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SENATE BILL 853
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Short Title: Business Court Modernization.

(Public)

Sponsors:

Referred to:

May 28, 2014

1 A BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE THE BUSINESS COURT BY MAKING TECHNICAL,
3 CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE PROCEDURES FOR
4 COMPLEX BUSINESS CASES, TO STREAMLINE THE PROCESS OF CORPORATE
5 REORGANIZATION UTILIZING HOLDING COMPANIES, TO VALIDATE
6 CORPORATE FORUM SELECTION PROVISIONS CONTAINED IN ARTICLES OF
7 INCORPORATION AND BYLAWS, AND TO CREATE A WORKING GROUP TO
8 STUDY JUDICIAL EFFICIENCY AND BUSINESS COURT MODERNIZATION.

9 The General Assembly of North Carolina enacts:

10 SECTION 1. G.S. 7A-27 reads as rewritten:

11 "§ 7A-27. Appeals of right from the courts of the trial divisions.

12 (a) Appeal lies of right directly to the Supreme Court in any of the following cases:

13 (1) ~~all~~ All cases in which the defendant is convicted of murder in the first degree
14 and the judgment of the superior court includes a sentence of death.

15 (2) From any final judgment in a case designated as a mandatory complex
16 business case pursuant to G.S. 7A-45.4 or designated as a discretionary
17 complex business case pursuant to Rule 2.1 of the General Rules of Practice
18 for the Superior and District Courts.

19 (3) From any interlocutory order of a Business Court Judge that does any of the
20 following:

21 a. Affects a substantial right.

22 b. In effect determines the action and prevents a judgment from which
23 an appeal might be taken.

24 c. Discontinues the action.

25 d. Grants or refuses a new trial.

26 (b) Appeal lies of right directly to the Court of Appeals in any of the following cases:

27 (1) From any final judgment of a superior court, other than the one described in
28 subsection (a) of this section, or one based on a plea of guilty or nolo
29 contendere, including any final judgment entered upon review of a decision
30 of an administrative agency, except for a final judgment entered upon review
31 of a court martial under G.S. 127A-62.

32 (2) From any final judgment of a district court in a civil action.



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- 1 (3) From any interlocutory order or judgment of a superior court or district court
2 in a civil action or proceeding ~~which~~that does any of the following:
3 a. Affects a substantial right.
4 b. In effect determines the action and prevents a judgment from which
5 an appeal might be taken.
6 c. Discontinues the action.
7 d. Grants or refuses a new trial.
8 e. Determines a claim prosecuted under G.S. 50-19.1.
9 (4) From any other order or judgment of the superior court from which an
10 appeal is authorized by statute."

11 **SECTION 2.** G.S. 7A-45.3 reads as rewritten:

12 **"§ 7A-45.3. Superior court judges designated for complex business cases.**

13 The Chief Justice may exercise the authority under rules of practice prescribed pursuant to
14 G.S. 7A-34 to designate one or more of the special superior court judges authorized by
15 G.S. 7A-45.1 to hear and decide complex business cases as prescribed by the rules of practice.
16 Any judge so designated shall be known as a Business Court Judge and shall preside in the
17 Business Court. If there is more than one business court judge, the Chief Justice may designate
18 one of them as the Senior Business Court Judge. If there is no designation by the Chief Justice,
19 the judge with the longest term of service on the court shall serve as Senior Business Court
20 Judge until the Chief Justice makes an appointment to the position. The presiding Business
21 Court Judge shall issue a written opinion in connection with any order granting or denying a
22 motion under G.S. 1A-1, Rule 12, 56, 59, or 60, or any order finally disposing of a complex
23 business case."

24 **SECTION 3.** G.S. 7A-45.4 reads as rewritten:

25 **"§ 7A-45.4. Designation of complex business cases.**

26 (a) ~~A mandatory complex business case is~~ Any party may designate as a mandatory
27 complex business case an action that involves a material issue related ~~to~~to any of the
28 following:

- 29 (1) ~~The law governing corporations, except charitable and religious~~
30 ~~organizations qualified under G.S. 55A-1-40(4) on the grounds of religious~~
31 ~~purpose, partnerships, limited liability companies, and limited liability~~
32 ~~partnerships, including issues concerning governance, involuntary~~
33 ~~dissolution of a corporation, mergers and acquisitions, breach of duty of~~
34 ~~directors, election or removal of directors, enforcement or interpretation of~~
35 ~~shareholder agreements, and derivative actions.~~ Disputes involving the law
36 governing corporations, except charitable and religious organizations
37 qualified under G.S. 55A-1-40(4) on the grounds of religious purpose,
38 partnerships, and limited liability companies, including disputes arising
39 under Chapters 55, 55A, 55B, 57D, and 59 of the General Statutes.
40 (2) ~~Securities law, including proxy disputes and tender offer disputes.~~ Disputes
41 involving securities, including disputes arising under Chapter 78A of the
42 General Statutes.
43 (3) ~~Antitrust law, except claims based solely on unfair competition under~~
44 ~~G.S. 75-1.1.~~ Disputes involving antitrust or unfair competition law, including
45 disputes arising under Chapter 75 of the General Statutes, that do not arise
46 solely under G.S. 75-1.1 or Article 2 of Chapter 75 of the General Statutes.
47 (4) ~~State trademark or unfair competition law, except claims based solely on~~
48 ~~unfair competition under G.S. 75-1.1.~~ Disputes involving trademark law,
49 including disputes arising under Chapter 80 of the General Statutes.
50 (5) ~~Intellectual property law, including software licensing disputes.~~ Disputes
51 involving the ownership, use, licensing, lease, installation, or performance of

1 intellectual property, including computer software, software applications,
2 information technology and systems, data and data security,
3 pharmaceuticals, biotechnology products, and bioscience technologies.

4 ~~(6) The Internet, electronic commerce, and biotechnology.~~

5 ~~(7) Tax law, when the dispute has been the subject of a contested tax case for~~
6 ~~which judicial review is requested under G.S. 105-241.16 or the dispute is a~~
7 ~~civil action under G.S. 105-241.17.~~

8 (8) Disputes involving trade secrets, including disputes arising under Article 24
9 of Chapter 66 of the General Statutes, except for disputes involving
10 enforcement of a noncompetition or nonsolicitation covenant against an
11 individual employee.

12 (9) Contract disputes in which all of the following conditions are met:

13 a. At least one plaintiff and at least one defendant is a corporation,
14 partnership, or limited liability company, including any entity
15 authorized to transact business in North Carolina under Chapter 55,
16 55A, 55B, 57D, or 59 of the General Statutes.

17 b. The complaint asserts a claim for breach of contract or seeks a
18 declaration of rights, status, or other legal relations under a contract.

19 c. The amount in controversy computed in accordance with
20 G.S. 7A-243 is at least one million dollars (\$1,000,000).

21 d. All parties consent to the designation.

22 ~~(b) Any party may designate a civil action or a petition for judicial review under~~
23 ~~G.S. 105-241.16 as a mandatory complex business case by filing a Notice of Designation in the~~
24 ~~Superior Court in which the action has been filed and simultaneously serving the notice on each~~
25 ~~opposing party or counsel and on the Special Superior Court Judge for Complex Business~~
26 ~~Cases who is then the senior Business Court Judge. A copy of the notice shall also be sent~~
27 ~~contemporaneously by e-mail or facsimile transmission to the Chief Justice of the Supreme~~
28 ~~Court for approval of the designation of the action as a mandatory complex business case and~~
29 ~~assignment to a specific Business Court Judge. The following actions shall be designated as~~
30 ~~mandatory complex business cases:~~

31 (1) An action involving a material issue related to tax law that has been the
32 subject of a contested tax case for which judicial review is requested under
33 G.S. 105-241.16, or a civil action under G.S. 105-241.17 containing a
34 constitutional challenge to a tax statute, shall be designated as a mandatory
35 complex business case by the petitioner or plaintiff.

36 (2) An action described in subdivision (1), (2), (3), (4), (5), or (8) of subsection
37 (a) of this section in which the amount in controversy computed in
38 accordance with G.S. 7A-243 is at least five million dollars (\$5,000,000)
39 shall be designated as a mandatory complex business case by the party
40 whose pleading caused the amount in controversy to equal or exceed five
41 million dollars (\$5,000,000).

42 (3) An action involving regulation of pole attachments brought pursuant to
43 G.S. 62-350 shall be designated as a mandatory complex business case by
44 the plaintiff.

45 (c) A party designating an action as a mandatory complex business case shall file a
46 Notice of Designation in the Superior Court in which the action has been filed, shall
47 contemporaneously serve the notice on each opposing party or counsel and on the Special
48 Superior Court Judge for Complex Business Cases who is then the senior Business Court
49 Judge, and shall contemporaneously send a copy of the notice by e-mail to the Chief Justice of
50 the Supreme Court for approval of the designation of the action as a mandatory complex
51 business case and assignment to a specific Business Court Judge. The Notice of Designation

1 shall, in good faith and based on information reasonably available, succinctly state the basis of
2 the designation and include a certificate by or on behalf of the designating party that the civil
3 action meets the criteria for designation as a mandatory complex business case pursuant to
4 subsection (a) or (b) of this section.

