



HOUSE BILL 240: GA Appoint for District Court Vacancies.

2017-2018 General Assembly

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| Committee: | | Date: | March 8, 2017 |
| Introduced by: | Reps. Burr, K. Hall, Saine, Bumgardner | Prepared by: | Brian Gwyn |
| Analysis of: | Second Edition | | Committee Co-Counsel |

OVERVIEW: *The 2nd Edition of House Bill 240 would require district court vacancies to be filled by appointment of the General Assembly.*

CURRENT LAW: Article IV, Section 19 of the North Carolina Constitution states that "[u]nless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor. . . ." However, Article IV, Section 10 specifically allows district court vacancies to be governed by statute ("Vacancies in the office of District Judge shall be filled for the unexpired term in the manner provided by law."). G.S. 7A-142 currently requires district court vacancies to be filled by appointment of the Governor. While the bar of the judicial district must nominate five people who are residents of the judicial district and duly authorized to practice law, the Governor must only give "due consideration" to these nominees.

BILL ANALYSIS: The 2nd Edition of House Bill 240 would modify G.S. 7A-142 to give the General Assembly the authority to make district court vacancy appointments rather than the Governor. The bar of the judicial district in which the vacancy occurs must submit up to five nominations to fill the vacancy. The General Assembly is not bound by the district bar's nominations.

If the vacancy occurs while the General Assembly is in session, the appointment must be made by enactment of a bill. If the vacancy occurs while the General Assembly is not in session, the Speaker of the House of Representatives and the President Pro Tempore of the Senate may either leave the vacancy in place or jointly submit the name of a nominee to the Governor. The Governor must appoint the nominee no later than 10 days after the nomination has been submitted, or the appointment is deemed to have been made and the person may enter the office.

EFFECTIVE DATE: This act would be effective when it becomes law.

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