

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS75171-LL-78 (3/11)

Short Title: Judicial Branch Independence. (Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REINFORCE THE INDEPENDENCE OF THE JUDICIAL BRANCH
AS A SEPARATE AND COORDINATE BRANCH OF STATE GOVERNMENT
AND TO ENSURE THE FISCAL INTEGRITY AND ACCOUNTABILITY OF
THE JUDICIAL BRANCH, AS RECOMMENDED BY THE STATE JUDICIAL
COUNCIL.

The General Assembly of North Carolina enacts:

PART I. JUDICIAL BRANCH FISCAL INTEGRITY AND ACCOUNTABILITY

SECTION 1.1. G.S. 7A-2 reads as rewritten:

"§ 7A-2. Purpose of Chapter.

This Chapter is intended to implement Article IV of the Constitution of North Carolina and promote the just and prompt disposition of litigation by:

- (1) Providing a new chapter in the General Statutes into which, at a time not later than January 1, 1971, when the General Court of Justice is fully operational in all counties of the State, all statutes concerning the organization, jurisdiction and administration of each division of the General Court of Justice may be placed;
- (2) Amending certain laws with respect to the superior court division to conform them to the laws set forth in this Chapter, to the end that each trial division may be a harmonious part of the General Court of Justice;
- (3) Creating the district court division of the General Court of Justice, and the Administrative Office of the Courts;
- (4) Establishing in accordance with a fixed schedule the various district courts of the district court division;

- 1 (5) Providing for the organization, jurisdiction and procedures necessary
2 for the operation of the district court division;
- 3 (6) Providing for the financial support of the judicial department, and for
4 uniform costs and fees in the trial divisions of the General Court of
5 Justice;
- 6 (6a) Further assuring the fiscal integrity and accountability of the Judicial
7 Branch as a separate and coordinate branch of government under the
8 North Carolina Constitution by:
- 9 a. Affirming the Judicial Branch's authority and responsibility for
10 the expenditure of funds appropriated for its maintenance and
11 operation.
- 12 b. Providing for the nonreversion of those funds.
- 13 c. Establishing reserves in the continuing operations budget of the
14 Judicial Branch for the resources required to keep up with the
15 increasing workload of the courts, including personnel and
16 equipment, and
- 17 d. Affirming the Judicial Branch's authority and responsibility for
18 the allocation of resources and support positions within the
19 Judicial Branch;
- 20 (7) Providing for an orderly transition from the present system of courts to
21 a uniform system completely operational in all counties of the State
22 not later than January 1, 1971;
- 23 (8) Repealing certain laws inconsistent with the foregoing purposes; and
- 24 (9) Effectuating other purposes incidental and supplemental to the
25 foregoing enumerated purposes."

26 **SECTION 1.2.** Chapter 7A of the General Statutes is amended by
27 redesignating Article 29A, "Trial Court Administrators", as Article 29C and by adding a
28 new Article to read:

29 "Article 29A.

30 "Judicial Branch Fiscal Integrity and Accountability.

31 **"§ 7A-349. Appropriations to the Judicial Branch of Government.**

32 All General Fund appropriations made by the General Assembly for the continuing
33 operations of the Judicial Branch of Government shall be made in the form of a single
34 sum to the budget code of the Judicial Branch for each year of the fiscal period for
35 which the appropriation is being made. Notwithstanding any contrary provision in
36 Article 1 of Chapter 143 of the General Statutes (the Executive Budget Act) or
37 elsewhere in the General Statutes, the Director of the Administrative Office of the
38 Courts, after consultation with and upon the advice of the State Judicial Council, may
39 expend the General Fund moneys so appropriated in the manner deemed by the Director
40 to be best calculated to maintain and advance the effective and efficient operation of the
41 Judicial Branch as a separate and coordinate branch of the government of the State. The
42 preparation, presentation, and review of expansion budget requests of the Judicial
43 Branch shall be conducted as provided in G.S. 7A-409.1 and G.S. 143-8. Except as
44 provided in G.S. 143-25(c), the quarterly allotment procedure established under G.S.

1 143-17 shall apply to General Fund appropriations made for the current operations of
2 the Judicial Branch. All General Fund moneys so appropriated shall be recorded,
3 reported, and audited in the same manner as are General Fund appropriations to the
4 Executive and Legislative Branches of Government.

5 **"§ 7A-350. Reserve funds.**

6 (a) All appropriations for the continuing operations of the Judicial Branch of
7 Government shall include appropriations to the reserves created by this section.

8 (b) There is created within the budget of the Judicial Branch a Position Reserve
9 that shall include all funding required for the additional assistant and deputy clerks of
10 superior court, magistrates, judicial support staff, assistant district attorneys, and
11 prosecutorial support staff required statewide to keep up with the increased workload of
12 the courts in each fiscal year, as determined by the Director under the formulas
13 developed under G.S. 7A-343(2a). All moneys in the Position Reserve shall be
14 expended exclusively to fund such positions.

15 (c) There is created within the budget of the Judicial Branch an Equipment
16 Replacement Reserve that shall include all funding required for the replacement and
17 upgrade of equipment each fiscal year, as those replacement and upgrade needs are
18 determined by the Director using the aging and replacement tables and formulas
19 developed under G.S. 7A-343(6a). All moneys in the Equipment Replacement Reserve
20 shall be expended exclusively to replace and upgrade such equipment.

21 **"§ 7A-351. Reversions.**

22 Of the General Fund current operations appropriations credit balance remaining at
23 the end of each fiscal year in the budget code for the Judicial Branch of Government,
24 any amount may be carried forward to the next fiscal year and may be used for one-time
25 expenditures that will not impose additional obligations on the State.

