



**NORTH CAROLINA GENERAL ASSEMBLY
CONFERENCE REPORT
Senate Bill 853**

S853-CRTG-117 [v.19]

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[YES] Title Change

[YES] For Committee Substitute

To: The President of the Senate
The Speaker of the House of Representatives

The conferees appointed to resolve the differences between the Senate and the House of Representatives on Senate Bill 853, A BILL TO BE ENTITLED AN ACT TO MODERNIZE THE BUSINESS COURT BY MAKING TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE PROCEDURES FOR COMPLEX BUSINESS CASES, TO STREAMLINE THE PROCESS OF CORPORATE REORGANIZATION UTILIZING HOLDING COMPANIES, TO VALIDATE CORPORATE FORUM SELECTION PROVISIONS CONTAINED IN ARTICLES OF INCORPORATION AND BYLAWS, AND TO CREATE A WORKING GROUP TO STUDY JUDICIAL EFFICIENCY AND BUSINESS COURT MODERNIZATION, House Committee Substitute Favorable 7/1/14, submit the following report:

The Senate and House agree to the following amendments and the Senate concurs in House Committee Substitute Favorable 7/1/14, as amended:

on page 1, lines 5-8, rewrite the lines to read:

"REORGANIZATION UTILIZING HOLDING COMPANIES, AND TO ESTABLISH A BUSINESS COURT MODERNIZATION SUBCOMMITTEE OF THE JOINT LEGISLATIVE ECONOMIC DEVELOPMENT AND GLOBAL ENGAGEMENT OVERSIGHT COMMITTEE.";

and on page 2, line 23, rewrite the line to read:

"business case, other than an order effecting a settlement agreement or jury verdict.";

and on page 2, lines 44-45, rewrite the lines to read:

"G.S. 75-1.1. Disputes involving antitrust law, including disputes arising under Chapter 75 of the General Statutes that do not arise";

and on page 3, lines 9-11, rewrite the lines to read:

"of Chapter 66 of the General Statutes.";



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and on page 3, line 51, rewrite the line to read:

"business case. The Notice of Designation";

and on page 4, line 28, rewrite the line to read:

"G.S. 7A-27(a).";

and on page 4, lines 39-50, rewrite those lines to read:

"pursuant to subsection (b) of this section is not so designated, the Superior Court in which the action has been filed shall, by order entered sua sponte, stay the action until it has been designated as a mandatory complex business case by the party required to do so in accordance with subsection (b) of this section.";

and on page 5, line 2, rewrite the line to read:

"tort to be designated as mandatory complex business cases or to confer, enlarge, or diminish the subject matter jurisdiction of any court."";

and on page 5, lines 11-20, rewrite the lines to read:

"magistrate the sum shall be eighty dollars (\$80.00). ~~If a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, upon assignment the party filing the notice of designation pursuant to G.S. 7A-45.4 or the motion for complex business designation shall pay an additional one thousand dollars (\$1,000) for support of the General Court of Justice; if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3 by a court on its own motion, upon assignment the plaintiff shall pay an additional one thousand dollars (\$1,000) for support of the General Court of Justice.~~ If a case is designated as a mandatory complex business case under G.S. 7A-45.4, upon assignment to a Business Court Judge, the party filing the designation shall pay an additional one thousand one hundred dollars (\$1,100) for support of the General Court of Justice. If a case is designated as a complex business case under Rule 2.1 and Rule 2.2 of the General Rules of Practice for the Superior and District Courts, upon assignment to a Business Court Judge, the plaintiff shall pay an additional one thousand one hundred dollars (\$1,100) for support of the General Court of Justice. Sums collected under this subdivision shall be remitted to the State";

and on page 9, line 19, through page 10, line 48, rewrite those lines to read:

"SECTION 7. G.S. 1A-1, Rule 8(a)(2) reads as rewritten:

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"Rule 8. General rules of pleadings.

