

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1222*

Short Title: State Judicial Council/Funds.

(Public)

Sponsors: Representatives Baddour; Culpepper, Daughtry, and McMahan (Primary Sponsors).

Referred to: Judiciary IV, if favorable, Appropriations.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE THE STATE COURT SYSTEM BY CREATING A STATE
3 JUDICIAL COUNCIL AND TO APPROPRIATE FUNDS FOR THE EXPENSES
4 OF THE JUDICIAL COUNCIL.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 7A of the General Statutes is amended by adding a new
7 Article to read:

8 **“ARTICLE 7A.**

9 **“STATE JUDICIAL COUNCIL.**

10 **“§ 7A-49.4. Composition of State Judicial Council.**

11 (a) The State Judicial Council shall consist of 19 members as follows:

12 (1) The Chief Justice, who chairs the Council;

13 (2) The Chief Judge of the Court of Appeals;

14 (3) A district attorney chosen by the Conference of District Attorneys;

15 (4) A public defender chosen by the public defenders;

16 (5) A superior court judge chosen by the Conference of Superior Court
17 Judges;

18 (6) A district court judge chosen by the Conference of District Court
19 Judges;

- 1 (7) A clerk of superior court chosen by the Association of Clerks of
2 Superior Court of North Carolina;
3 (8) An attorney appointed by the Council of the State Bar;
4 (9) One attorney and one nonattorney appointed by the Chief Justice;
5 (10) Two nonattorneys and one attorney appointed by the Governor;
6 (11) Two nonattorneys and one attorney appointed by the General Assembly
7 upon the recommendation of the Speaker of the House of
8 Representatives; and
9 (12) Two nonattorneys and one attorney appointed by the General Assembly
10 upon the recommendation of the President Pro Tempore of the Senate.

11 (b) The Chief Justice and the Chief Judge shall be members of the State Judicial
12 Council during their terms in those judicial offices. The terms of the other members
13 selected initially for the State Judicial Council shall be as follows:

- 14 (1) One year. – The district court judge, the nonattorney appointed by the
15 Chief Justice, one nonattorney appointed upon the recommendation of
16 the Speaker of the House of Representatives, and the attorney appointed
17 upon the recommendation of the President Pro Tempore of the Senate.
18 (2) Two years. – The district attorney, one nonattorney appointed by the
19 Governor, the attorney appointed upon the recommendation of the
20 Speaker of the House of Representatives, and one nonattorney
21 appointed upon the recommendation of the President Pro Tempore of
22 the Senate.
23 (3) Three years. – The public defender, the attorney appointed by the
24 Governor, one nonattorney appointed by the President Pro Tempore of
25 the Senate, and one nonattorney appointed upon the recommendation of
26 the Speaker of the House of Representatives.
27 (4) Four years. – The superior court judge, the clerk of superior court, the
28 attorney appointed by the State Bar Council, the attorney appointed by
29 the Chief Justice, and one nonattorney appointed by the Governor.

30 After these initial terms, the members of the State Judicial Council shall serve terms
31 of four years. All terms of members shall begin on January 1 and end on December 31.
32 No member may serve more than two consecutive full terms. Any vacancy on the
33 Council shall be filled by a person appointed by the official or entity who appointed the
34 person vacating the position.

35 (c) If an official or entity is authorized to appoint more than one member of the
36 State Judicial Council, the members appointed by that official or entity must reside in
37 different judicial districts.

38 (d) No incumbent member of the General Assembly or any incumbent judicial
39 official, other than the ones specifically identified by office in subsection (a) of this
40 section, may serve on the State Judicial Council.

41 (e) The appointing authorities shall confer with each other and attempt to arrange
42 their appointments so that the members of the State Judicial Council fairly represent each
43 area of the State, both genders, and each major racial group.