26 **"§ 7A-352. Position management.**

27 After consultation with, and upon the advice of, the State Judicial Council, the
28 Director may establish and abolish, and allocate and reallocate, all personnel positions
29 within the Judicial Branch of Government so as best to meet the personnel needs of all
30 Judicial Branch hiring authorities and of the Administrative Office of the Courts and to
31 assure the most effective and efficient overall operation of the Judicial Branch of
32 Government. This authority is subject to the following limitations:

33 (1) The authority does not apply to the following positions:

- 34 a. Justices and judges of the General Court of Justice;
35 b. The Assistant Director of the Administrative Office of the
36 Courts provided for in G.S. 7A-340 and 7A-342;
37 c. Clerks of Superior Court provided for in G.S. 7A-100;
38 d. District attorneys provided for in G.S. 7A-60;
39 e. The Clerk of the Supreme Court, the Clerk of the Court of
40 Appeals, the Supreme Court Librarian, the Supreme Court
41 Marshall, the Appellate Reporters, and the Assistant Director of
42 the Administrative Office of the Courts;

1 f. The executive directors of the Judicial Standards Commission,
2 the Conference of District Attorneys, and the Sentencing and
3 Policy Advisory Commission; or

4 g. Positions provided for in Article 39B of this Chapter (Indigent
5 Defense) or otherwise funded from the Indigent Persons'
6 Attorney Fee Fund;

7 (2) Positions for assistant and deputy clerks of superior court, magistrates,
8 judicial support staff, assistant district attorneys, and prosecutorial
9 support staff shall be allocated among the counties of the State
10 according to the formula developed under G.S. 7A-343(2a);

11 (3) The magistrate positions for each county shall not be fewer than the
12 minimum number specified for the county in G.S. 7A-133(c); and

13 (4) The assistant district attorney positions for a prosecutorial district shall
14 not be fewer than the minimum number specified for the district in
15 G.S. 7A-60.

16 **"§ 7A-353. Report to the Joint Legislative Commission on Governmental**
17 **Operations.**

18 On or before October 1 of each calendar year, the Director shall submit to the Joint
19 Legislative Commission on Governmental Operations a detailed report of all
20 expenditures made and other actions taken under this Article for the fiscal year ending
21 June 30 of that year.

22 **"§ 7A-354. Nonreverting special funds and other earmarked or pass-through**
23 **funds.**

24 (a) Nothing in this Article expands the permissible uses of any nonreverting
25 special funds within the budget of the Judicial Branch of Government, including the
26 Court Information Technology Fund created by G.S. 7A-343.2, the Collection of
27 Worthless Checks Fund created by G.S. 7A-308(c), and the Indigent Persons' Attorneys
28 Fee Fund, or to other similar funds earmarked by statute for a specific purpose.

29 (b) This Article does not apply to funds generated by the administrative fees for
30 the regulation of mediators collected pursuant to G.S. 7A-39.2.

31 (c) Nothing in this Article precludes the General Assembly from designating the
32 Administrative Office of the Courts as the appropriate State entity to receive and
33 disburse State funds appropriated to non-State entities."

34
35 **PART II. CONFORMING CHANGES TO DUTIES OF THE DIRECTOR OF THE**
36 **ADMINISTRATIVE OFFICE OF THE COURTS AND THE STATE JUDICIAL**
37 **COUNCIL**

38
39 **SECTION 2.1. G.S. 7A-343 reads as rewritten:**

40 **"§ 7A-343. Duties of Director.**

41 The Director is the Administrative Officer of the Courts, and his duties include the
42 following:

- 1 (1) Collect and compile statistical data and other information on the
2 judicial and financial operation of the courts and on the operation of
3 other offices directly related to and serving the courts;
- 4 (2) Determine the state of the dockets and evaluate the practices and
5 procedures of the courts, and make recommendations concerning the
6 number of ~~judges, judges and~~ district attorneys, and magistrates
7 attorneys required for the efficient administration of justice;
- 8 (2a) After consultation with, and on the advice of, the State Judicial
9 Council, develop a workload-based methodology for the allocation of
10 assistant and deputy clerks of superior court and magistrates among
11 the counties of the State, for the allocation of assistant district
12 attorneys among the prosecutorial districts of the State, and for the
13 allocation of judicial support staff and prosecutorial support staff. In
14 developing this methodology, the Director may take into
15 consideration, among other things, prior personnel levels, growth in
16 caseload volume and composition, population, the effect of technology
17 on personnel needs, recommendations of appropriate State and
18 national organizations and agencies specializing in determining the
19 personnel needs of courts, and other relevant factors;
- 20 (2b) Establish and abolish, and allocate and reallocate, personnel positions
21 within the Judicial Branch of Government, as further provided in G.S.
22 7A-352;
- 23 (3) Prescribe uniform administrative and business methods, systems,
24 forms and records to be used in the offices of the clerks of superior
25 court;
- 26 (4) Prepare and submit budget estimates of State appropriations necessary
27 for the maintenance and operation of the ~~Judicial Department, and~~
28 ~~authorize expenditures from funds appropriated for these purposes;~~
29 Judicial Branch as further provided in G.S. 7A-409.1 and G.S. 143-8;
- 30 (4a) After consultation with, and on the advice of, the State Judicial
31 Council, authorize expenditures from funds appropriated for the
32 maintenance and operation of the Judicial Branch, as further provided
33 in Article 29A of this Chapter, including:
- 34 a. Authorize expenditures from the Position Reserve and
35 Equipment Replacement Reserve created by G.S. 7A-350; and
- 36 b. Specify the uses, within the Judicial Branch budget, of funds
37 that remain available for expenditure at the end of each fiscal
38 year under G.S. 7A-351 and G.S. 143-18 or revert such funds
39 under G.S. 143-18.
- 40 (5) Investigate, make recommendations concerning, and assist in the
41 securing of adequate physical accommodations for the General Court
42 of Justice;

