**South Carolina General Assembly**

125th Session, 2023-2024

**S. 482**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Peeler, Reichenbach, Verdin, Turner, Bennett and Rice

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Introduced in the Senate on February 2, 2023

Currently residing in the Senate

Summary: Selection of Magistrates

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/2/2023 Senate Introduced and read first time (Senate Journal‑page 5)

 2/2/2023 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 5)

 2/9/2023 Scrivener's error corrected

 1/16/2024 Senate Referred to Subcommittee: Talley (ch), Malloy,
 Campsen, Sabb, Setzler

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**VERSIONS OF THIS BILL**

[02/02/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/482_20230202.docx)

[02/09/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/482_20230209.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 2‑19‑90, RELATING TO the APPROVAL OF the GENERAL ASSEMBLY IN JOINT SESSION, SO AS TO PROVIDE THAT A CANDIDATE MUST RECEIVE A MAJORITY VOTE OF THE MEMBERS OF THE HOUSE AND OF THE MEMBERS OF THE SENATE; BY AMENDING SECTION 14‑3‑10, RELATING TO the COMPOSITION OF COURT AND ELECTION OF JUSTICES AND TERMS, SO AS TO DEFINE ELECTION BY JOINT VOTE OF THE GENERAL ASSEMBLY TO MEAN A MAJORITY VOTE OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES AND A MAJORITY VOTE OF THE MEMBERS OF THE SENATE; BY AMENDING SECTION 14‑5‑610, RELATING TO the DIVISION OF THE STATE INTO SIXTEEN JUDICIAL CIRCUITS, NUMBER OF JUDGES TO BE ELECTED FROM EACH CIRCUIT, AND ELECTION OF ADDITIONAL JUDGES WITHOUT REGARD TO COUNTY OR CIRCUIT OF RESIDENCE, SO AS TO ADD ELECTION OF JUDGES BY JOINT VOTE OF THE GENERAL ASSEMBLY; BY AMENDING SECTION 14‑8‑20, RELATING TO the ELECTION OF MEMBERS OF THE COURT AND TERMS OF OFFICE, SO AS TO DEFINE ELECTION BY JOINT VOTE OF THE GENERAL ASSEMBLY TO MEAN A MAJORITY VOTE OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES AND A MAJORITY VOTE OF THE MEMBERS OF THE SENATE; BY AMENDING SECTION 22‑1‑10, RELATING TO APPOINTMENT, TERM, AND TERRITORIAL JURISDICTION, AND TRAINING, CERTIFICATION, OR RECERTIFICATION REQUIREMENT, SO AS TO PROVIDE THAT THE DELEGATION BE A LEGISLATIVE DELEGATION; BY AMENDING SECTION 22‑1‑16, RELATING TO TRIAL OBSERVATION REQUIREMENTS FOR NEW MAGISTRATES WHO ARE NOT ATTORNEYS, SO AS TO PROVIDE THAT THE DELEGATION BE A LEGISLATIVE DELEGATION; BY AMENDING SECTION 22‑1‑30, RELATING TO SUSPENSION, REMOVAL, OR NON‑REAPPOINTMENT, SO AS TO PROVIDE THAT THE DELEGATION BE A LEGISLATIVE DELEGATION; BY AMENDING SECTION 22‑2‑5, RELATING TO ELIGIBILITY EXAMINATIONS FOR MAGISTRATES, SO AS TO PROVIDE THAT THE DELEGATION BE A LEGISLATIVE DELEGATION; BY AMENDING SECTION 22‑2‑10, RELATING TO THE SCREENING COMMITTEE ASSISTING IN SELECTION OF MAGISTRATES, SO AS TO PROVIDE THAT THE DELEGATION BE A LEGISLATIVE DELEGATION AND NOMInEES MUST RECEIVE A MAJORITY VOTE OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE WITHIN THE LEGISLATIVE DELEGATION TO BE RECOMMENDED TO THE GOVERNOR; BY AMENDING SECTION 22‑2‑15, RELATING TO THE SPECIAL ELECTION FOR NONPARTISAN PREFERENTIAL SELECTION OF MAGISTRATES, SO AS TO PROVIDE THAT THE DELEGATION BE A LEGISLATIVE DELEGATION; BY AMENDING SECTION 22‑2‑40, RELATING TO NUMBER AND LOCATION OF MAGISTRATES IN THE COUNTY AND MINISTERIAL MAGISTRATES, SO AS TO PROVIDE THAT THE DELEGATION BE A LEGISLATIVE DELEGATION; AND BY AMENDING SECTION 2‑20‑410, RELATING TO ELECTION TO THE BOARDS AND MAJORITY VOTE, SO AS TO PROVIDE THAT A CANDIDATE MUST RECEIVE A MAJORITY VOTE OF THE MEMBERS OF THE HOUSE AND OF THE MEMBERS OF THE SENATE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 2‑19‑90 of the S.C. Code is amended to read:

