



HOUSE BILL 241: Special Sup. Ct. Judgeship Appointed by GA.

2017-2018 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	April 26, 2018
Introduced by:	Reps. Burr, K. Hall, Saine, Bumgardner	Prepared by:	Bill Patterson
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 241 would allow the General Assembly to fill vacancies occurring in a special superior court judgeship for those judges holding such office on or after January 1, 2017, eliminate the Governor's role in nominating a person to be confirmed by the General Assembly and in appointing the confirmed nominee, and repeal obsolete provisions relating to prior gubernatorial appointments.*

CURRENT LAW: Article IV, Section 9 of the North Carolina Constitution states: "[t]he General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district."

Pursuant to G.S. 7A-45.1, upon the retirement, resignation, removal from office, death, or expiration of the term of any special superior court judge, the Governor is required to submit the name of a nominee for that judgeship to the General Assembly for confirmation by ratified joint resolution. Upon confirmation, the Governor appoints the confirmed nominee to serve a full five-year term as special superior court judge. If the joint resolution confirming the nominee fails any reading, then the Governor has 45 days within which to submit the name of a different nominee for confirmation.

If the Governor fails to submit the name of an initial nominee within 90 days of the occurrence of the vacancy or expiration of the term, or fails to submit the name of a different nominee within 45 days after failure of any reading of a joint resolution confirming a nominee, then the President Pro Tempore of the Senate and the Speaker of the House of Representatives are required jointly to submit the name of a nominee to be confirmed by the General Assembly by enactment of a bill stating the name of the person being appointed, the office to which the appointment is being made, and the county of residence of the appointee.

BILL ANALYSIS: For a vacancy occurring in a special superior court judgeship for judges holding this office on or after January 1, 2017, House Bill 241 would eliminate the role of the Governor in nominating a person for confirmation and in appointing the confirmed nominee to fill the vacancy. The bill would authorize the General Assembly to appoint a person to serve a full five-year term as special superior court judge upon expiration of the term of the incumbent judge or upon the occurrence of a vacancy in the judgeship for any reason, including retirement, resignation, removal from office, or death of the incumbent judge. The appointment would be made by the enactment of a bill stating the name of the person being appointed, the office to which the appointment is being made, and the county of residence of the appointee.

House Bill 241 would also remove obsolete references to previous gubernatorial appointments of special superior court judge dating back to 1993.

EFFECTIVE DATE: This act is effective when it becomes law.

Jeremy Ray, counsel to House Judiciary IV, substantially contributed to this summary.

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