- 1 (6) Procure, distribute, exchange, transfer, ~~and assign~~ assign and reassign
2 such equipment, books, forms and supplies as are to be acquired with
3 State funds for the General Court of Justice;
- 4 (6a) Develop standard tables and formulas for the aging and replacement of
5 all equipment used in the Judicial Branch and use funds available in
6 the Equipment Replacement Reserve created by G.S. 7A-350 to
7 replace and upgrade equipment in accordance with those tables and
8 formulas;
- 9 (7) Make recommendations for the improvement of the operations of the
10 Judicial ~~Department;~~ Branch;
- 11 (8) Prepare and submit an annual report on the work of the Judicial
12 ~~Department~~ Branch to the Chief Justice, and transmit a copy to each
13 member of the General Assembly;
- 14 (9) Assist the Chief Justice in performing his duties relating to the transfer
15 of district court judges for temporary or specialized duty;
- 16 (9a) Establish and operate systems and services that provide electronic
17 transaction processing and access to court information systems
18 pursuant to G.S. 7A-343.2; and
- 19 (10) Perform such additional duties and exercise such additional powers as
20 may be prescribed by statute or assigned by the Chief Justice."

21 **SECTION 2.2.** G.S. 7A-409.1(a) reads as rewritten:

22 "(a) The State Judicial Council shall:

- 23 (1) Study the judicial system and report periodically to the Chief Justice
24 on its findings;
- 25 (2) Advise the Chief Justice on priorities for funding;
- 26 (3) Review and advise the Chief Justice on the budget prepared by the
27 Director of the Administrative Office of the Courts for submission to
28 the General Assembly;
- 29 (4) Study and recommend to the General Assembly the salaries of justices
30 and judges;
- 31 (5) Recommend to the General Assembly changes in the expense
32 allowances, benefits, and other compensation for judicial officials;
33 bills to implement such recommendations shall have the same status
34 for introduction in the General Assembly as bills recommended by the
35 Courts Commission;
- 36 (6) Recommend the creation of ~~judgeships;~~ judgeships;
- 37 (6a) Consult with the Director on, and advise the Director in, the
38 performance of the Director's duties under G.S. 7A-343(2a),
39 7A-343(4a), and 7A-343(6a) and under Article 29A of this Chapter
40 (Judicial Branch Fiscal Integrity and Accountability); and
- 41 (7) Advise or assist the Chief Justice, as requested, on any other matter
42 concerning the operation of the courts."
43

PART III. ADDITIONAL CONFORMING CHANGES TO CHAPTER 7A OF THE GENERAL STATUTES

SECTION 3.1. G.S. 7A-7 reads as rewritten:

"§ 7A-7. Law clerks; secretaries and stenographers.

(a) Each justice and judge of the appellate division is entitled to the services of ~~not more than two~~ research assistants, who must be graduates of an accredited law school. ~~The salaries of research assistants shall be set by the Administrative Officer of the Courts, subject to the approval of the Supreme Court.~~

(b) The Administrative Officer of the Courts shall determine the number and salaries of all ~~secretaries~~ secretaries, research assistants, and stenographers in the appellate ~~division.~~ division, as provided in Article 29A of this Chapter, and subject to the approval of the Supreme Court."

SECTION 3.2. G.S. 7A-44.1(a) reads as rewritten:

~~"(a) Each senior resident superior court judge may appoint a judicial secretary to serve at his pleasure and under his direction the secretarial and clerical needs of the superior court judges of the district or set of districts as defined by G.S. 7A-41.1(a) for which he is the senior resident superior court judge. The appointment may be full or part time and the compensation and allowances of such secretary shall be fixed by the senior regular resident superior court judge, within limits determined by the Administrative Office of the Courts, and paid by the State. Senior resident superior court judges may employ judicial secretaries when positions for them are established by the Director of the Administrative Office of the Courts as provided in Article 29A of this Chapter. The Director shall determine the number and compensation of the judicial secretaries for each district or set of districts as defined in G.S. 7A-41.1(a)."~~

SECTION 3.3. G.S. 7A-60(a1) reads as rewritten:

~~"(a1) The counties of the State are organized into prosecutorial districts, and each district has the counties and at least the number of full-time assistant district attorneys set forth in the following table:~~ table. The Director of the Administrative Office of the Courts may establish additional assistant district attorney positions for a prosecutorial district, as provided in Article 29A of this Chapter.

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	9
2	Beaufort, Hyde, Martin, Tyrrell, Washington	5
3A	Pitt	9
3B	Carteret, Craven, Pamlico	10
4	Duplin, Jones, Onslow, Sampson	14

1	5	New Hanover, Pender	14
2	6A	Halifax	4
3	6B	Bertie, Hertford,	4
4		Northampton	
5	7	Edgecombe, Nash, Wilson	15
6	8	Greene, Lenoir, Wayne	11
7	9	Franklin, Granville,	10
8		Vance, Warren	
9	9A	Person, Caswell	4
10	10	Wake	30
11	11	Harnett, Johnston, Lee	14
12	12	Cumberland	18
13	13	Bladen, Brunswick, Columbus	10
14	14	Durham	13
15	15A	Alamance	8
16	15B	Orange, Chatham	7
17	16A	Scotland, Hoke	5
18	16B	Robeson	9
19	17A	Rockingham	5
20	17B	Stokes, Surry	5
21	18	Guilford	26
22	19A	Cabarrus	6
23	19B	Montgomery, Moore, Randolph	11
24	19C	Rowan	5
25	20	Anson, Richmond,	15
26		Stanly, Union	
27	21	Forsyth	17
28	22	Alexander, Davidson, Davie,	16
29		Iredell	
30	23	Alleghany, Ashe, Wilkes,	5
31		Yadkin	
32	24	Avery, Madison, Mitchell,	4
33		Watauga, Yancey	
34	25	Burke, Caldwell, Catawba	14
35	26	Mecklenburg	33
36	27A	Gaston	12
37	27B	Cleveland,	8
38		Lincoln	
39	28	Buncombe	10
40	29	Henderson, McDowell, Polk,	11
41		Rutherford, Transylvania	
42	30	Cherokee, Clay, Graham,	8
43		Haywood, Jackson, Macon,	
44		Swain."	

