

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**HOUSE BILL 650
RATIFIED BILL**

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 of sixteen dollars (\$16.00) in district and superior court, to be remitted to the county in which the judgment is rendered, except that in all cases in which the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.
- (2) For support of the General Court of Justice, the sum of sixty-nine dollars (\$69.00) in the superior court, ~~except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, an additional two hundred dollars (\$200.00) shall be paid upon its assignment,~~ and the sum of fifty-four dollars (\$54.00) in the district court except that if the case is assigned to a magistrate the sum shall be forty-three dollars (\$43.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and five cents (\$1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and

ninety-five cents (\$.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19."

PART II. ASSIGNMENT OF COMPLEX BUSINESS CASES.

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

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

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

- (1) The law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, limited liability companies, and limited liability partnerships, including issues concerning governance, involuntary dissolution of a corporation, mergers and acquisitions, breach of duty of directors, election or removal of directors, enforcement or interpretation of shareholder agreements, and derivative actions.
- (2) Securities law, including proxy disputes and tender offer disputes.
- (3) Antitrust law, except claims based solely on unfair competition under G.S. 75-1.1.
- (4) State trademark or unfair competition law, except claims based solely on unfair competition under G.S. 75-1.1.
- (5) Intellectual property law, including software licensing disputes.
- (6) The Internet, electronic commerce, and biotechnology.

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

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

(d) The Notice of Designation shall be filed:

- (1) By the plaintiff or third-party plaintiff contemporaneously with the filing of the complaint or third-party complaint in the action.
- (2) By any intervenor when the intervenor files a motion for permission to intervene in the action.
- (3) By any defendant or any other party within 30 days of receipt of service of the pleading seeking relief from the defendant or party.

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

(f) Once a designation is filed under subsection (d) of this section, and after preliminary approval by the Chief Justice, a case shall be designated and administered a complex business case. All proceedings in the action shall be before the Business Court Judge to whom it has been assigned unless and until an order has been entered under

subsection (e) of this section ordering that the case not be designated a mandatory complex business case or the Chief Justice revokes approval. If complex business case status is revoked or denied, the action shall be treated as any other civil action, unless it is designated as an exceptional civil case or a discretionary complex business case pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts."

PART III. DISTRICT COURT JUDGE TERM.

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

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

There shall be at least one district judge for each district. Each district judge shall be elected by the qualified voters of the district court district in which he or she is to serve at the time of the election for members of the General Assembly. The number of judges for each district shall be determined by the General Assembly. Each judge shall be a resident of the district for which elected, and shall serve a term of four years, beginning on the first ~~Monday in December~~ day in January next following his ~~after~~ election.

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

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

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

"OFFICE	JURISDICTION	DATE OF ELECTION	TERM OF OFFICE
...			
Justices and Judges of the Appellate 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
Judges of the superior 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
Judges of the district 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 Monday in December next <u>day in January next</u> after election
...."			

PART IV. EFFECTIVE DATES.

SECTION 4. Sections 1.1 and 1.2 of this act become effective January 1, 2006, and apply to fees assessed or collected on or after that date. Section 2 becomes effective January 1, 2006, and applies to cases filed on or after that date. Sections 3.1 and 3.2 of this act are effective when they become law. Judges elected in 2006 and thereafter take office accordingly, and as provided by Section 10 of Article VI of the North Carolina Constitution and G.S. 128-7, those in office on the first Monday in December of 2006 or 2008 shall continue until their successors' terms begin and are duly qualified.

In the General Assembly read three times and ratified this the 24th day of August, 2005.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2005