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A demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded. In all actions involving a material issue related to any of the subjects listed in G.S. 7A-45.4(a)(1), (2), (3), (4), (5), or (8), the pleading shall state whether or not relief is demanded for damages incurred or to be incurred in an amount equal to or exceeding five million dollars (\$5,000,000). In all negligence actions, and in all claims for punitive damages in any civil action, wherein the matter in controversy exceeds the sum or value of ten thousand dollars (\$10,000), the pleading shall not state the demand for monetary relief, but shall state that the relief demanded is for damages incurred or to be incurred in excess of ten thousand dollars (\$10,000). However, at any time after service of the claim for relief, any party may request of the claimant a written statement of the monetary relief sought, and the claimant shall, within 30 days after such service, provide such statement, which shall not be filed with the clerk until the action has been called for trial or entry of default entered. Such statement may be amended in the manner and at times as provided by Rule 15."

SECTION 8.(a) A Subcommittee on Business Court Modernization ("Subcommittee") is created within the Joint Legislative Economic Development and Global Engagement Oversight Committee ("Committee").

SECTION 8.(b) The Subcommittee shall consist of no fewer than six members, with an equal number of Senate and House members appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives from among their respective chambers' membership on the Committee. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate one member to serve as co-chairs of the Subcommittee. The Subcommittee may meet at any time upon the call of either co-chair. A co-chair or other member of the Subcommittee continues to serve until a successor is appointed. Members of the Subcommittee serve at the pleasure of the appointing officer.

SECTION 8.(c) The Subcommittee may study the implementation of this act and its efforts to modernize complex business cases and legislative improvement to the operations and management of the General Court of Justice.

SECTION 8.(d) A quorum is a majority of members of the Subcommittee. No action may be taken except by a majority vote at a meeting at which a quorum is present.

SECTION 8.(e) The Subcommittee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Subcommittee may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02.

SECTION 8.(f) Members of the Subcommittee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5 and 138-6, as appropriate.

SECTION 8.(g) All expenses of the Subcommittee shall be paid from the Legislative Services Commission's Reserve for Studies. Individual expenses of five thousand dollars (\$5,000) or less, including per diem, travel, and subsistence expenses of members of the Subcommittee, and clerical expenses shall be paid upon the authorization of a co-chair of the

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Subcommittee. Individual expenses in excess of five thousand dollars (\$5,000) shall be paid upon the written approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

SECTION 8.(h) The Legislative Services Officer shall assign professional and clerical staff to assist the Subcommittee in its work. The Director of Legislative Assistants of the House of Representatives and the Director of Legislative Assistants of the Senate shall assign clerical support staff to the Subcommittee.

SECTION 8.(i) The Subcommittee may submit an interim report on the results of its study, including any proposed legislation, to the Committee at any time. The Subcommittee shall submit a final report on the results of its study, including any proposed legislation, to the Committee prior to the convening of the 2015 General Assembly. The Committee shall submit a final report of its findings and recommendations to the 2015 General Assembly by filing the report with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Legislative Library. The Subcommittee shall terminate upon the convening of the 2015 General Assembly or upon the filing of its final report with the Committee, whichever occurs first.

SECTION 9. Section 1 of this act becomes effective October 1, 2014, and applies to actions designated as mandatory complex business cases on or after that date. Sections 3 and 4 of this act become effective October 1, 2014, and apply to actions commenced or petitions filed on or after that date. Section 6 of this act becomes effective October 1, 2014, and applies to plans of merger adopted on or after that date. Section 7 of this act is effective when it becomes law and applies to actions commenced on or after that date. Unless otherwise provided by this act, the remainder of this act is effective when it becomes law."

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The conferees recommend that the Senate and the House of Representatives adopt this report.

Date Conferees approved report: July __, 2014.

Conferees for the Senate

Conferees for the
House of Representatives

Bob Rucho, Chair

N. Leo Daughtry, Chair

Tamara Barringer

Tim Moore

Trudy Wade

Rob Bryan

Sarah Stevens

Robert T. Reives, II

Submitted _____

ADOPTED _____

ADOPTED _____

(/)

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Message Received _____

Ordered Enrolled _____