1 **SECTION 3.4.** G.S. 7A-68(a) reads as rewritten:

2 "(a) Each district attorney shall be entitled to at least one administrative assistant
3 to be appointed by the district attorney and to serve at his pleasure. The Director of the
4 Administrative Office of the Courts shall determine the number and salaries of the
5 administrative assistants for each district attorney, as provided in Article 29A of this
6 Chapter. The An administrative assistant need not be an attorney licensed to practice
7 law in the State of North Carolina."

8 **SECTION 3.5.** G.S. 7A-69 reads as rewritten:

9 "**§ 7A-69. Investigatorial assistants.**

10 ~~The district attorney in prosecutorial districts 1, 3B, 4, 5, 7, 8, 11, 12, 13, 14, 15A,~~
11 ~~15B, 18, 19B, 20, 21, 22, 24, 25, 26, 27A, 27B, 28, 29, and 30 is entitled to one~~
12 ~~investigatorial assistant, and the district attorney in prosecutorial district 10 is entitled to~~
13 ~~two investigatorial assistants, to be appointed by the district attorney and to serve at his~~
14 ~~pleasure. District attorneys may employ investigative assistants, when positions for~~
15 ~~them are created by the Director of the Administrative Office of the Courts, as provided~~
16 ~~in Article 29A of this Chapter. The Director shall determine the number and salaries of~~
17 ~~the investigative assistants for each district attorney.~~

18 It shall be the duty of the investigatorial assistant to investigate cases preparatory to
19 trial and to perform such other Duties as may be assigned by the district attorney. The
20 investigatorial assistant is entitled to reimbursement for his subsistence and travel
21 expenses to the same extent as State employees generally."

22 **SECTION 3.6.** G.S. 7A-95(e) reads as rewritten:

23 "~~(e) Appointment of a reporter or reporters for superior court proceedings in each~~
24 ~~district or set of districts as defined in G.S. 7A-41.1(a) shall be made by the senior~~
25 ~~regular resident superior court judge of that district or set of districts. The compensation~~
26 ~~and allowances of reporters in each such district or set of districts shall be fixed by the~~
27 ~~senior regular resident superior court judge, within limits determined by the~~
28 ~~Administrative Officer of the Courts, and paid by the State. Senior resident superior~~
29 ~~court judges may employ official court reporters when positions for them are~~
30 ~~established by the Director of the Administrative Office of the Courts, as provided in~~
31 ~~Article 29A of this Chapter. The Director shall determine the number and compensation~~
32 ~~of the official court reporters for each district or set of districts as defined in~~
33 ~~G.S. 7A-41.1(a). Each official court reporter shall be appointed by the senior resident~~
34 ~~superior court judge and shall serve at the judge's pleasure. An official court reporter~~
35 ~~shall record and transcribe superior court proceedings in the district or set of districts for~~
36 ~~which appointed, may be assigned by the Director to record and transcribe proceedings~~
37 ~~in other districts or sets of districts, and shall perform other official duties assigned by~~
38 ~~the senior resident superior court judge."~~

39 **SECTION 3.7.** G.S. 7A-102(a) reads as rewritten:

40 "(a) The numbers and salaries of assistant clerks, deputy clerks, and other
41 employees in the office of each clerk of superior court shall be determined by the
42 Administrative Officer of the Courts as provided in Article 29 of this Chapter, after
43 consultation with the clerk concerned. All personnel in the clerk's office are employees
44 of the State. The clerk appoints the assistants, deputies, and other employees in his

1 office to serve at his pleasure. Assistant and deputy clerks shall take the oath of office
 2 prescribed for clerks of superior court, conformed to the office of assistant or deputy
 3 clerk, as the case may be. The job classifications and related salaries of each employee
 4 within the office of each superior court clerk shall be subject to the approval of the
 5 Administrative Officer of the Courts after consultation with each clerk concerned and
 6 shall be subject to the availability of funds appropriated for that purpose by the General
 7 Assembly."

8 **SECTION 3.8.** G.S. 7A-133(c) read as rewritten:

9 "(c) Each county shall have ~~the numbers of magistrates and~~ at least the number of
 10 magistrates, and the additional seats of district court, as set forth in the following ~~table:~~
 11 table. The Director of the Administrative Office of the Courts may establish additional
 12 magistrate positions for a county, as provided in Article 29A of this Chapter.

