
Recent History of the Merit Selection Debate in the N.C. General Assembly

- 1971 The North Carolina Courts Commission recommends replacing the partisan election method of selecting judges with a nonpartisan merit selection system.* The recommendation is never reported out of legislative committees.
- 1973 The recommendation is introduced as a constitutional amendment (SB 72, HB 76) and an implementing statute (SB 120, HB 145). The House Committee on Courts and Judicial Districts gives HB 76 a favorable report, but the bill is withdrawn before floor debate by its sponsors, who sense that they lack the three-fifths majority (72 votes) required for passage of a bill submitting a constitutional amendment to the voters.
- 1974 HB 76 is reported favorably by the same committee. Sponsors of the bill amend it on the floor of the House to remove district court judges from the merit selection plan. As amended, the bill passes second reading by two votes. However, the next day, the bill fails third reading by six votes.
- 1975 Backed by the North Carolina State Bar and most of the state's trial judges, merit selection bills are introduced (SB 145, HB 212). Hearings on HB 212 before the House Committee on Courts and Judicial Districts result in tie votes, and the sponsor requests that the bill not be considered further. SB 145 is reported without prejudice and without debate, and postponed indefinitely on the floor of the Senate.
- 1977 Pushed by the North Carolina State Bar, merit selection bills are again introduced. The House bill reaches the floor, but falls short of the three-fifths majority needed for a constitutional amendment. Those opposed to the bill claim that merit selection is a departure from the principles of Jacksonian democracy and that the composition of the committee that would nominate the judges would be insufficiently representative.
- 1979 A merit selection plan with implementing legislation (HB 1163, HB 1164) is introduced in the House, but dies in committee. Even though Governor Hunt supports the plan, "an informal survey of House members indicated there were not enough favorable votes to justify committee hearings and a floor fight."
- 1985 In Governor James G. Martin's State of the State Address, he calls for merit selection of judges in North Carolina. The Courts Commission and the Governor's Crime Commission also support SB 676 and SB 677, which would have submitted a constitutional amendment to the voters on the issue of judicial appointment. The bills never emerge from committee.
- 1987 No proposal for merit selection is introduced. A 20-member Judicial Selection Study Commission is established to recommend changes and improvements in the method of selecting judges in North Carolina. The Chief Justice, Governor, Lieutenant Governor, Speaker of the House, and Attorney General each appoint four members of the Commission.
- 1989 SB 218, approved by the Senate with a vote of 30 to 16, calls for the initial appointment by the governor of all justices of the N.C. Supreme Court and judges of the N.C. Court of Appeals, subject to confirmation by the General Assembly. The bill is sent to the Rules Committee of the House for consideration in 1990.
- 1990 SB 218 dies in the House.
- 1991 Merit selection is introduced in two similar bills (HB 102, SB 71). HB 102 dies in House committee. SB 71 passes the Senate and is sent to the House Committee on Courts, Justice, Constitutional Amendments and Referenda for consideration in 1992. Judges of superior and district courts would continue to be elected.
- 1992 SB 71 dies in the House.
- 1993 No merit selection bills are introduced.

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Recent History of the Merit Selection Debate, continued

- 1994 Chief Justice James Exum establishes a bipartisan panel, the Commission for the Future of Justice and the Courts in North Carolina (Futures Commission), to find ways to improve the state's legal system. The commission, a 27-member panel of citizens from across the state, is led by Chair John Medlin, chairman of Wachovia Corp., and vice chairs Rhoda Billings, a former chief justice and current law professor at Wake Forest University, and retired Superior Court Judge Robert Collier. Also in 1994, a federal district court rules in favor of the Republican Party in a suit the party had filed in an effort to force the election of Superior Court judges by district, *Republican Party of N.C. v. Hunt*, 841 F. Supp. 722 (E.D.N.C. 1994).
- 1995 Before the 1995 session, for the first time, the state's trial and appellate judges have a conference in Raleigh. A resolution recommending judicial appointment is almost unanimously adopted. Six different bills introduced in the 1995 session would change judicial selection in North Carolina. SB 971 becomes the primary vehicle for changing the state's elective system to an appointive one. Trial judges are removed from SB 971's coverage early in deliberations. The bill passes the Senate with bipartisan support. However, SB 971 fails second reading in the House 62-43 because it lacks Democratic support. "The House's failure to confirm Governor Hunt's appointment of Kathy Taft (the wife of a former Democratic state senator) to a seat on the State Board of Education played a key role in the demise of judicial appointment. House Republicans had voted as a bloc to defeat Taft's nomination, and Democratic opponents of judicial appointment said that vote was an example of how partisan politics might play out if judicial candidates had to be confirmed by the General Assembly."
- 1996 The Fourth Circuit U.S. Court of Appeals reverses the ruling in *Republican Party of N.C. v. Hunt*, sending the case back to federal district court for another review [77 F.3d 470 (4th Cir. 1996)]—and once again leaving unsettled the issue over the election of state Superior Court judges. The situation is resolved by the N.C. General Assembly in the final days of the 1996 session. The legislature enacts a law [Chapter 9, 2nd Ex. Sess. (S 41)] requiring that Superior Court judges be elected by district in partisan elections, starting with the 1996 general election. Under the law, Superior Court elections will be nonpartisan starting with the 1998 general election. Also in 1996, the Futures Commission releases a report, *Without Favor, Denial or Delay: A Court System for the 21st Century*, summarizing its recommendations for improving North Carolina's legal system. One of the panel's key recommendations is that the state drop its system of selecting judges through partisan elections and replace it with a form of merit selection combined with periodic retention elections. The commission bases its study on findings from monthly meetings, public hearings, a statewide survey of voters, focus groups, a survey of all sitting judges in the state, and consultations with judicial experts in North Carolina and other states.
- 1997 Legislation is introduced into the N.C. General Assembly that would implement the recommendations of the Futures Commission. This legislation, including House Bills 741 and 742 and Senate Bills 834 and 835, would amend the North Carolina Constitution to establish a system for choosing judges by merit selection. Under the bills, which also would have to be approved by voter referendum, the governor would appoint all state judges from nominees submitted by neutral judicial panels. New judges would face retention votes at the first general election occurring more than one year after their appointments.

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*"A Recommended Nonpartisan Merit Selection Plan for North Carolina," *Report of the Courts Commission to the North Carolina General Assembly*, 1971, pp. 11-15.

Source: Compiled from the UNC-CH Institute of Government's legislative summaries, *North Carolina Legislation 1974 through 1995*. See the sections on "Constitutional Amendments" and "Courts and Civil Procedure."