

The Senate Judiciary Committee offered the following substitute to HB 149:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated,
2 relating to magistrates, so as to change provisions relating to magistrates under certain
3 circumstances; to provide for related matters; to provide an effective date; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 2 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to
8 magistrates, is amended by revising Code Section 15-10-20, relating to the number and
9 selection of magistrates, as follows:

10 "15-10-20.

11 (a) Each magistrate court shall have a chief magistrate and may have one or more other
12 magistrates. Such magistrates shall be the judges of the magistrate court and shall be
13 known as magistrates of the county. Unless otherwise provided by local law, the number
14 of magistrates in each county shall be fixed from time to time by majority vote of the
15 judges of the superior court of the county, but no magistrate shall be removed from office
16 during a term of office except for cause as provided by Code Sections 15-10-24 and
17 15-10-25. The number of magistrates authorized for the county shall be one magistrate
18 until increased by the judges of superior court or by local law; ~~but this subsection shall not~~
19 ~~operate to remove a magistrate from office during his term of office.~~

20 (b) ~~The term of office of any magistrate taking office prior to January 1, 1985, shall expire~~
21 ~~on December 31, 1984, except that this subsection shall not operate to shorten any term of~~
22 ~~office in violation of Article VI, Section X, Paragraph II of the Constitution.~~ The term of
23 office of any magistrate taking office on or after January 1, 1985, shall be for four years
24 beginning on the first day of an odd-numbered year, except that in selecting magistrates to
25 fill newly created positions or if otherwise necessary, a magistrate may be selected for a
26 term of less than four years to expire on the last day of an even-numbered year.

27 (c)(1) Unless otherwise provided by local law, all magistrates, other than the officers
28 becoming magistrates pursuant to Code Section 15-10-120, who are selected to take
29 office prior to January 1, 1985, shall be selected as provided in this subsection. The
30 judges of the superior court of the county shall by majority vote appoint as chief
31 magistrate either an officer becoming a magistrate pursuant to Code Section 15-10-120
32 or some other person meeting the qualifications specified in subsection (a) of Code
33 Section 15-10-22. Any other magistrates, other than the officers becoming magistrates
34 pursuant to Code Section 15-10-120, shall be appointed by the chief magistrate with the
35 consent of the judges of superior court.

36 (2)(A) If the chief magistrate so selected is an officer becoming a magistrate pursuant
37 to Code Section 15-10-120, then his or her term as chief magistrate will be as provided
38 by this paragraph.

39 ~~(B) If the term which he was serving on June 30, 1983, will expire on the last day of~~
40 ~~1984 or 1986, then his term as chief magistrate will likewise expire on the last day of~~
41 ~~1984 or 1986.~~

42 ~~(C)~~ If the term which he or she was serving on June 30, 1983, will expire other than
43 on the last day of 1984 or 1986, then his or her term as chief magistrate shall expire on
44 December 31, 1984, even though he or she is granted a longer term as magistrate by
45 Article VI, Section X, Paragraph II of the Constitution; but his or her term as magistrate
46 shall not be shortened in violation of said Paragraph of the Constitution. In any case
47 covered by this subparagraph, the person whose term as chief magistrate expires
48 December 31, 1984, but who is granted by the Constitution a longer term as magistrate
49 shall be eligible to succeed himself or herself for a four-year term as chief magistrate
50 beginning January 1, 1985, if he or she resigns his or her current term as magistrate
51 prior to beginning such four-year term as chief magistrate.

52 (d)(1) Unless otherwise provided by local law, all magistrates taking office on or after
53 January 1, 1985, shall be selected as provided in this subsection. The chief magistrate
54 shall be elected by the voters of the county at the general election next preceding the
55 expiration of the term of the incumbent chief magistrate, in a partisan election in the same
56 manner as county officers are elected, for a term beginning on the first day of January
57 following his or her election. His or her successors shall likewise be elected
58 quadrennially thereafter for terms beginning on the first day of January following their
59 election.

60 (2) Magistrates other than the chief magistrate shall be appointed by the chief magistrate
 61 with the consent of the judges of the superior court. ~~The term of a magistrate so~~
 62 ~~appointed shall run concurrently with the term of the chief magistrate by whom he was~~
 63 ~~appointed~~ Upon the expiration of the term of office of a magistrate who was appointed
 64 pursuant to this paragraph and who is serving on July 1, 2011, his or her successor shall
 65 no longer have a set term and shall serve at the pleasure of the chief magistrate and shall
 66 only be removed for cause by the chief magistrate with the consent of a majority of the
 67 superior court judges of the circuit. This paragraph shall not apply to any magistrate
 68 selected pursuant to local law. As used in this paragraph, the term 'majority' means the
 69 chief judge in a circuit with one judge, both judges in a circuit with two judges, or more
 70 than half of the judges in a circuit with three or more judges.

