

March 25, 2009

S 862. SUPREME COURT RULE MAKING. Filed 3/25/09. *TO PROVIDE THE SUPREME COURT WITH AUTHORITY TO REVISE THE RULES OF CIVIL PROCEDURE AND THE RULES OF EVIDENCE, SUBJECT TO AMENDMENT OR VETO BY THE GENERAL ASSEMBLY.*

Repeals GS Chapter 1A (Rules of Civil Procedure) and GS Chapter 8C (Rules of Evidence).

Amends GS 7A-34 to authorize the NC Supreme Court to adopt and amend rules of civil procedure and rules of evidence for the trial divisions. Provides that upon adoption of a new or amended rule of civil procedure or rule of evidence, the Supreme Court is required to (1) cause the new or amended rule to be published in the NC Register and (2) notify the General Assembly and the Revisor of Statutes of the rule's adoption, with a list of any GS sections that have been identified as needing to be repealed or amended included in the notification. Allows the General Assembly to amend or veto any new or amended rule before the rule becomes effective. Provides that a new or amended rule published in the NC Register at least 25 days prior to the convening of the General Assembly's regular session becomes effective January 1 next after that regular session adjourns if no bill to amend or veto the rule (1) is ratified before adjournment and (2) becomes law. Defines *regular session adjourns*. If a conflict arises between a rule that has become effective and a GS section listed in the notice to the General Assembly and the Revisor of Statutes when the Supreme Court adopted the rule, the rule supersedes the statute. Authorizes that the Chief Justice of the Supreme Court, or the Chief Justice's designee, may make enumerated organizational, technical, or other changes which do not affect the substance of the rule, without being required to follow procedures related to adoption of a new or amended rule, except that the General Assembly and Revisor of Statutes must be notified of changes or corrections. Provides that a new or amended rule is not assigned a GS code number and, instead, is to be cited as "N.C. R. Civ. P. ____" and "N.C. R. Evid. ____", as appropriate. Requires publication in an appendix or appendices to the General Statutes by the Division of Legislative Drafting and Codification of Statutes of the Department of Justice of (1) all rules adopted or amended by the Supreme Court that the General Assembly failed to veto or amend and (2) all rules amended by the General Assembly. Provides that the rules be annotated in the same manner as statutes, except that the Revisor of Statutes may include additional annotations as deemed necessary. Allows the Chief Justice to appoint advisory committees of up to eight members each to advise the Supreme Court on the adoption and amendment of Rules of Civil Procedure and Rules of Evidence. Requires each advisory committee to consist of trial and appellate judges and members of the NC State Bar. Provides for committee reporting, compensation, and meeting procedures. All advisory committee records are to be considered public records. Provides that the Rules of Civil Procedure, as set forth in GS Chapter 1A, and the Rules of Evidence, as set forth in GS Chapter 8C, in effect on January 1, 2010, are deemed to be approved by the Supreme Court. References to former GS Chapter 1A and former GS Chapter 8C are construed as references to the Rules of Civil Procedure and Rules of Evidence adopted under this section.

Authorizes the Revisor of Statutes to replace references to former GS Chapter 1A and former GS Chapter 8C with references to the Rules of Civil Procedure and Rules of Evidence as appropriate throughout the General Statutes.

Requires the Judicial Department to implement this act using funds appropriated to the Department for travel and subsistence to reimburse members of the advisory committees on the Rules of Civil Procedure and the Rules of Evidence authorized by GS 7A-34(g). Provides that this act is not to be construed to obligate the General Assembly to make any additional appropriations.

Effective January 1, 2010.

Intro. by Clodfelter.

GS 7A