 Section 2‑19‑90. The General Assembly shall meet in joint session for the election of judges. The date and time for the joint session shall be set by concurrent resolution upon the recommendation of the Judicial Merit Selection Commission. The Chairman of the Judicial Merit Selection Commission shall announce the commission's nominees for each judicial race, and no further nominating or seconding speeches shall be allowed by members of the General Assembly. In order to be elected, a candidate must receive a majority of the vote of the members of the General AssemblyHouse of Representatives and a majority of the vote of the members of the Senate voting in joint session.

SECTION 2. Section 14‑3‑10 of the S.C. Code is amended to read:

 Section 14‑3‑10. The Supreme Court shall consist of a Chief Justice and four associate justices, who shall be elected by a joint viva voce vote of the General Assembly, wherein the candidate must receive a majority vote of the members of the House of Representatives and a majority vote of the members of the Senate. Each justice shall serve for a term of ten years and shall continue in office until their successors are elected and qualified. They shall be so classified that one of them shall go out of office every two years. The successors of the Chief Justice and associate justices shall each be elected at the session of the General Assembly next preceding the expiration of their respective terms. The time for the commencement of their terms of office shall be the first day of August after their election.

SECTION 3. Section 14‑5‑610 (B) and (C) of the S.C. Code are amended to read:

 Section 14‑5‑610. (B) Judges shall be elected by a joint vote of the General Assembly, wherein the candidate must receive a majority vote of the members of the House of Representatives and a majority vote of the members of the Senate. One judge must be elected from the sixth and twelfth circuits. Two judges must be elected from the first, second, third, fourth, seventh, eighth, tenth, eleventh, and sixteenth circuits. Three judges must be elected from the fifth, fourteenth, and fifteenth circuits. Four judges must be elected from the ninth and thirteenth circuits.

 (C) In addition to the above judges authorized by this section, there must be sixteen additional circuit judges elected by the General Assembly from the State at large for terms of office of six years. These additional judges must be elected without regard to county or circuit of residence. Each office of the at‑large judges is a separate office and is assigned numerical designations of Seat No. 1 through Seat No. 16, respectively.

SECTION 4. Section 14‑8‑20(a) of the S.C. Code is amended to read:

 Section 14‑8‑20. (a) The members of the Court shall be elected by joint public vote of the General Assembly, wherein the candidate must receive a majority vote of the members of the House of Representatives and a majority vote of the members of the Senate. Each member of the Court shall serve for a term of six years and until their successors are elected and qualify; provided, however, that of those judges initially elected, the Chief Judge (Seat 5) and the judge elected to Seat 6 shall be elected for terms of six years each, the judges elected to Seats 3 and 4 shall be elected for terms of four years each, and the judges elected to Seats 1 and 2 shall be elected for terms of two years each. The terms of office of the judges of the Court shall begin on July 1, 1985. Prior to such date, the General Assembly shall have authority to take such measures as necessary to secure accommodations, personnel, supplies, and equipment and such other matters as may be necessary to effect full implementation of the Court for operation by such date.

SECTION 5. Section 22‑1‑10 of the S.C. Code is amended to read:

 Section 22‑1‑10. (A) The Governor, by and with the advice and consent of the Senate, may appoint magistrates in each county of the State for a term of four years and until their successors are appointed and qualified, or their positions are terminated as provided in subsection (B), Section 22‑1‑30, or Section 22‑2‑40.

 Magistrates serving the counties of Abbeville, Allendale, Bamberg, Beaufort, Calhoun, Cherokee, Chesterfield, Clarendon, Colleton, Dillon, Edgefield, Florence, Greenville, Hampton, Jasper, Lancaster, Lee, Marion, McCormick, Oconee, Pickens, Saluda, Sumter, and Williamsburg shall serve terms of four years commencing May 1, 1990. Magistrates serving the counties of Aiken, Anderson, Barnwell, Berkeley, Charleston, Chester, Darlington, Dorchester, Fairfield, Georgetown, Greenwood, Horry, Kershaw, Laurens, Lexington, Marlboro, Newberry, Orangeburg, Richland, Spartanburg, Union, and York shall serve terms of four years commencing May 1, 1991.

