

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

4

HOUSE BILL 650\*  
Committee Substitute Favorable 3/28/05  
Committee Substitute #2 Favorable 6/14/05  
Senate Judiciary I Committee Substitute Adopted 8/12/05

Short Title: Business Court Cases/Fee.

(Public)

Sponsors:

Referred to:

March 16, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE ASSIGNMENT OF SPECIAL SUPERIOR COURT JUDGES TO HEAR COMPLEX BUSINESS CASES, TO CLARIFY THE PROCEDURE FOR ASSIGNING COMPLEX BUSINESS CASES, TO AUTHORIZE A LARGER FEE FOR COMPLEX BUSINESS CASES, AND TO CHANGE THE DATE DISTRICT COURT JUDGES TAKE OFFICE.

The General Assembly of North Carolina enacts:

**PART I. BUSINESS COURT JUDGES AND FEES.**

**SECTION 1.1.** Article 7 of Chapter 7A of the General Statutes is amended by adding a new section to read:

**"§ 7A-45.3. Superior court judges designated for complex business cases.**

The Chief Justice may exercise the authority under rules of practice prescribed pursuant to G.S. 7A-34 to designate one or more of the special superior court judges authorized by G.S. 7A-45.1 to hear and decide complex business cases as prescribed by the rules of practice. Any judge so designated shall be known as a Business Court Judge and shall preside in the Business Court. If there is more than one business court judge, the Chief Justice may designate one of them as the Senior Business Court Judge. If there is no designation by the Chief Justice, the judge with the longest term of service on the court shall serve as Senior Business Court Judge until the Chief Justice makes an appointment to the position."

**SECTION 1.2.** G.S. 7A-305(a) reads as rewritten:

"(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in cases heard before a magistrate, and the sum

1 of sixteen dollars (\$16.00) in district and superior court, to be remitted  
2 to the county in which the judgment is rendered, except that in all  
3 cases in which the judgment is rendered in facilities provided by a  
4 municipality, the facilities fee shall be paid to the municipality. Funds  
5 derived from the facilities fees shall be used in the same manner, for  
6 the same purposes, and subject to the same restrictions, as facilities  
7 fees assessed in criminal actions.

- 8 (2) For support of the General Court of Justice, the sum of sixty-nine  
9 dollars (\$69.00) in the superior ~~court,~~ court, except that if a case is  
10 assigned to a special superior court judge as a complex business case  
11 under G.S. 7A-45.3, an additional two hundred dollars (\$200.00) shall  
12 be paid upon its assignment, and the sum of fifty-four dollars (\$54.00)  
13 in the district court except that if the case is assigned to a magistrate  
14 the sum shall be forty-three dollars (\$43.00). Sums collected under this  
15 subdivision shall be remitted to the State Treasurer. The State  
16 Treasurer shall remit the sum of one dollar and five cents (\$1.05) of  
17 each fee collected under this subdivision to the North Carolina State  
18 Bar for the provision of services described in G.S. 7A-474.4, and  
19 ninety-five cents (\$.95) of each fee collected under this subdivision to  
20 the North Carolina State Bar for the provision of services described in  
21 G.S. 7A-474.19."  
22

## 23 PART II. ASSIGNMENT OF COMPLEX BUSINESS CASES.

24 SECTION 2. Article 7 of Chapter 7A of the General Statutes is amended by  
25 adding a new section to read:

### 26 "§ 7A-45.4. Designation of mandatory complex business cases.

27 (a) A mandatory complex business case is an action that involves a material issue  
28 related to:

- 29 (1) The law governing corporations, except charitable and religious  
30 organizations qualified under G.S. 55A-1-40(4) on the grounds of  
31 religious purpose, partnerships, limited liability companies, and  
32 limited liability partnerships, including issues concerning governance,  
33 involuntary dissolution of a corporation, mergers and acquisitions,  
34 breach of duty of directors, election or removal of directors,  
35 enforcement or interpretation of shareholder agreements, and  
36 derivative actions.  
37 (2) Securities law, including proxy disputes and tender offer disputes.  
38 (3) Articles 3, 4, and 5 of the North Carolina General Statutes.  
39 (4) Antitrust law, except claims based solely on unfair competition under  
40 G.S. 75-1.1.  
41 (5) State trademark or unfair competition law, except claims based solely  
42 on unfair competition under G.S. 75-1.1.  
43 (6) Intellectual property law, including software licensing disputes.  
44 (7) The Internet, electronic commerce, and biotechnology.

