

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:

**SECTION 1.**

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

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.