1 **"§ 7A-49.5. Duties of the State Judicial Council.**

2 (a) The State Judicial Council shall:

- 3 (1) Study the judicial system and report periodically to the Chief Justice on
4 its findings, particularly in light of the observations and
5 recommendations of the Commission for the Future of Justice and the
6 Courts in North Carolina;
7 (2) Advise the Chief Justice on priorities for funding;
8 (3) Review and advise the Chief Justice on the budget prepared by the
9 Director of the Administrative Office of the Courts for submission to
10 the General Assembly;
11 (4) Study and recommend to the General Assembly the salaries of justices
12 and judges;
13 (5) Recommend to the General Assembly changes in the expense
14 allowances, benefits, and other compensation for judicial officials;
15 (6) If a judgeship becomes vacant, review whether the judgeship is still
16 needed for that district and, if it is not, recommend to the Chief Justice
17 whether the judgeship should be transferred to another district or should
18 be abolished; and
19 (7) Advise or assist the Chief Justice, as requested, on any other matter
20 concerning the operation of the courts.

21 (b) If requested to do so by the Governor, the 12 members of the State Judicial
22 Council who are not judges, district attorneys, public defenders, or clerks of superior
23 court shall constitute an appellate nominating panel to nominate candidates to the
24 Governor for appointment to vacancies on the Supreme Court and Court of Appeals.

25 (c) The State Judicial Council, with the assistance of the Director of the
26 Administrative Office of the Courts, shall recommend to the Chief Justice performance
27 standards for all courts and all judicial officials and shall recommend procedures for
28 periodic evaluation of the court system and individual judicial officials and employees. If
29 these standards are implemented by the Chief Justice, the Director of the Administrative
30 Office of the Courts shall inform each judicial official of the standards being used to
31 evaluate that official's performance. If implemented, the evaluation of each judge shall
32 include assessments from other judges, litigants, jurors, and attorneys, as well as a self-
33 evaluation by the judge. Summaries of the evaluations of justices and judges shall be
34 made available to the public, in a manner to be determined by the Council, but the data
35 collected in producing the evaluations shall not be a public record.

36 (d) The State Judicial Council shall monitor caseloads in the appellate courts to
37 determine whether cases are being handled expeditiously, whether those courts have
38 adequate resources, and whether the courts are able to maintain a proper balance between
39 criminal and civil matters. If needed to assure such a balance, the Council may
40 recommend the establishment of separate divisions of the Court of Appeals for criminal
41 and civil cases and establish procedures for the regular rotation of individual judges
42 between those divisions.

1 (e) The State Judicial Council shall study and recommend guidelines for the
2 assignment and management of cases, including the identification of different kinds of
3 cases for different kinds of resolution. If the Chief Justice decides to implement these
4 guidelines, they may provide that, except for good cause, each civil case subject to
5 assignment to a trial judge should be directed first to an appropriate form of alternative
6 dispute resolution. The guidelines may also provide for posttrial alternative dispute
7 resolution before or as part of an appeal. The guidelines should not require absolute
8 uniformity from district to district and should allow case management personnel within
9 each circuit the flexibility to direct cases to the most appropriate means of resolution in
10 that district.

11 (f) The State Judicial Council shall monitor the use of alternative dispute
12 resolution throughout the court system and, with the assistance of the Director of the
13 Administrative Office of the Courts and the Dispute Resolution Commission, evaluate the
14 effectiveness of those programs.

15 (g) The State Judicial Council may recommend to the Chief Justice changes in the
16 boundaries of the judicial districts or divisions.

17 (h) The State Judicial Council shall perform other functions as needed to monitor
18 the administration of justice and assess the effectiveness of the Judicial Branch in serving
19 the public and to advise the Chief Justice and the General Assembly on changes needed
20 to assist the General Court of Justice in better fulfilling its mission.

21 **"§ 7A-49.6. Compensation of the State Judicial Council.**

22 Members of the State Judicial Council who are not officers or employees of the State
23 shall receive compensation and reimbursement for travel and subsistence expenses at the
24 rates specified in G.S. 138-5. Members of the State Judicial Council who are officers or
25 employees of the State shall receive reimbursement for travel and subsistence expenses at
26 the rate set out in G.S. 138-6. Members of the State Judicial Council who are legislators
27 shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-
28 3.1."

29 Section 2. There is appropriated from the General Fund to the Judicial
30 Department the sum of twenty-five thousand dollars (\$25,000) for the 1999-2000 fiscal
31 year and the sum of fifty thousand dollars (\$50,000) for the 2000-2001 fiscal year to
32 reimburse members of the State Judicial Council for subsistence and travel expenses as
33 provided in G.S. 7A-49.6.

34 Section 3. This act becomes effective January 1, 2000.