1       (b) Any party may designate a civil action as a mandatory complex business case  
2 by filing a Notice of Designation in the Superior Court in which the action has been  
3 filed and simultaneously serving the notice on each opposing party or counsel and on  
4 the Special Superior Court Judge for Complex Business Cases who is then the senior  
5 Business Court Judge. A copy of the notice shall also be sent contemporaneously by e-  
6 mail or facsimile transmission to the Chief Justice of the Supreme Court for approval of  
7 the designation of the action as a mandatory complex business case and assignment to a  
8 specific Business Court Judge.

9       (c) The Notice of Designation shall, in good faith and based on information  
10 reasonably available, succinctly state the basis of the designation and include a  
11 certificate by or on behalf of the designating party that the civil action meets the criteria  
12 for designation as a mandatory complex business case pursuant to subsection (a) of this  
13 section.

14       (d) The Notice of Designation shall be filed:

15           (1) By the plaintiff or third-party plaintiff contemporaneously with the  
16 filing of the complaint or third-party complaint in the action.

17           (2) By any intervenor when the intervenor files a motion for permission to  
18 intervene in the action.

19           (3) By any defendant or any other party within 30 days of receipt of  
20 service of the pleading seeking relief from the defendant or party.

21       (e) Within 30 days after service of the Notice of Designation, any other party  
22 may, in good faith, file and serve an opposition to the designation of the action as a  
23 mandatory business case. Based on the opposition or ex mero motu, the Business Court  
24 Judge may determine that the action should not be designated as a mandatory complex  
25 business case. If a party disagrees with the decision, the party may appeal to the Chief  
26 Justice of the Supreme Court.

27       (f) Once a designation is filed under subsection (d) of this section, and after  
28 preliminary approval by the Chief Justice, a case shall be designated and administered a  
29 complex business case. All proceedings in the action shall be before the Business Court  
30 Judge to whom it has been assigned unless and until an order has been entered under  
31 subsection (e) of this section ordering that the case not be designated a mandatory  
32 complex business case or the Chief Justice revokes approval. If complex business case  
33 status is revoked or denied, the action shall be treated as any other civil action, unless it  
34 is designated as an exceptional civil case or a discretionary complex business case  
35 pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District  
36 Courts."

### 37 38 **PART III. DISTRICT COURT JUDGE TERM.**

39       **SECTION 3.1.** G.S. 7A-140 reads as rewritten:

40       "**§ 7A-140. Number; election; term; qualification; oath.**

41       There shall be at least one district judge for each district. Each district judge shall be  
42 elected by the qualified voters of the district court district in which he or she is to serve  
43 at the time of the election for members of the General Assembly. The number of judges  
44 for each district shall be determined by the General Assembly. Each judge shall be a

1 resident of the district for which elected, and shall serve a term of four years, beginning  
 2 on the first ~~Monday in December~~ day in January next following his~~er~~ election.

3 Each district judge shall devote his or her full time to the duties of ~~his~~the office. He  
 4 or she shall not practice law during ~~his~~the term, nor shall he or she during such term be  
 5 the partner or associate of any person engaged in the practice of law.

6 Before entering upon his or her duties, each district judge, in addition to other oaths  
 7 prescribed by law, shall take the oath of office prescribed for a judge of the General  
 8 Court of Justice."

9 **SECTION 3.2.** The table entries in G.S. 163-1 for the Justices and Judges  
 10 read as rewritten:

11 "OFFICE	JURISDICTION	DATE OF ELECTION	TERM OF OFFICE
12 ...			
13 Justices and 14 Judges of the 15 Appellate 16 Division	State	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Eight years, from first day of January next after election
20 Judges of the 21 superior 22 courts	Superior Court District	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Eight years, from first day of January next after election
27 Judges of the 28 district 29 courts	District court district	At the regular election for members of the General Assembly immediately preceding the termination of each regular term	Four years, from the first <del>Monday</del> <del>in December next</del> <u>day in January next</u> after election
35 ...."			

36  
 37 **PART IV. EFFECTIVE DATES.**

38 **SECTION 4.** Sections 1.1 and 1.2 of this act become effective January 1,  
 39 2006, and apply to fees assessed or collected on or after that date. Section 2 becomes  
 40 effective January 1, 2006, and applies to cases filed on or after that date. Sections 3.1  
 41 and 3.2 of this act are effective when they become law. Judges elected in 2006 and  
 42 thereafter take office accordingly, and as provided by Section 10 of Article VI of the  
 43 North Carolina Constitution and G.S. 128-7, those in office on the first Monday in

- 1 December of 2006 or 2008 shall continue until their successors' terms begin and are
- 2 duly qualified.