5 (d) The Notice of Designation shall be filed:

- 6 (1) By the plaintiff, the third-party plaintiff, or the petitioner for judicial review
7 contemporaneously with the filing of the complaint, third-party complaint,
8 or the petition for judicial review in the action.
9 (2) By any intervenor when the intervenor files a motion for permission to
10 intervene in the action.
11 (3) By any defendant or any other party within 30 days of receipt of service of
12 the pleading seeking relief from the defendant or party.
13 (4) By any party whose pleading caused the amount in controversy computed in
14 accordance with G.S. 7A-243 to equal or exceed five million dollars
15 (\$5,000,000) contemporaneously with the filing of that pleading.

16 (e) Within 30 days after service of the Notice of Designation, any other party may, in
17 good faith, file and serve an opposition to the designation of the action as a mandatory complex
18 business case. The opposition to the designation of the action shall assert all grounds on which
19 the party opposing designation objects to the designation, and any grounds not asserted shall be
20 deemed conclusively waived. Within 30 days after the entry of an order staying a pending
21 action pursuant to subsection (g) of this section, any party opposing the stay shall file an
22 objection with the Business Court asserting all grounds on which the party objects to the case
23 proceeding in the Business Court, and any grounds not asserted shall be deemed conclusively
24 waived. Based on the opposition or ~~ex mero motu,~~ on its own motion, the Business Court Judge
25 may shall rule by written order on the opposition or objection and determine that whether
26 the action should not be designated as a mandatory complex business case. If a party disagrees with
27 the decision, the party may appeal to the Chief Justice of the Supreme Court in accordance with
28 G.S. 7A-27(a) and the North Carolina Rules of Appellate Procedure applicable to civil cases.

29 (f) Once a designation is filed under subsection (d) of this section, and after preliminary
30 approval by the Chief Justice, a case shall be designated and administered a complex business
31 case. All proceedings in the action shall be before the Business Court Judge to whom it has
32 been assigned unless and until an order has been entered under subsection (e) of this section
33 ordering that the case not be designated a mandatory complex business case or the Chief Justice
34 revokes approval. If complex business case status is revoked or denied, the action shall be
35 treated as any other civil action, unless it is designated as an exceptional civil case or a
36 discretionary complex business case pursuant to Rule 2.1 of the General Rules of Practice for
37 the Superior and District Courts.

38 (g) If an action required to be designated as a mandatory complex business case
39 pursuant to subdivision (b)(1) or (b)(3) of this section is not so designated, the Superior Court
40 in which the action has been filed shall, by order entered sua sponte, stay the action until it has
41 been designated as a mandatory complex business case in accordance with this section.
42 Notwithstanding the provisions of subdivision (b)(2) of this section, if an action required to be
43 designated as a mandatory complex business case pursuant to subdivision (b)(2) of this section
44 is not so designated, the Superior Court in which the action has been filed may, by order
45 entered sua sponte prior to the time the case is called for trial, stay the action until it has been
46 designated as a mandatory complex business case. Upon designation of the action as a
47 mandatory complex business case, the filing fee required pursuant to G.S. 7A-305(a)(2) shall
48 be payable by each party to the action on a pro rata basis, or as otherwise ordered by the
49 Business Court Judge to whom the case is assigned upon motion seeking a different allocation
50 of the filing fee.

1 (h) Nothing in this section is intended to permit actions for personal injury grounded in
2 tort to be designated as mandatory complex business cases."

3 **SECTION 4.** G.S. 7A-305 reads as rewritten:

4 **"§ 7A-305. Costs in civil actions.**

5 (a) In every civil action in the superior or district court, except for actions brought
6 under Chapter 50B of the General Statutes, shall be assessed:

7 ...

