



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	H. 5170	Introduced on February 28, 2024
Author:	Pope	
Subject:	Judicial Merit Selection Commission, Reform	
Requestor:	House Judiciary	
RFA Analyst(s):	Miller	
Impact Date:	March 18, 2024	

Fiscal Impact Summary

This bill modifies the South Carolina Judicial Merit Selection Commission (JMSC) to be composed of thirteen members. This includes members appointed by the House of Representatives (House), the Senate, and the Governor. The JMSC is authorized to promulgate rules and regulations necessary to effectuate the provisions of Chapter 19 of Title 2, including rules and limits governing campaigning, ethics, and live streaming of meetings. The commission must review the qualifications of all applicants for a judicial office and submit to the General Assembly the names of candidates who are considered qualified.

Additionally, this bill specifies that the commission will employ an executive director who will be tasked with the day-to-day operations and is responsible for employing and terminating other personnel as needed. The JMSC office will be relocated to an independent state office. This bill will result in an undetermined General Fund expenditure impact, dependent upon the cost to establish and maintain the new JMSC office and staff.

This bill will have no expenditure impact for the House or the Senate as any change to mileage, subsistence, and per diem due to this bill can be managed within existing resources for both bodies.

This bill specifies that a magistrate may serve in a holdover capacity for no more than 14 days from the expiration of his term, and the Governor may make a temporary appointment if the Senate has not given advice and consent for a new appointment within this holdover timeframe. We anticipate this bill will have no expenditure impact for the Governor's Office as any responsibilities can be managed within the normal course of business. We will update this fiscal impact statement if we receive information to the contrary.

This bill requires the Department of Administration (Admin) to conduct an analysis of the office space, supplies, and services, among other items, and report to the General Assembly no later than January 1, 2025, the costs to transfer the current JMSC from its current location to an independent state office. This bill will have no expenditure impact for Admin as the agency anticipates being able to manage this analysis and the report with existing staff and within existing appropriations.

The bill also expands concurrent jurisdiction for magistrates court from certain actions with claims not exceeding \$7,000 to certain actions with claims not exceeding \$25,000. This bill will have no expenditure impact for Judicial as Judicial anticipates managing any additional training due to the change in jurisdiction within existing resources.

This bill has an undetermined local expenditure impact, dependent upon the increased number of cases that may be filed in magistrates court due to the expanded concurrent jurisdiction and what support staff may be needed to help facilitate this increase.

Explanation of Fiscal Impact

Introduced on February 28, 2024

State Expenditure

This bill modifies the South Carolina JMSC to be composed of thirteen members as follows:

- four members appointed by the Speaker of the House;
 - two of whom are members of the House;
 - two of whom are members who are members of the SC Bar and are in good standing with ten years of experience in the practice of law;
- two members appointed by the President of the Senate;
 - one of whom is a member of the Senate;
 - one of whom is a member of the SC Bar and is in good standing with ten years of experience in the practice of law;
- two members appointed by the Chairman of the Senate Judiciary Committee;
 - one of whom is a member of the Senate;
 - one of whom is a member of the SC Bar in good standing with ten years of experience in the practice of law; and
- five members appointed by the Governor;
 - one of whom is a retired judge;
 - four of whom are members of the SC Bar in good standing with ten years of experience in the practice of law.

The JMSC is authorized to promulgate rules and regulations necessary to effectuate the provisions of Chapter 19 of Title 2, including rules and limits governing campaigning, ethics, and live streaming of meetings. The commission must review the qualifications of all applicants for a judicial office and submit to the General Assembly the names of candidates who are considered qualified.

Additionally, this bill specifies that the commission will employ an executive director who will be tasked with the day-to-day operations and is responsible for employing and terminating other personnel as needed. The JMSC office will be relocated to an independent state office. This bill will result in an undetermined General Fund expenditure impact, dependent upon the cost to establish and maintain the new JMSC office and staff.

House of Representatives and Senate. Currently, the JMSC consists of 5 members from the Senate and 5 members from the House. This bill changes the composition of the JMSC

membership. This bill also creates the Magistrates Review Subcommittee, which consists of 4 members appointed by the President of the Senate and the Chairman of the Senate Judiciary Committee, and 5 members appointed by the Governor.

When the General Assembly is not already in Session, then per diem, mileage, and subsistence payments will be provided to the members who serve on the commission or the subcommittee for their round-trip mileage at the federal rate, \$50 per diem, and \$231.73 subsistence. To the extent this bill allows commission members to be appointed by the House or Senate who are not already members of the General Assembly, these non-elected appointees would be paid mileage at the federal rate, \$50 per diem, and \$42 subsistence. Both bodies anticipate being able to manage any change in expenses due to this bill within existing appropriations.

Additionally, this bill specifies that the commission will employ an executive director who will be tasked with the day-to-day operations and is responsible for employing and terminating other personnel as needed. The current JMSC is staffed by 1 Senate counsel, 1 House counsel and one staff member. Staff time currently allocated to the JMSC will be reallocated to other projects and will result in no impact for the House and Senate.

Governor's Office. This bill requires the Governor to appoint five members to the JMSC and to make a temporary appointment for a magistrate if the Senate has not given advice and consent for a new appointment within the holdover timeframe. We anticipate this bill will have no expenditure impact for the Governor's Office as any responsibilities can be managed within the normal course of business. We will update this fiscal impact statement if we receive information to the contrary.

Department of Administration. Section 5 of this bill requires Admin to conduct an analysis of the office space, supplies, and services, among other items, and report to the General Assembly no later than January 1, 2025, the costs to transfer the current JMSC from its current location to an independent state office. Admin anticipates being able to manage this analysis and the report with existing staff and within existing appropriations, and therefore, this bill will have no expenditure impact for Admin.

Judicial. The bill also expands concurrent jurisdiction for magistrates court from certain actions with claims not exceeding \$7,000 to certain actions with claims not exceeding \$25,000. According to Judicial's records for criminal court, there were at least 17,000 cases filed in General Sessions statewide in FY 2022-23 that would have concurrent jurisdiction with magistrates court. Judicial was unable to determine the number of cases that may have concurrent jurisdiction between the court of Common Pleas and the magistrates court due to this bill as the claim amount is not as clearly defined for civil actions as criminal penalties. Judicial anticipates the time saved in circuit court due to any shift in court cases to magistrates court will be reallocated to other needs. Additionally, any training provided due to this change in jurisdiction can be managed within existing resources. Therefore, this bill will have no expenditure impact for Judicial.

State Revenue

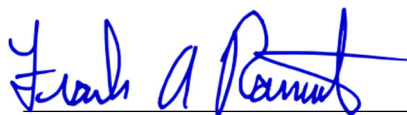
N/A

Local Expenditure

The bill also expands magistrate's concurrent jurisdiction from certain actions with claims not exceeding \$7,000 to certain actions with claims not exceeding \$25,000. This may shift certain cases from circuit court to magistrates court. The local expenditure impact is undetermined as Judicial anticipates that the potential impact to the caseload for magistrates court and, therefore, any need to increase staffing and support for the court is dependent upon the number of filings that choose to file in magistrates court rather than General Sessions. For reference, the current the annual case load in magistrates court is approximately 882,000.

Local Revenue

N/A



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