71 (e) Unless otherwise provided by local law, a vacancy in the office of chief magistrate
 72 shall be filled by an appointment by majority vote of the judges of superior court for the
 73 remainder of the unexpired term; and a vacancy in the office of any other magistrate shall
 74 be filled by an appointment by the chief magistrate with the consent of the judges of
 75 superior court for the remainder of the unexpired term. If, however, a vacancy occurs
 76 which does not reduce the number of magistrates for the county below the number of
 77 magistrates authorized for the county, then such vacancy shall not be filled.

78 (f) The General Assembly may by local law provide for the number of magistrates of a
 79 county, provide for a different method of selecting magistrates than that specified in
 80 subsections (c) and (d) of this Code section, and provide for a different method of filling
 81 vacancies than that specified in subsection (e) of this Code section.

82 (g) The General Assembly may at any time provide by local law that the probate judge
 83 shall serve as chief magistrate or magistrate and provide for compensation of the probate
 84 judge in his or her capacity as chief magistrate or magistrate; and in such a case the chief
 85 magistrate or magistrate shall not be separately elected but shall be the probate judge.

86 (h) Each magistrate taking office after July 1, 1985, shall before entering on the
 87 performance of his or her duties execute bond in the amount of \$25,000.00 for the faithful
 88 performance of his or her duties. Each magistrate in office on July 1, 1985, shall execute
 89 such a bond not later than September 1, 1985. The amount of bond required of the
 90 magistrate or magistrates of any county may be increased by local law. Such bonds shall
 91 be subject to all provisions of Chapter 4 of Title 45 in the same manner as bonds of other
 92 county officials. The premiums due on such bonds shall be paid by the fiscal authority of
 93 the county out of county funds.

94 ~~(i)(1) Any person who is holding office on January 1, 1994, as a judge of the superior~~
 95 ~~courts of this state, whether within the term for which elected or appointed or otherwise,~~
 96 ~~and who subsequent to such date and prior to December 31, 1996, is effectively removed~~

97 from such office by federal court order shall upon such removal become a special judge
 98 of the magistrate court as provided for in this subsection. As used in this subsection, the
 99 term 'federal court order' shall mean only an order of a federal court which is entered in
 100 a civil action challenging under federal law or federal constitutional provisions (or both)
 101 the validity of the manner of selection of superior court judges in this state. A person
 102 shall be considered as effectively removed from office by such an order if the order by
 103 its terms prohibits such person's continued service as a judge of the superior courts
 104 without by the terms of the order allowing such person a meaningful opportunity to seek
 105 an appointment or election as a judge of the superior courts which would take effect
 106 within 30 days following such removal. Nothing in this subsection shall apply with
 107 respect to any removal from office resulting from criminal conduct or other malfeasance
 108 on the part of the person removed from office.

109 ~~(2) Any person becoming a special judge of the magistrate court pursuant to this~~
 110 ~~subsection shall become a special judge of the magistrate court of the county in which~~
 111 ~~such person resides. Any such special judge of the magistrate court shall serve for a term~~
 112 ~~of office expiring December 31, 1996. The Governor shall issue to each such special~~
 113 ~~judge of the magistrate court a commission stating the date of commencement and~~
 114 ~~expiration of such term of office.~~

115 ~~(3) Any special judge of the magistrate court serving pursuant to this subsection shall~~
 116 ~~have all the same powers and duties as any other judge of such magistrate court.~~

117 ~~(4) Any special judge of the magistrate court serving pursuant to this subsection shall be~~
 118 ~~compensated and reimbursed for expenses in such amount or amounts as are now or~~
 119 ~~hereafter provided by law for a judge of the superior courts, such compensation to be~~
 120 ~~payable from state funds in the same manner as now or hereafter provided by law for a~~
 121 ~~judge of the superior courts.~~

122 ~~(5) The provisions of this subsection shall control over any other conflicting provisions~~
 123 ~~of this chapter."~~

124 SECTION 2.

125 This Act shall become effective upon its approval by the Governor or upon its becoming law
 126 without such approval.

127 SECTION 3.

128 All laws and parts of laws in conflict with this Act are repealed.