8 (2) For support of the General Court of Justice, the sum of one hundred eighty
9 dollars (\$180.00) in the superior court and the sum of one hundred thirty
10 dollars (\$130.00) in the district court except that if the case is assigned to a
11 magistrate the sum shall be eighty dollars (\$80.00). If a case is assigned to a
12 special superior court judge as a complex business case under G.S. 7A-45.3,
13 upon assignment the party filing the notice of designation pursuant to
14 G.S. 7A-45.4 or the motion for complex business designation shall pay an
15 additional one thousand one hundred dollars ~~(\$1,000)~~ ~~(\$1,100)~~ for support of
16 the General Court of Justice; if a case is assigned to a special superior court
17 judge as a complex business case under G.S. 7A-45.3 by a court on its own
18 motion, upon assignment the plaintiff shall pay an additional one thousand
19 one hundred dollars ~~(\$1,000)~~ ~~(\$1,100)~~ for support of the General Court of
20 Justice. Sums collected under this subdivision shall be remitted to the State
21 Treasurer. The State Treasurer shall remit the sum of one dollar and fifty
22 cents (\$1.50) of each fee collected under this subdivision to the North
23 Carolina State Bar for the provision of services described in G.S. 7A-474.4,
24 and ninety-five cents (\$.95) of each fee collected under this subdivision to
25 the North Carolina State Bar for the provision of services described in
26 G.S. 7A-474.19.

27 ...

28 (d) The following expenses, when incurred, are assessable or recoverable, as the case
29 may be. The expenses set forth in this subsection are complete and exclusive and constitute a
30 limit on the trial court's discretion to tax costs pursuant to G.S. 6-20:

31 ...

32 (12) The fee assessed pursuant to subdivision (2) of subsection (a) of this section
33 upon assignment of a case to a special superior court judge as a complex
34 business case.

35 "

36 **SECTION 5.** G.S. 7A-343 reads as rewritten:

37 **"§ 7A-343. Duties of Director.**

38 The Director is the Administrative Officer of the Courts, and the Director's duties include
39 all of the following:

40 ...

41 (8) Prepare and submit an annual report on the work of the Judicial Department
42 to the Chief Justice, and transmit a copy to each member of the General
43 Assembly. The annual report shall include the activities of each North
44 Carolina Business Court site, including the number of new, closed, and
45 pending cases, the average age of pending cases, and the annual
46 expenditures for the prior fiscal year.

47 (8a) Prepare and submit a semiannual report on the activities of each North
48 Carolina business court site to the Chief Justice and to each member of the
49 General Assembly. The semiannual report required under this subdivision
50 shall be separate from the report required under subdivision (8) of this
51 section and shall include the total number of civil cases pending in each

1 business court site over three years after being designated as a mandatory
2 complex business case, motions pending over six months after being filed,
3 and civil cases in which bench trials have been concluded for over six
4 months without entry of judgment, including any accompanying explanation
5 provided by the Business Court.

6"

7 **SECTION 6.(a)** Article 11 of Chapter 55 of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 55-11-11. Merger to effect a holding company reorganization.**

10 (a) The following definitions apply in this section:

11 (1) "Company official" has the same meaning as in G.S. 57D-1-03.

12 (2) "Constituent corporation" means the original corporation incorporated under
13 the laws of this State or limited liability company organized under the laws
14 of this State that is a party to a merger that is intended to create a holding
15 company structure under a plan of merger that satisfies the requirements of
16 this section.

17 (3) "Holding company" means a corporation incorporated under the laws of this
18 State or limited liability company organized under the laws of this State that
19 from its incorporation or organization until consummation of a merger
20 governed by this section was at all times a direct or indirect wholly owned
21 subsidiary of the constituent corporation and whose capital stock is issued in
22 the merger.

23 (4) "Manager" has the same meaning as in G.S. 57D-1-03.

24 (5) "Organizational documents" means the articles of incorporation of a
25 corporation or the articles of organization of a limited liability company.

26 (6) "Surviving entity" means the corporation incorporated under the laws of this
27 State or limited liability company organized under the laws of this State that
28 is the surviving entity in a merger of a constituent corporation with or into a
29 single direct or indirect wholly owned subsidiary of the constituent
30 corporation, which immediately following the merger is a direct or indirect
31 wholly owned subsidiary of the holding company.

32 (b) Notwithstanding the requirements of G.S. 55-11-03, unless expressly required by its
33 articles of incorporation, no vote of shareholders of a constituent corporation is required to
34 authorize a merger with or into a single direct or indirect wholly owned subsidiary of the
35 constituent corporation if all of the following conditions are satisfied:

36 (1) The constituent corporation and the direct or indirect wholly owned
37 subsidiary of the constituent corporation are the only constituent entities to
38 the merger.

39 (2) Each share or fraction of a share of the capital stock of the constituent
40 corporation outstanding immediately prior to the effective time of the merger
41 is converted in the merger into a share or equal fraction of a share of capital
42 stock of a holding company having the same designations, rights, powers,
43 and preferences, and the qualifications, limitations, and restrictions thereof,
44 as the share or fraction of a share of the capital stock of the constituent
45 corporation being converted in the merger.

