

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**SENATE BILL 766**

Short Title: Magistrate Appointment Changes. (Public)

Sponsors: Senators Kinnaird; and Snow.

Referred to: Judiciary I.

March 24, 2009

A BILL TO BE ENTITLED  
AN ACT TO AMEND THE PROVISIONS FOR APPOINTMENT OF MAGISTRATES, AS  
RECOMMENDED BY THE CONFERENCE OF CHIEF DISTRICT COURT JUDGES.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 10 of Article IV of the North Carolina Constitution reads as rewritten:

**"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~~ Chief District Judge serving the county shall appoint 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.~~ Court, but if the Chief District Judge does not make the appointments within 60 days of the submission of nominations by the Clerk, the senior regular resident Judge of the Superior Court shall make the appointments without regard to the nominations made by the Clerk. The Chief District Judge may reappoint a magistrate with six or more years of experience regardless of the nominations made by the Clerk. The initial term of appointment for a magistrate shall be for two years and subsequent terms shall be for four years. 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, unless otherwise provided by the General Assembly."

**SECTION 2.** The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election in November 2010, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment to provide for appointment of magistrates by the chief district court judge from nominations submitted by the clerk of superior court."

**SECTION 3.** If a majority of the votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the



1 amendment to the Secretary of State, who shall enroll the amendment so certified among the  
2 permanent records of that office. The amendment becomes effective January 1, 2011.

3 **SECTION 4.** G.S. 7A-171(b) reads as rewritten:

4 "(b) Not earlier than the Tuesday after the first Monday nor later than the third Monday  
5 in December of each even-numbered year, the clerk of the superior court shall submit to the  
6 ~~senior regular resident superior court judge of the district or set of districts as defined in~~  
7 ~~G.S. 7A-41.1(a) chief district court judge for the district~~ in which the clerk's county is located  
8 the names of ~~two~~ one, two, or three (or more, if requested by the judge) nominees for each  
9 magisterial office for the county for which the term of office of the magistrate holding that  
10 position shall expire on December 31 of that year. Not later than the fourth Monday in  
11 December, the ~~senior regular resident superior court judge~~ chief district court judge shall, from  
12 the nominations submitted by the clerk of the superior court, appoint magistrates to fill the  
13 positions for each county of the judge's district or set of districts. The chief district court judge  
14 may reappoint an incumbent magistrate with six or more years of experience, regardless of  
15 whether that magistrate is nominated by the clerk.

16 If the chief district court judge does not make the appointments required by this subsection  
17 within 60 days of the submission of nominations by the clerk, the senior resident superior court  
18 judge shall make the appointments under this subsection without regard to the nominations  
19 made by the clerk."

20 **SECTION 5.** Section 4 of this act becomes effective only upon approval by the  
21 voters of the constitutional amendment proposed in Section 1 of this act. If the constitutional  
22 amendment proposed in Section 1 is approved by the voters, Section 4 of this act becomes  
23 effective January 1, 2011, and applies to appointments that take effect on or after that date.  
24 Section 5 of this act becomes effective July 1, 2009. The remainder of this act is effective when  
25 it becomes law and applies to acts occurring on or after that date.