~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 27, 2016

**H. 4665**

Introduced by Reps. Tallon, Bannister, Bingham, Burns, Cole, Delleney, Erickson, Felder, Gagnon, Hamilton, Huggins, Kennedy, Lowe, Norrell, Rivers, G.M. Smith, G.R. Smith, Southard, Spires, Newton and W.J. McLeod

S. Printed 1/27/16--H.

Read the first time January 13, 2016.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4665) to amend the Code of Laws of South Carolina, 1976, by adding Section 2‑19‑115 so as to require candidates for magistrates court to be screened by the Judicial, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 2‑19‑115 SO AS TO REQUIRE CANDIDATES FOR MAGISTRATES COURT TO BE SCREENED BY THE JUDICIAL MERIT SELECTION COMMISSION BEFORE THEY MAY BE APPOINTED BY THE GOVERNOR BY AND WITH THE CONSENT OF THE SENATE; AND TO AMEND SECTION 22‑1‑10, AS AMENDED, RELATING TO THE APPOINTMENT AND JURISDICTION OF MAGISTRATES, SO AS TO PROVIDE MAGISTRATES MUST BE SCREENED BY THE JUDICIAL MERIT SELECTION COMMISSION AND DELETE LANGUAGE ALLOWING MAGISTRATES’ TERMS TO CONTINUE UNTIL SUCCESSORS ARE APPOINTED AND QUALIFIED.

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

SECTION 1. Chapter 19, Title 2 of the 1976 Code is amended by adding:

“Section 2‑19‑115. (A) Upon a vacancy in the office of magistrate in each county of the State, candidates for this office shall submit an application to the Judicial Merit Selection Commission and be screened in the same manner and in accordance with the provisions of this chapter. Upon completion of the commission’s reports and recommendations, the commission shall submit these reports and recommendations on magistrate candidates to the appropriate Senate delegation. The Senate delegation then shall submit the name of the magistrate candidate of choice for appointment by the Governor, by and with the advice and consent of the Senate, pursuant to the provisions of Section 22‑1‑10. A person found not qualified by the commission may not be submitted to the Governor for appointment.

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

(1) magistrate’s term expires;

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

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

(C) The commission may begin the screening process of a magistrate before the actual date of a vacancy in the case of an expiration of a term, resignation, or retirement when written notice is received by the commission.”

SECTION 2. Section 22‑1‑10(A) of the 1976 Code, as last amended by Act 70 of 2011, is further amended to read:

“(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~~ after they have been screened by the Judicial Merit Selection Commission pursuant to Section 2‑19‑115.

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 3. This act takes effect upon approval by the Governor.

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