Jody Minor, Executive Director of Mediation Network of North Carolina, discussed the role of her organization in providing mediation services. Then, Ms. Sitze gave an overview of court systems in other states. Next, Lieutenant Colonel Billy Clayton, North Carolina State Highway Patrol, discussed the status of Highway Patrol salaries. Thomas Maher, Executive Director of the Office of Indigent Defense Services, reported on the benefits and challenges of the request for proposals (RFP) system for legal services contracts. Finally, Judge Joseph John, Director of the North

Carolina State Crime Laboratory, discussed the employee turnover rate within the crime lab.

February 20, 2014

The third meeting was held on Thursday, February 20, 2014, at 1:00 PM in Room 544 of the Legislative Office Building. The Committee heard a presentation from Lorrin Freeman, Wake County Clerk of Superior Court, regarding the salaries and turnover rate of the clerks of superior court. Next, William Childs, Fiscal Research Division, gave an overview of the appointment and role of special superior court judges. Mr. Childs then gave a presentation on the role of judicial staff (courthouse personnel conducting secretarial, administrative, and executive duties on behalf of judges) and the ratio of staff to judges. Thomas Maher, Executive Director of the Office of Indigent Defense Services, discussed the benefits of public defender expansion. Finally, Susan Sitze, Staff Attorney, presented information on the members, authority, recommendations, and records of the Judicial Standards Commission. The Committee also discussed potential findings and recommendations.

April 3, 2014

The fourth meeting was held on Thursday, April 3, 2014, at 1:00 PM in Room 544 of the Legislative Office Building. The Committee approved the final report.

FINDINGS AND RECOMMENDATIONS

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Based on information presented to the Legislative Research Commission House Committee on Judicial Efficiency and the Effective Administration of Justice during its regularly scheduled meetings, the Committee reports the following findings and makes the following recommendations to the 2014 Session of the 2013 General Assembly:

1. The General Assembly should require that cases in district court making a civil claim of \$10,000 or more be subject to the same mandatory mediated settlement conference requirement as all civil claims in superior court.
2. The General Assembly should amend G.S. 7A-38.7 to provide a method for the court to enforce payment of the criminal mediation fee, possibly by implementing a time period by which payment must be made to qualify for dismissal of charges.
3. The General Assembly should consider legislation to provide that the clerk of superior court in each county, rather than the chief district court judge in each district, shall supervise magistrates.
4. The General Assembly should create a "notice and demand" statute for remote testimony by lab analysts in criminal cases, which provides that a lab analyst does not have to be physically present in the courtroom and may testify remotely if the State provides notice to the defendant that the State plans to have the lab analyst testify via video conferencing and the defendant does not make a timely objection.
5. The General Assembly should provide an appropriation in an amount sufficient to provide the necessary equipment to at least three judicial districts for pilot projects to test the use of remote testimony pursuant to the "notice and demand" statute recommended in Recommendation #4.
6. The General Assembly should eliminate the use of special judges of the superior court by phasing out those positions as current appointees reach the end of their terms of appointment. To fill the needs currently served by special judges, emergency superior court judges should be used. The statutes governing emergency superior court judges should be amended to allow emergency judges to serve up to age 76, to make any additional amendments needed to provide an adequate number of available emergency superior court judges, and to require those judges to meet judicial continuing legal education requirements. A new statutory plan that creates specific qualifications and provides for eight-year terms of appointment should be created to provide for business court judges in the Superior Court Division.