County	Magistrates		Additional Seats of Court
	Min.	Max.	
Camden	1	3	
Chowan	2	3	
Currituck	1	4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	4	
Martin	5	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville Ayden
Craven	7	10	Havelock
Pamlico	2	4	
Carteret	5	8	
Sampson	6	8	
Duplin	9	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck
Northampton	5	7	
Bertie	4	6	

1	Hertford	5	7	
2	Nash	7	10	Rocky Mount
3	Edgecombe	4	7	Rocky Mount
4	Wilson	4	7	
5	Wayne	5	12	Mount Olive
6	Greene	2	4	
7	Lenoir	4	10	La Grange
8	Granville	3	7	
9	Vance	3	6	
10	Warren	3	5	
11	Franklin	3	7	
12	Person	3	4	
13	Caswell	2	5	
14	Wake	12	21	Apex, Wendell, Fuquay- Varina, Wake Forest
15				
16				
17				
18				
19	Harnett	7	11	Dunn
20	Johnston	10	12	Benson, Clayton, Selma
21				
22				
23	Lee	4	6	
24	Cumberland	10	19	
25	Bladen	4	6	
26	Brunswick	4	9	
27	Columbus	6	10	Tabor City
28	Durham	8	13	
29	Alamance	7	11	Burlington
30	Orange	4	11	Chapel Hill
31	Chatham	3	9	Siler City
32	Scotland	3	5	
33	Hoke	4	5	
34	Robeson	8	16	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
35				
36				
37				
38				
39				
40	Rockingham	4	9	Reidsville, Eden, Madison
41				
42				
43	Stokes	2	5	
44	Surry	5	9	Mt. Airy

1	Guilford	20	27	High Point
2	Cabarrus	5	9	Kannapolis
3	Montgomery	2	4	
4	Randolph	5	10	Liberty
5	Rowan	5	10	
6	Stanly	5	6	
7	Union	4	7	
8	Anson	4	6	
9	Richmond	5	6	Hamlet
10	Moore	5	8	Southern
11				Pines
12	Forsyth	3	15	Kernersville
13	Alexander	2	4	
14	Davidson	7	10	Thomasville
15	Davie	2	3	
16	Iredell	4	9	Mooresville
17	Alleghany	1	2	
18	Ashe	3	4	
19	Wilkes	4	6	
20	Yadkin	3	5	
21	Avery	3	5	
22	Madison	4	5	
23	Mitchell	3	4	
24	Watauga	4	6	
25	Yancey	2	4	
26	Burke	4	7	
27	Caldwell	4	7	
28	Catawba	6	10	Hickory
29	Mecklenburg	15	28	
30	Gaston	11	22	
31	Cleveland	5	8	
32	Lincoln	4	7	
33	Buncombe	6	15	
34	Henderson	4	7	
35	McDowell	3	6	
36	Polk	3	4	
37	Rutherford	6	8	
38	Transylvania	2	4	
39	Cherokee	3	4	
40	Clay	1	2	
41	Graham	2	3	
42	Haywood	5	7	Canton
43	Jackson	3	5	
44	Macon	3	4	

1 Swain

2 2 3"

3 **SECTION 3.9.** G.S. 7A-146 reads as rewritten:

4 **"§ 7A-146. Administrative authority and duties of chief district judge.**

5 (a) The chief district judge, subject to the general supervision of the Chief Justice
6 of the Supreme Court, has administrative supervision and authority over the operation
7 of the district courts and magistrates in his district. These powers and duties include, but
8 are not limited to, the following:

- 9 (1) Arranging schedules and assigning district judges for sessions of
10 district courts;
- 11 (2) Arranging or supervising the calendaring of noncriminal matters for
12 trial or hearing;
- 13 (3) Supervising the clerk of superior court in the discharge of the clerical
14 functions of the district court;
- 15 (4) Assigning matters to magistrates, and consistent with the salaries set
16 by the Administrative Officer of the Courts, prescribing times and
17 places at which magistrates shall be available for the performance of
18 their duties; however, the chief district judge may in writing delegate
19 his authority to prescribe times and places at which magistrates in a
20 particular county shall be available for the performance of their duties
21 to another district court judge or the clerk of the superior court, and the
22 person to whom such authority is delegated shall make monthly
23 reports to the chief district judge of the times and places actually
24 served by each magistrate; ~~and~~
- 25 (5) Making arrangements with proper authorities for the drawing of civil
26 court jury panels and determining which sessions of district court shall
27 be jury sessions;
- 28 (6) Arranging for the reporting of civil cases by court reporters or other
29 authorized means;
- 30 (7) Arranging sessions, to the extent practicable for the trial of specialized
31 cases, including traffic, domestic relations, and other types of cases,
32 and assigning district judges to preside over these sessions so as to
33 permit maximum practicable specialization by individual judges;
- 34 (8) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s.
35 118(b), effective July 15, 1992.
- 36 (9) Assigning magistrates during an emergency to temporary duty outside
37 the county of their residence but within that district; and, upon the
38 request of a chief district judge of an adjoining district and upon the
39 approval of the Administrative Officer of the Courts, to temporary
40 duty in the district of the requesting chief district judge; and
- 41 (10) Designating another district judge of his district as acting chief district
42 judge, to act during the absence or disability of the chief district judge.

43 (b) Chief district court judges may employ judicial secretaries when positions for
44 them are established by the Director of the Administrative Office of the Courts, as
provided in Article 29A of this Chapter. The Director shall determine the number and

1 compensation of the judicial secretaries for each district or set of districts as defined in
2 G.S. 7A-133(b)."

3 **SECTION 3.10.** G.S. 7A-171 reads as rewritten:

4 "**§ 7A-171. Numbers; appointment and terms; vacancies.**

5 (a) The General Assembly shall establish a minimum ~~and a maximum~~ quota
6 number of magistrates for each county. In no county shall the minimum quota be less
7 than one.

8 (b) Not earlier than the Tuesday after the first Monday nor later than the third
9 Monday in December of each even-numbered year, the clerk of the superior court shall
10 submit to the senior regular resident superior court judge of the district or set of districts
11 as defined in G.S. 7A-41.1(a) in which his county is located the names of two (or more,
12 if requested by the judge) nominees for each magisterial office ~~in the minimum quota~~
13 established for the ~~county-~~ county, pursuant to Article 29A of this Chapter. Not later
14 than the fourth Monday in December, the senior regular resident superior court judge
15 shall, from the nominations submitted by the clerk of the superior court, appoint
16 magistrates to fill the ~~minimum quota~~ magisterial offices established for each county of
17 his district or set of districts. The term of a magistrate so appointed shall be two years,
18 commencing on the first day in January of the calendar year next ensuing the calendar
19 year of appointment.

