

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS75028-LL-24 (1/28)

Short Title: Appointment/Reappointment of Magistrates. (Public)

Sponsors: Senator Kerr.

Referred to:

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE LAW AND THE CONSTITUTION OF NORTH
2 CAROLINA TO PROVIDE THAT MAGISTRATES SHALL BE APPOINTED
3 AND REAPPOINTED BY THE CHIEF DISTRICT COURT JUDGE FOR THE
4 DISTRICT THAT INCLUDES THE COUNTY SERVED BY THE
5 MAGISTRATES.
6

7 The General Assembly of North Carolina enacts:

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

10 **"Sec. 10. District Courts.**

11 The General Assembly shall, from time to time, divide the State into a convenient
12 number of local court districts and shall prescribe where the District Courts shall sit, but
13 a District Court must sit in at least one place in each county. District Judges shall be
14 elected for each district for a term of four years, in a manner prescribed by law. When
15 more than one District Judge is authorized and elected for a district, the Chief Justice of
16 the Supreme Court shall designate one of the judges as Chief District Judge. Every
17 District Judge shall reside in the district for which he is elected. For each county, the
18 ~~senior regular resident Judge of the Superior Court~~ Chief District Judge serving the
19 county shall appoint from nominations submitted by the Clerk of the Superior Court of
20 the county, one or more Magistrates who shall be officers of the District Court. The
21 initial term of appointment for a magistrate shall be for two years and subsequent terms
22 shall be for four years. The number of District Judges and Magistrates shall, from time
23 to time, be determined by the General Assembly. Vacancies in the office of District
24 Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies
25 in the office of Magistrate shall be filled for the unexpired term in the manner provided
26 for original appointment to the office, unless otherwise provided by the General
27 Assembly."

1 (d) Within 30 days after a vacancy in the office of magistrate occurs the clerk of
2 superior court shall submit to the ~~senior regular resident superior~~ chief district court
3 judge the names of two (or more, if so requested by the judge) nominees for the office
4 vacated. Within 15 days after receipt of the nominations the ~~senior regular resident~~
5 ~~superior~~ chief district court judge shall appoint from the nominations received a
6 magistrate who shall take office immediately and shall serve until December 31 of the
7 even-numbered year, and thereafter the position shall be filled as provided in subsection
8 (b) of this section."

9 **SECTION 5.** Section 4 of this act becomes effective only upon approval by
10 the voters of the constitutional amendment proposed in Section 1 of this act. If the
11 constitutional amendment proposed in Section 1 is approved by the voters, Section 4 of
12 this act becomes effective January 1, 2007, and applies to appointments that take effect
13 on or after that date. The remainder of this act is effective when it becomes law and
14 applies to appointments made on or after that date.