**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3535**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. White, Chumley and Beach

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Introduced in the House on January 10, 2023

Currently residing in the House Committee on **Judiciary**

Summary: Judicial Merit Selection Commission, magistrate screening

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/15/2022 House Prefiled

 12/15/2022 House Referred to Committee on **Judiciary**

 1/10/2023 House Introduced and read first time (House Journal‑page 202)

 1/10/2023 House Referred to Committee on **Judiciary** (House Journal‑page 202)

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**VERSIONS OF THIS BILL**

[12/15/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3535_20221215.docx)

A bill

to amend the South Carolina Code of Laws by amending Section 22‑1‑10, relating to Appointment of magistrates, so as to reference judicial screening requirements before a magistrate may be appointed; by adding Section 2‑19‑115 so as to require candidates for the office of magistrate to be screened by the Judicial Merit Selection Commission and provide the circumstances by which magistrates may be appointed by the Governor with advice and consent of the Senate; by repealing SECTION 22‑2‑10 relating to the optional Screening committee to assist in selection of magistrates; and by repealing SECTION 22‑2‑15 relating to the optional Special election for nonpartisan preferential selection of magistrates.

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

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

 (A) The Subject to the screening requirements pursuant to the provisions of Section 2‑19‑115, 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 Senators 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 Senators 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.

 Each magistrate's number of work hours, compensation, and work location must remain the same throughout the term of office, except for a change (1) specifically allowed by statute or (2) authorized by the county governing body at least four years after the magistrate's most recent appointment and after a material change in conditions has occurred which warrants the change. Nothing provided in this section prohibits the raising of compensation or hours and compensation during a term of office. No magistrate may be paid for work not performed except for bona fide illness or as otherwise provided by law.

 The number of magistrates to be appointed for each county and their territorial jurisdiction are as prescribed by law before March 2, 1897, for trial justices in the respective counties of the State, except as otherwise provided in this section.

SECTION 2. Chapter 19, Title 2 of the S.C. Code is amended by adding:

 Section 2‑19‑115. (A) Upon a vacancy in the office of magistrate, magistrate candidates shall submit an application to the Judicial Merit Selection Commission. Upon completion of reports and recommendations taking into account the eligibility and requirement provisions of Chapter 1, Title 22, Section 22‑2‑5, and any other relevant provision of law, the commission shall submit such reports and recommendations to the appropriate senatorial delegation. The senatorial delegation then shall submit the names of two qualified candidates, if feasible, to the Governor for consideration for appointment and the Governor shall choose one among the qualified candidates submitted. However, nothing prevents the Governor from rejecting any or all candidates nominated by the senatorial delegation. In this event, the senatorial delegation shall submit other candidate names for consideration subject to screening as provided in this section. No person found not qualified by the commission may be appointed to the office of magistrate.

 (B) For purposes of this section, a vacancy is created in the office of magistrate when any of the following occurs, a:

 (1) term expires;

 (2) new magistrate’s office is created; or

 (3) magistrate can no longer serve due to resignation, retirement, disciplinary action, disability, or death.

 (C) The commission may begin screening prior to the actual date of the vacancy in the case of an expired term, resignation, or retirement pursuant to written notice of such event.

SECTION 3. Sections 22‑2‑10 and 22‑2‑15 of the S.C. Code are repealed.

SECTION 4. This act takes effect upon approval by the Governor.

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