20 ~~(c) After the biennial appointment of the minimum quota of magistrates,~~
21 ~~additional magistrates in a number not to exceed, in total, the maximum quota~~
22 ~~established for each county may be appointed in the following manner. The chief~~
23 ~~district judge for the district court district in which the county is located, with the~~
24 ~~approval of the Administrative Officer of the Courts, may certify to the clerk of superior~~
25 ~~court that the minimum quota is insufficient for the efficient administration of justice~~
26 ~~and that a specified additional number, not to exceed the maximum quota established~~
27 ~~for the county, is required. Within 15 days after the receipt of this certification the clerk~~
28 ~~of superior court shall submit to the senior regular resident superior court judge of the~~
29 ~~district or set of districts as defined in G.S. 7A-41.1(a) in which his county is located the~~
30 ~~names of two (or more, if requested by the judge) nominees for each additional~~
31 ~~magisterial office. Within 15 days after receipt of the nominations the senior regular~~
32 ~~resident superior court judge shall from the nominations submitted appoint magistrates~~
33 ~~in the number specified in the certification. A magistrate so appointed shall serve a term~~
34 ~~commencing immediately and expiring on the same day as the terms of office of~~
35 ~~magistrates appointed to fill the minimum quota for the county.~~

36 (d) Within 30 days after a vacancy in the office of magistrate occurs the clerk of
37 superior court shall submit to the senior regular resident superior court judge the names
38 of two (or more, if so requested by the judge) nominees for the office vacated. Within
39 15 days after receipt of the nominations the senior regular resident superior court judge
40 shall appoint from the nominations received a magistrate who shall take office
41 immediately and shall serve for the remainder of the unexpired term."

42 **SECTION 3.11.** G.S. 7A-198(f) reads as rewritten:

43 "(f) ~~Appointment of a reporter or reporters for district court proceedings in each~~
44 ~~district court district shall be made by the chief district judge for that district. The~~

1 compensation and allowances of reporters in each district shall be fixed by the chief
2 district judge, within limits determined by the Administrative Officer of the Courts, and
3 paid by the State. Chief district court judges may employ official court reporters when
4 such positions are established by the Director of the Administrative Office of the
5 Courts, as provided in Article 29A of this Chapter. The Director shall determine the
6 number and compensation of the official court reporters for each district or set of
7 districts as defined in G.S. 7A-41.1(a). Each official court reporter shall be appointed by
8 the chief district court judge and shall serve at the judge's pleasure. An official court
9 reporter shall record and transcribe district court proceedings in the district or set of
10 districts for which appointed, may be assigned by the Director to record and transcribe
11 proceedings in other districts or sets of districts, and shall perform other official duties
12 assigned by the chief district court judge."

13 **SECTION 3.12.** G.S. 7A-347 reads as rewritten:

14 **"§ 7A-347. Assistants for administrative and victim and witness services.**

15 Assistant for administrative and victim and witness services positions are established
16 under the district attorneys' offices. Each prosecutorial district is allocated at least one
17 assistant for administrative and victim and witness services to be employed by the
18 district attorney. The Director of the Administrative Office of the Courts shall allocate
19 additional assistants to prosecutorial districts on the basis of need and within available
20 appropriations. determine the number of additional assistants for each prosecutorial
21 district and shall determine the salaries of all assistants, as provided in Article 29A of
22 this Chapter. Each district attorney may also use any volunteer or other personnel to
23 assist the assistant. The assistant is responsible for coordinating efforts of the
24 law-enforcement and judicial systems to assure that each victim and witness is provided
25 fair treatment under Article 45 of Chapter 15A, Fair Treatment for Victims and
26 Witnesses and shall also provide administrative and legal support to the district
27 attorney's office."

28 **SECTION 3.13.** G.S. 7A-355 reads as rewritten:

29 **"§ 7A-355. Trial court administrators.**

30 ~~The following districts or sets of districts as defined in G.S. 7A-41.1(a) shall have~~
31 ~~trial court administrators: Set of districts 10A, 10B, 10C, 10D; District 22 and District~~
32 ~~28, and such other districts or sets of districts as may be designated by the~~
33 ~~Administrative Office of the Courts. The office of trial court administrator is~~
34 ~~established. The superior court districts and sets of districts as defined in~~
35 ~~G.S. 7A-41.1(a) to be served by trial court administrators shall be determined by the~~
36 ~~Director of the Administrative Office of the Courts, as provided in Article 29A of this~~
37 ~~Chapter. A trial court administrator may employ supporting staff to assist in carrying~~
38 ~~out the trial court administrator's duties when such positions are established by the~~
39 ~~Director pursuant to Article 29A of this Chapter. The salaries of the trial court~~
40 ~~administrators and support staff shall be determined by the Director."~~

41 **SECTION 3.14.** G.S. 7A-377 reads as rewritten:

42 **"§ 7A-377. Procedures; employment of executive secretary, special counsel or**
43 **investigator. counsel, investigator, or supporting staff.**

