

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 677

Short Title: Amend Who Can Serve on Three-Judge Panel. (Public)

Sponsors: Representative Stevens.

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Judiciary I

April 11, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT DISTRICT COURT JUDGES MAY BE APPOINTED TO  
3 SERVE ON THREE-JUDGE PANELS FOR ACTIONS CHALLENGING THE  
4 VALIDITY OF ACTS OF THE GENERAL ASSEMBLY.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 1-267.1 reads as rewritten:

7 **"§ 1-267.1. Three-judge panel for actions challenging plans apportioning or redistricting**  
8 **State legislative or congressional districts; claims challenging the facial validity**  
9 **of an act of the General Assembly.**

10 (a) Any action challenging the validity of any act of the General Assembly that  
11 apportions or redistricts State legislative or congressional districts shall be filed in the Superior  
12 Court of Wake County and shall be heard and determined by a three-judge panel of the  
13 Superior Court of Wake County organized as provided by subsection (b) of this section.

14 (a1) Except as otherwise provided in subsection (a) of this section, any facial challenge  
15 to the validity of an act of the General Assembly shall be transferred pursuant to G.S. 1A-1,  
16 Rule 42(b)(4), to the Superior Court of Wake County and shall be heard and determined by a  
17 three-judge panel of the Superior Court of Wake County, organized as provided by subsection  
18 (b2) of this section.

19 (b) Whenever any person files in the Superior Court of Wake County any action  
20 challenging the validity of any act of the General Assembly that apportions or redistricts State  
21 legislative or congressional districts, a copy of the complaint shall be served upon the senior  
22 resident superior court judge of Wake County, who shall be the presiding judge of the  
23 three-judge panel required by subsection (a) of this section. Upon receipt of that complaint, the  
24 senior resident superior court judge of Wake County shall notify the Chief Justice, who shall  
25 appoint two additional resident superior court judges or district court judges to the three-judge  
26 panel of the Superior Court of Wake County to hear and determine the action. Before making  
27 those appointments, the Chief Justice shall consult with the North Carolina Conference of  
28 Superior Court Judges, which shall provide the Chief Justice with a list of recommended  
29 appointments. To ensure that members of the three-judge panel are drawn from different  
30 regions of the State, the Chief Justice shall appoint to the three-judge panel one resident  
31 superior court judge or district court judge from the First through Fourth Judicial Divisions and  
32 one resident superior court judge or district court judge from the Fifth through Eighth Judicial  
33 Divisions. In order to ensure fairness, to avoid the appearance of impropriety, and to avoid  
34 political bias, no member of the panel, including the senior resident superior court judge of  
35 Wake County, may be a former member of the General Assembly. Should the senior resident



1 superior court judge of Wake County be disqualified or otherwise unable to serve on the  
2 three-judge panel, the Chief Justice shall appoint another resident superior court judge of Wake  
3 County as the presiding judge of the three-judge panel. Should any other member of the  
4 three-judge panel be disqualified or otherwise unable to serve on the three-judge panel, the  
5 Chief Justice shall appoint as a replacement another resident superior court judge or district  
6 court judge from the same group of judicial divisions as the resident superior court judge being  
7 replaced.

8 (b1) Any facial challenge to the validity of an act of the General Assembly filed in the  
9 Superior Court of Wake County, other than a challenge to plans apportioning or redistricting  
10 State legislative or congressional districts that shall be heard pursuant to subsection (b) of this  
11 section, or any claim transferred to the Superior Court of Wake County pursuant to subsection  
12 (a1) of this section, shall be assigned by the senior resident Superior Court Judge of Wake  
13 County to a three-judge panel established pursuant to subsection (b2) of this section.

14 (b2) For each challenge to the validity of statutes and acts subject to subsection (a1) of  
15 this section, the Chief Justice of the Supreme Court shall appoint three resident superior court  
16 judges or district court judges to a three-judge panel of the Superior Court of Wake County to  
17 hear the challenge. The Chief Justice shall appoint a presiding judge of each three-judge panel.  
18 To ensure that members of each three-judge panel are drawn from different regions of the State,  
19 the Chief Justice shall appoint to each three-judge panel one resident superior court judge or  
20 district court judge from the First, Second, or Fourth Judicial Division, one resident superior  
21 court judge or district court judge from the Seventh or Eighth Judicial Division, and one  
22 resident superior court judge or district court judge from the Third, Fifth, or Sixth Judicial  
23 Division. Should any member of a three-judge panel be disqualified or otherwise unable to  
24 serve on the three-judge panel or be removed from the panel at the discretion of the Chief  
25 Justice, the Chief Justice shall appoint as a replacement another resident superior court judge or  
26 district court judge from the same group of judicial divisions as the resident superior court  
27 judge or district court judge being replaced.

28 (c) No order or judgment shall be entered affecting the validity of any act of the  
29 General Assembly that apportions or redistricts State legislative or congressional districts, or  
30 finds that an act of the General Assembly is facially invalid on the basis that the act violates the  
31 North Carolina Constitution or federal law, except by a three-judge panel of the Superior Court  
32 of Wake County organized as provided by subsection (b) or subsection (b2) of this section. In  
33 the event of disagreement among the three resident superior court judges comprising a  
34 three-judge panel, then the opinion of the majority shall prevail.

35 (d) This section applies only to civil proceedings. Nothing in this section shall be  
36 deemed to apply to criminal proceedings, to proceedings under Chapter 15A of the General  
37 Statutes, to proceedings making a collateral attack on any judgment entered in a criminal  
38 proceeding, or to civil proceedings filed by a taxpayer pursuant to G.S. 105-241.17."

39 **SECTION 2.** This act is effective when it becomes law.