 At least ninety days before the date of the commencement of the terms provided in the preceding paragraph and every four years thereafter, each county governing body must inform, in writing, the Senatorslegislative delegation representing that county of the number of full‑time and part‑time magistrate positions available in the county, the number of work hours required by each position, the compensation for each position, and the area of the county to which each position is assigned. If the county governing body fails to inform, in writing, the Senatorslegislative delegation representing that county of the information as required in this section, then the compensation, hours, and location of the full‑time and part‑time magistrate positions available in the county remain as designated for the previous four years.

SECTION 6. Section 22‑1‑16(C) of the S.C. Code is amended to read:

 Section 22‑1‑16. (C) The trial observations may be undertaken and completed any time after a person has been nominated by the senatorial legislative delegation for the position of magistrate.

SECTION 7. Section 22‑1‑30(B) of the S.C. Code is amended to read:

 Section 22‑1‑30. (B) If a senatorial legislative delegation recommends that the Governor not reappoint a magistrate upon completion of his term of office, the Governor may send a message to the Senate that the magistrate is not reappointed. Upon receipt of the message, the Senate must ratify the message not to reappoint by the confirmation process. If the ratification takes place, the magistrate's service is terminated at the end of his term and the magistrate does not continue to serve until a successor is appointed. Notice of the ratification must be sent to the Supreme Court.

SECTION 8. Section 22‑2‑5 (A) of the S.C. Code is amended to read:

 Section 22‑2‑5. (A) The South Carolina Court Administration, in cooperation with the technical college system, shall select and administer an eligibility examination to test basic skills of persons seeking an initial appointment as magistrate on or after July 1, 2001. In determining the persons to be recommended to the Governor for initial appointments as magistrates on or after July 1, 2001, a senatorial legislative delegation must use the results of these eligibility examinations to assist in its selection of nominees. No person is eligible to be appointed as a magistrate unless he receives a passing score on the eligibility examination. The results of these eligibility examinations are valid for six months before and six months after the time the appointment is to be made.

SECTION 9. Section 22‑2‑10 of the S.C. Code is amended to read:

 Section 22‑2‑10. A senatorial legislative delegation in determining the persons to be recommended to the Governor for appointment as magistrates may appoint a screening committee to assist them in their selection of nominees. Nominees must receive a majority vote of the members of the House of Representatives and a majority vote of the members of the Senate within the legislative delegation to be recommended to the Governor for appointment.

SECTION 10. Section 22‑2‑15 of the S.C. Code is amended to read:

 Section 22‑2‑15. Notwithstanding the provisions of § 22‑2‑10, in the event a senatorial legislative delegation representing a particular county desires to fill a vacancy in the office of magistrate and conduct a nonpartisan preferential election relating to the filling of such vacancy more than six months prior to a scheduled general election, the delegation may direct the county election commission to conduct a special election. The majority of the senatorial legislative delegation shall call for such election by notifying the county election commission in writing of its wishes at least sixty days prior to the date on which it desires to have the election. The election commission shall cause such election to be advertised in a newspaper of general circulation in the magisterial district in which the election is to be held at least twice in such sixty day period setting forth the date and subject of such election. Any qualified elector residing in the magisterial district may have his name placed on the preferential election ballot by filing a petition with the election commission at least forty‑five days prior to the date of the special election. Except as specifically provided in this section, the election shall be governed by the provisions of § 22‑2‑10 as they relate to nonpartisan preferential elections.

SECTION 11. Section 22‑2‑40(C) of the S.C. Code is amended to read:

 Section 22‑2‑40. (C) Notwithstanding the provisions of subsection (A), Section 22‑1‑10(A), or Section 22‑8‑40(C) and (D), the number, location, and full‑time or part‑time status of magistrates in the county may be increased or decreased from the required and permissive provisions in Section 22‑8‑40(C) and (D) as provided in Section 22‑1‑30(B), or by filing with court administration a written agreement between the members of the Senate legislative delegation for the county and the county governing body; however, a magistrate's compensation must not be decreased during his term in office.

SECTION 12. Section 2‑20‑410 of the S.C. Code is amended to read:

 Section 2‑20‑410. The General Assembly shall meet in joint session for the election to the boards in Section 2‑20‑320. The date and time for the joint session must be set by concurrent resolution upon the recommendation of the commission. The chairman of the commission shall announce the commission's nominees for each trustee race, and no further nominating or seconding speeches may be allowed by members of the General Assembly. In order to be elected, a candidate must receive a majority of the vote of the members of the General AssemblyHouse of Representatives and a majority of the vote of the members of the Senate present and voting in joint session.

SECTION 13. This act takes effect upon approval by the Governor.

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