1 (a) Any citizen of the State may file a written complaint with the Commission
2 concerning the qualifications or conduct of any justice or judge of the General Court of
3 Justice, and thereupon the Commission shall make such investigation as it deems
4 necessary. The Commission may also make an investigation on its own motion. The
5 Commission is authorized to issue process to compel the attendance of witnesses and
6 the production of evidence, to administer oaths, to punish for contempt, and to prescribe
7 its own rules of procedure. No justice or judge shall be recommended for censure or
8 removal unless he has been given a hearing affording due process of law. Unless
9 otherwise waived by the justice or judge involved, all papers filed with and proceedings
10 before the Commission, including any preliminary investigation which the Commission
11 may make, are confidential, except as provided herein. After the preliminary
12 investigation is completed, and if the Commission concludes that formal proceedings
13 should be instituted, the notice and complaint filed by the Commission, along with the
14 answer and all other pleadings, are not confidential. Formal hearings ordered by the
15 Commission are not confidential, and recommendations of the Commission to the
16 Supreme Court, along with the record filed in support of such recommendations are not
17 confidential. Testimony and other evidence presented to the Commission is privileged
18 in any action for defamation. At least five members of the Commission must concur in
19 any recommendation to censure or remove any justice or judge. A respondent who is
20 recommended for censure or removal is entitled to a copy of the proposed record to be
21 filed with the Supreme Court, and if he has objections to it, to have the record settled by
22 the Commission. He is also entitled to present a brief and to argue his case, in person
23 and through counsel, to the Supreme Court. A majority of the members of the Supreme
24 Court voting must concur in any order of censure or removal. The Supreme Court may
25 approve the recommendation, remand for further proceedings, or reject the
26 recommendation. A justice of the Supreme Court or a member of the Commission who
27 is a judge is disqualified from acting in any case in which he is a respondent.

28 (b) The chair of the Commission is authorized to employ an executive secretary
29 to assist the Commission in carrying out its duties. For specific cases, the Commission
30 may also employ special counsel or call upon the Attorney General to furnish counsel.
31 For specific cases, the Commission may also employ an investigator or call upon the
32 Director of the State Bureau of Investigation to furnish an investigator. While
33 performing duties for the Commission such executive secretary, special counsel or
34 investigator shall have authority throughout the State to serve subpoenas or other
35 process issued by the Commission in the same manner and with the same effect as an
36 officer authorized to serve process of the General Court of Justice.

37 (c) The Commission may employ supporting staff to assist it in carrying out its
38 duties when such positions are established by the Director of the Administrative Office
39 of the Courts, as provided in Article 29A of this Chapter. The salaries of the executive
40 secretary and other supporting staff shall be determined by the Director."

41 **SECTION 3.15.** G.S. 7A-414 reads as rewritten:

42 "**§ 7A-414. Executive Secretary; ~~secretary~~; clerical support.**

43 The Conference may employ an executive ~~secretary and any necessary supporting~~
44 ~~staff to assist it in carrying out its duties.~~ secretary. The Conference may employ

1 supporting staff to assist it in carrying out its duties when such positions are established
2 by the Director of the Administrative Office of the Courts, as provided in Article 29A of
3 this Chapter. The salaries of the executive secretary and other supporting staff shall be
4 determined by the Director."

5 **SECTION 3.16.** Section 9 of Chapter 881 of the 1993 Session Laws is
6 repealed.

7
8 PART IV. CONFORMING CHANGES TO THE EXECUTIVE BUDGET ACT AND
9 RELATED PROVISIONS

10
11 **SECTION 4.1.** G.S. 143-18 reads as rewritten:

12 "**§ 143-18. Unencumbered balances to revert to treasury; capital appropriations**
13 **excepted.**

14 All unencumbered balances of maintenance appropriations shall revert to the State
15 treasury to the credit of the general fund or special funds from which the appropriation
16 and/or appropriations, were made and/or expended, at the end of each fiscal year; except
17 that capital expenditures for the purchase of land, the erection of buildings, new
18 construction or renovations in progress shall continue in force until the attainment of the
19 object or the completion of the work for which the appropriations are made; except that
20 maintenance appropriations to the General Assembly shall remain available until
21 expended, unless otherwise provided by the Legislative Services ~~Commission.~~
22 Commission, and except that maintenance appropriations to the Judicial Branch of
23 Government shall remain available until expended, unless otherwise provided by the
24 Director of the Administrative Office of the Courts.

25 As used in this section, "unencumbered" means not obligated in the form of
26 purchase orders, contracts, renovations in progress or salary commitments. No purchase
27 orders, contracts, renovations in progress, or salary commitments shall be entered into
28 during a fiscal year unless sufficient funds are available within the purpose for which
29 the funds were appropriated by the General Assembly or as authorized by the Director
30 of the Budget as allowed by law."

31 **SECTION 4.2.** G.S. 143-25 reads as rewritten:

32 "**§ 143-25. Maintenance appropriations dependent upon adequacy of revenues to**
33 **support them.**

34 (a) All maintenance appropriations now or hereafter made are hereby declared to
35 be maximum, conditional and proportionate appropriations, the purpose being to make
36 the appropriations payable in full in the amounts named herein if necessary and then
37 only in the event the aggregate revenues collected and available during each fiscal year
38 of the biennium for which such appropriations are made, are sufficient to pay all of the
39 appropriations in full; otherwise, the said appropriations shall be deemed to be payable
40 in such proportion as the total sum of all appropriations bears to the total amount of
41 revenue available in each of said fiscal years. Except as provided in ~~subsection (b)~~
42 subsections (b) and (c) of this section, the Director of the Budget is given full power and
43 authority to examine and survey the progress of the collection of the revenue out of
44 which such appropriations are to be made, and to declare and determine the amounts

1 that can be, during each quarter of each of the fiscal years of the biennium properly
2 allocated to each respective appropriation. In making such examination and survey, the
3 Director of the Budget shall receive estimates of the prospective collection of revenues
4 from the Secretary of Revenue and every other revenue collecting agency of the State.
5 The Director of the Budget may reduce all of said appropriations pro rata when
6 necessary to prevent an overdraft or deficit to the fiscal period for which such
7 appropriations are made. The Governor may also reduce all of said appropriations
8 pursuant to Article III, Section 5(3) of the Constitution in accordance with subsection
9 (b) of this section, after consulting with the Joint Legislative Commission on
10 Governmental Operations under G.S. 120-76(8) if prior consultation is required by that
11 section. The purpose and policy of this Article are to provide and insure that there shall
12 be no overdraft or deficit in the general fund of the State at the end of the fiscal period,
13 growing out of appropriations for maintenance and the Director of the Budget is
14 directed and required to so administer this Article as to prevent any such overdraft or
15 deficit. Prior to taking any action under this section to reduce appropriations pro rata,
16 the Governor may consult with the Advisory Budget Commission.

