

Proposed budget would eliminate 12 superior court judges

Among the cuts listed in the Senate's proposed state budget is the elimination of 12 special superior court judge seats, an idea floated earlier this year in Senate Bill 10.



The Senate budget, if approved, would trim about \$2.2 million to eliminate 12 of 15 special superior court judgeships, leaving only the three judges assigned to business court.

Opponents of the cuts say that removing a dozen judges would not only leave the judicial system burdened with taking up the slack, it would also mean the loss of the experience these judges bring to particular areas of the law.

"These are usually very good judges and they're oftentimes taking on '2.1 cases' or exceptional cases, because of their complicated subject matter," said Keith Merritt, a commercial litigation attorney in Charlotte. "Because of the issues involved you want to have a single judge handle the case from beginning to end."

Merritt, who is also a member of the advocacy group Justice Initiatives, said another advantage of the special superior court judges is that they cover a wide geographical area, which can help resolve conflicts of interest.

"They fill in for other judges when you need a judge who's not from that specific area," he said. "They serve a very important function within the state. It would be a loss if those folks aren't there ... someone has to fill that role."

According to Justice Initiatives, the National Center for State Courts ranks North Carolina third to last among the states in the number of judges per capita, with 1.2 full-time judges per 100,000 citizens.

Those in favor of eliminating the judgeships have suggested bringing judges out of retirement to make up for the loss of manpower.

"I assume you're still paying those judges," Merritt said.

Sen. Eleanor Kinnaird, a Chapel Hill Democrat, attorney and veteran legislator, said she was not privy to discussion of the proposed cuts, but that superior court judges have long been a hot political issue.

"I've been here for 16 years and every year, if something has been highly politicized by the legislature, it's been the issue of superior court judges," she said.

When the issue of eliminating judgeships came up earlier in the session, some attorneys wondered if the move would hold up under constitutional scrutiny. Press Millen, a Raleigh trial lawyer, said he thinks that any judge removed from the bench could have a potential legal challenge.

"They would have standing to assert that their removal is unconstitutional, because the sole method for removing a judge from office is impeachment or other constitutional remedies," he said. "A judge is still within his or her rights to sue for the balance for the term of the appointment."

Millen also said North Carolina is unclear on whether the state might be on the hook to pay the judges through the end of their appointments. "Essentially, what you've got, by virtue of the appointment, you've got a contractual agreement that can be enforced," he said.

The language in the budget would abolish the seats beginning July 1.

"I suppose that we're going to have to reassign every case that's been assigned to one of these judges that has been eliminated," Millen said. "The regular superior court judges will have their workloads commensurately increased."

He said the defunding of the judiciary also undermines the credibility of the system.

"This idea that cutting the judicial system to the bone is somehow going to inure to the benefit of North Carolina citizens based on dollars saved in the budget is laughable," Millen said. "What you're going to do is turn this state into some kind of banana republic."

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