7. The General Assembly should amend G.S. 7A-343.1 to reduce the number of recipients of hard copies of appellate division reports distributed at State expense. The reports should be available electronically to all current recipients.
8. The General Assembly should direct the Administrative Office of the Courts (AOC) to develop and implement a case management system for civil cases in superior court designed to make more efficient use of superior court time and resources. The system should provide for each case to be assigned to a superior court judge who will oversee the case, including scheduling of pretrial hearings, motions hearings, and trial of the case.
9. The General Assembly should require the Administrative Office of the Courts to develop a written, comprehensive policy for Information Technology Resource Management, including specific guidelines for the distribution and maintenance of Information Technology hardware.
10. The General Assembly should authorize the Office of Indigent Defense Services to create a multi-county pilot program using vouchers for legal services that can be used by a defendant to hire a private attorney of the defendant's choosing.
11. The General Assembly should authorize a step increase for all eligible magistrates for Fiscal Year 2014-2015.
12. The General Assembly should repeal the current payment plan for deputy and assistant clerks of court in favor of a system that provides each elected clerk of superior court with an appropriated amount for salaries and benefits to be used at each clerk's discretion. Within the amount of funds appropriated, each clerk shall have the ability to determine how many deputy and assistant clerks to employ and what the salaries shall be for each employee. The amount appropriated to each clerk of superior court for Fiscal Year 2014-2015 should be equal to the salaries plus benefits of all current positions in that particular clerk's office plus an additional sum that is equivalent to the amount necessary to provide all eligible employees in the office with a step increase under the current payment plan. Funds appropriated to each clerk of superior court for a fiscal year shall be used for salaries and benefits for deputy and assistant clerks.
13. The General Assembly should authorize a step increase for all eligible State Highway Patrol Troopers for Fiscal Year 2014-2015.
14. The General Assembly should authorize the State Highway Patrol to initiate a two- to three-year plan to reduce the mileage on State Highway Patrol vehicles before vehicle replacement, and should appropriate an amount sufficient to facilitate this recommendation.

15. The General Assembly should require the State Highway Patrol to study the feasibility and cost effectiveness of contracting with local businesses to perform routine maintenance on State Highway Patrol vehicles in lieu of requiring the vehicles to be taken to a regional maintenance facility.
16. The General Assembly should direct the Department of Public Safety to determine if it would be possible to have State Highway Patrol uniforms made by Correction Enterprises, and if there would be a cost savings to the State by doing so.

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COMMITTEE MEMBERSHIP

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2013-2014

Speaker of the House of Representatives Appointments:

Representative Justin P. Burr, Co-Chair
Representative Ted Davis, Jr., Co-Chair

Representative James L. Boles, Jr.
Representative N. Leo Daughtry
Representative Josh Dobson
Representative John Faircloth
Representative Richard Glazier
Representative Pat B. Hurley
Representative Darren G. Jackson
Representative Jonathan C. Jordan
Representative Allen McNeill
Representative Bobbie Richardson
Representative Rena W. Turner

COMMITTEE CHARGE

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The LRC Committee on Judicial Efficiency and Effective Administration of Justice shall study the structure and needs of the State's judicial and prosecutorial districts. The Committee shall make recommendations on future judicial resource allocation. The study shall include the following:

1. Current and historical annual case volume in each district.
2. Funding requirement forecasts and actual allocations in each district.
3. Past case volume projections in each district as compared to actual case volume.
4. Volume of prosecuted cases per judge and per district attorney in each district.
5. Average number of hours worked by district administrative staff per case in each district.
6. Volume and statistical nature of costly criminal cases in each district in relation to statewide and national judicial averages.

Additionally, the Committee shall study issues related to the provision of effective and efficient administration of justice throughout the State's judicial system. This study shall include the following:

1. Operational inefficiencies in case scheduling and management at the District and Superior Court level.
2. National trends regarding improved judicial case scheduling and management.
3. Comparative salary information for clerks, district attorneys, judges and Highway Patrol officers in North Carolina.
4. The impact of discontinued scheduled step raises for young employees in the judicial system and State law enforcement agencies.
5. A process for designating cases as complex business cases and assigning them to business court judges, including the possibility of providing that appeals from complex business cases go directly to the Supreme Court.
6. Any other issues pertinent to this study.

STATUTORY AUTHORITY

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NORTH CAROLINA GENERAL STATUTES ARTICLE 6B.

Legislative Research Commission.

§ 120-30.17. Powers and duties.

The Legislative Research Commission has the following powers and duties:

- (1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made 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.
- (2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.
- (3), (4) Repealed by Session Laws 1969, c. 1184, s. 8.
- (5), (6) Repealed by Session Laws 1981, c. 688, s. 2.
- (7) To obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.
- (8) To call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena.
- (9) For studies authorized to be made by the Legislative Research Commission, to request another State agency, board, commission or committee to conduct the study if the Legislative Research Commission determines that the other body is a more appropriate vehicle with which to conduct the study. If the other body agrees, and no legislation specifically provides otherwise, that body shall conduct the study as if the original authorization had assigned the study to that body and shall report to the General Assembly at the same time other studies to be conducted by the Legislative Research Commission are to be reported. The other agency shall conduct the transferred study within the funds already assigned to it.