17 (b) The General Assembly recognizes that it has required units of local
18 government to adopt and maintain annual balanced budgets and take other steps to
19 assure financially sound operations under the Local Government Budget and Fiscal
20 Control Act and other provisions of Chapter 159 of the General Statutes. Accordingly,
21 the General Assembly finds that in order to satisfy those statutory requirements and
22 provide adequate services to their citizens, units of local government must be able to
23 rely on the funds and local revenue sources the General Assembly has provided.

24 It is the intent of the General Assembly that funds that have been collected by the
25 State on behalf of local governments and funds that the General Assembly has
26 appropriated or otherwise committed to local governments shall not be reduced except
27 as provided in this section. In exercising the powers contained in Section 5(3) of Article
28 III of the North Carolina Constitution, the Governor shall not withhold from distribution
29 funds that have been collected by the State on behalf of local governments or funds that
30 the General Assembly has appropriated or otherwise committed to local governments
31 unless, after making adequate provision for the prompt payment of principal of and
32 interest on bonds and notes of the State according to their terms, the Governor has
33 exhausted all other sources of revenue of the State including surplus remaining in the
34 treasury at the beginning of the fiscal period.

35 This subsection does not authorize the Governor to withhold revenues from taxes
36 levied by units of local governments and collected by the State. The General Assembly
37 recognizes that under Section 19 of Article I of the North Carolina Constitution and
38 under the Due Process Clause of the United States Constitution, the State is prohibited
39 from taking local tax revenue.

40 (c) Whenever performing the duties set forth in Article III, Section 5(3) of the
41 North Carolina Constitution, the Governor shall consult with the Chief Justice before
42 making any reductions or revisions to the Judicial Branch appropriations and, to the
43 extent practicable consistent with the Governor's responsibilities under Article III,

1 Section 5(3) of the Constitution, shall attempt to follow such recommendations as the
2 Chief Justice may make for reductions or revisions in those appropriations."

3 **SECTION 4.3.** G.S. 120-76(8) reads as rewritten:

4 **"§ 120-76. Powers and duties of the Commission.**

5 The Commission shall have the following powers:

6 ...

7 (8) The Joint Legislative Commission on Governmental Operations shall
8 be consulted by the Governor before the Governor does any of the
9 following:

- 10 a. Makes allocations from the Contingency and Emergency Fund.
11 b. Authorizes expenditures in excess of the total requirements of a
12 purpose or program as enacted by the General Assembly and as
13 provided by G.S. 143-23(a1)(3), except for trust funds as
14 defined in G.S. 116-36.1(g).
15 c. Proceeds to reduce programs subsequent to a reduction of ten
16 percent (10%) or more in the federal fund level certified to a
17 department and any subsequent changes in distribution
18 formulas.
19 d. Takes extraordinary measures under Article III, Section 5(3) of
20 the Constitution to effect necessary economies in State
21 expenditures required for balancing the budget due to a revenue
22 shortfall, including, but not limited to, the following: loans
23 among funds, personnel freezes or layoffs, capital project
24 reversions, program eliminations, and use of reserves. However,
25 if the Committee fails to meet within 10 calendar days of a
26 request by the Governor for its consultation, the Governor may
27 proceed to take the actions he feels are appropriate and
28 necessary and shall then report those actions at the next meeting
29 of the Commission. With respect to expenditures from
30 appropriations for the maintenance and operation of the Judicial
31 Branch of Government, the Chief Justice shall comply with this
32 subdivision.
33 e. Approves a new capital improvement project funded from gifts,
34 grants, receipts, special funds, self-liquidating indebtedness,
35 and other funds or any combination of funds for the project not
36 specifically authorized by the General Assembly. The budget
37 for each capital project must include projected revenues in an
38 amount not less than projected expenditures.

39 Notwithstanding the provisions of this subdivision or any other
40 provision of law requiring prior consultation by the ~~Governor~~
41 Governor, or the Chief Justice with respect to expenditures from
42 appropriations for the maintenance and operation of the Judicial
43 Branch, with the Commission, whenever an expenditure is required
44 because of an emergency that poses an imminent threat to public

1 health or public safety, and is either the result of a natural event, such
2 as a hurricane or a flood, or an accident, such as an explosion or a
3 wreck, the Governor or the Chief Justice may take action under this
4 subsection without consulting the Commission if the action is
5 determined by the Governor or the Chief Justice to be related to the
6 emergency. The Governor or the Chief Justice shall report to the
7 Commission on any expenditures made under this paragraph no later
8 than 30 days after making the expenditure and shall identify in the
9 report the emergency, the type of action taken, and how it was related
10 to the emergency."
11

12 PART V. CHANGE REFERENCES FROM "JUDICIAL DEPARTMENT" TO
13 "JUDICIAL BRANCH OF GOVERNMENT"

14
15 **SECTION 5.1.** The Revisor of Statutes shall change all references in the
16 General Statutes to the "Judicial Department" by deleting that term each time it appears
17 and substituting the term "Judicial Branch of Government" or "Judicial Branch" as the
18 context requires and shall make any necessary conforming grammatical changes in the
19 affected provisions.
20

21 PART VI. EFFECTIVE DATE AND APPLICABILITY

22
23 **SECTION 6.1.** This act becomes effective July 1, 2003.