



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
**(803)734-3780 • RFA.SC.GOV/IMPACTS**

*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.*

---

<b>Bill Number:</b>	S. 1046	Amended by House Judiciary on April 30, 2024
<b>Author:</b>	Hembree	
<b>Subject:</b>	Judicial Merit Selection Commission	
<b>Requestor:</b>	House Judiciary	
<b>RFA Analyst(s):</b>	Miller	
<b>Impact Date:</b>	May 1, 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.

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.

The bill also expands concurrent jurisdiction for magistrates court from certain actions with claims not exceeding \$7,500 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 will have 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**

**Amended by House Judiciary on April 30, 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;
  - three of whom are members of the House;
  - 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 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;
  - two of whom are members of the Senate; and
- five members appointed by the Governor;
  - one of whom is a retired judge who shall serve as chairman;
  - all 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 all candidates who are considered qualified.

**House of Representatives and Senate.** Currently, the JMSC consists of five members from the Senate and five members from the House. This bill changes the composition of the JMSC membership. This bill also creates the Magistrates Review Subcommittee, which consists of four members appointed by the President of the Senate and the Chairman of the Senate Judiciary Committee, and five 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.

**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.

**Judicial.** The bill also expands concurrent jurisdiction for magistrates court from certain actions with claims not exceeding \$7,500 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 expands magistrate's concurrent jurisdiction from certain actions with claims not exceeding \$7,500 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 are dependent upon the number of filings that choose to file in magistrates court rather than circuit court. For reference, the current the annual case load in magistrates court is approximately 882,000.

### **Local Revenue**

N/A

### **Introduced on February 14, 2024**

#### **State Expenditure**

This bill establishes the membership of the JMSC and terminates the existing membership.

The new membership of the JMSC is as follows:

- one member appointed by the president of the Senate and one member appointed by the chairman of the Senate Judiciary Committee;
- one member appointed by the Speaker of the House and one member appointed by the chairman of the House Judiciary Committee;
- one member appointed by CPC upon the recommendation of the sixteen circuit solicitors. The appointee cannot be an active serving solicitor;
- one member appointed by CID upon the recommendation of the sixteen circuit public defenders. The appointee cannot be an active serving public defender;
- one member appointed by the current South Carolina Supreme Court Chief Justice. The appointee must be a former state or federal member of the bench.

All appointees, except for the member appointed by the Chief Justice, must be members of the South Carolina Bar and in good standing.

This bill outlines the terms of office for the members requires a member to resign if a judicial nominee is a family member.

Further, this bill specifies that the executive director of the JMSC will establish a professional staff compliment. The staff hired may not be employed in any other capacity with the General Assembly. The bill does not specify how many staff members may be hired or how these FTE's will be funded. Therefore, this bill will have an undetermined expenditure impact.

This bill will have no expenditure impact for CID or Judicial as each anticipate being able to manage any increase in expenses for the der diem, subsistence, and mileage for the members appointed to the JMSC within existing appropriations. Also, based on a response for similar legislation, we anticipate CPC will be able to manage any increase in expenses for the per diem, subsistence, and mileage for the members appointed to the JMSC within existing appropriations.

Further, this bill requires the House and Senate to appoint members to the JMSC. Additionally, the General Assembly must hold a joint session to elect judges and a candidate must receive a majority vote from each chamber of the General Assembly. Finally, the legislative delegations must make recommendations for an appointment for magistrate to the Governor. This bill will have no expenditure impact for the House or the Senate. Both bodies can manage the expense to provide mileage, subsistence, and per diem for the members of the JMSC appointed by the respective bodies. Additionally, electing judges is within the normal course of business of the General Assembly. Also, recommending magistrates can be managed within existing appropriations by the legislative delegations.

**State Revenue**

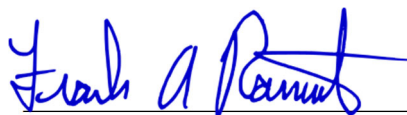
N/A

**Local Expenditure**

N/A

**Local Revenue**

N/A



Frank A. Rainwater, Executive Director