46 (3) The holding company and the constituent corporation are both corporations
47 of this State and the direct or indirect wholly owned subsidiary that is the
48 other constituent entity to the merger is a corporation or limited liability
49 company of this State.

50 (4) The articles of incorporation and bylaws of the holding company
51 immediately following the effective time of the merger contain provisions

1 identical to the articles of incorporation and bylaws of the constituent
2 corporation immediately prior to the effective time of the merger other than
3 provisions, if any, regarding any of the following:

4 a. The incorporator or incorporators.

5 b. The corporate name.

6 c. The registered office and agent.

7 d. The initial board of directors and the initial subscribers for shares.

8 e. Any provisions contained in any amendment to the articles of
9 incorporation that were necessary to effect a change, exchange,
10 reclassification, subdivision, combination, or cancellation of stock, if
11 the change, exchange, reclassification, subdivision, combination, or
12 cancellation has become effective.

13 (5) As a result of the merger the constituent corporation or its successor
14 becomes or remains a direct or indirect wholly owned subsidiary of the
15 holding company.

16 (6) The directors of the constituent corporation become or remain the directors
17 of the holding company upon the effective time of the merger.

18 (7) Except as provided in subsections (c) and (d) of this section, the
19 organizational documents of the surviving entity immediately following the
20 effective time of the merger contain provisions identical to the articles of
21 incorporation of the constituent corporation immediately prior to the
22 effective time of the merger other than provisions, if any, regarding any of
23 the following:

24 a. The incorporator or incorporators.

25 b. The corporate or entity name.

26 c. The registered office and agent.

27 d. The initial board of directors and the initial subscribers for shares.

28 e. References to members rather than stockholders or shareholders.

29 f. References to interests, units, or other similar terms rather than stock
30 or shares.

31 g. References to managers, managing members, or other members of
32 the governing body rather than directors.

33 h. Any provisions contained in any amendment to the articles of
34 incorporation that were necessary to effect a change, exchange,
35 reclassification, subdivision, combination, or cancellation of stock, if
36 the change, exchange, reclassification, subdivision, combination, or
37 cancellation has become effective.

38 (8) The shareholders of the constituent corporation do not recognize gain or loss
39 for United States federal income tax purposes as determined by the board of
40 directors of the constituent corporation.

41 (c) Notwithstanding the provisions of subdivision (7) of subsection (b) of this section, if
42 the organizational documents of the surviving entity do not contain the following provisions,
43 they shall be amended in the merger to contain provisions requiring all of the following:

44 (1) Any act or transaction by or involving the surviving entity, other than the
45 election or removal of directors or managers, managing members, or other
46 members of the governing body of the surviving entity, that requires for its
47 adoption under this Chapter or its organizational documents the approval of
48 the shareholders or members of the surviving entity shall, by specific
49 reference to this subsection, require, in addition, the approval of the
50 shareholders of the holding company, or any successor by merger, by the
51 same vote as is required by this Chapter or by the organizational documents

1 of the surviving entity. For purposes of this subdivision, any surviving entity
2 that is not a corporation shall include in the amendment a requirement that
3 the approval of the shareholders of the holding company be obtained for any
4 act or transaction by or involving the surviving entity, other than the election
5 or removal of directors or managers, managing members, or other members
6 of the governing body of the surviving entity, which would require the
7 approval of the shareholders of the surviving entity if the surviving entity
8 were a corporation subject to this Chapter.

9 (2) Any amendment of the organizational documents of a surviving entity that is
10 not a corporation that would, if adopted by a corporation subject to this
11 Chapter, be required to be included in the articles of incorporation of the
12 corporation shall, by specific reference to this subsection, require, in
13 addition, the approval of the shareholders of the holding company, or any
14 successor by merger, by the same vote as is required by this Chapter or by
15 the organizational documents of the surviving entity.

16 (3) The business and affairs of a surviving entity that is not a corporation shall
17 be managed by or under the direction of a board of directors, board of
18 managers, or other governing body consisting of individuals who are subject
19 to the same fiduciary duties applicable to, and who are liable for breach of
20 those duties to the same extent as, directors of a corporation subject to this
21 Chapter.

22 (d) Notwithstanding the provisions of subdivision (7) of subsection (b) of this section,
23 the organizational documents of the surviving entity may be amended in the merger to reduce
24 the number of classes and shares of capital stock or other equity interests or units that the
25 surviving entity is authorized to issue and to eliminate any provision authorized by
26 G.S. 55-8-06.

27 (e) Neither subsection (c) of this section nor any provision of a surviving entity's
28 organizational documents required by this section shall be deemed or construed to require
29 approval of the shareholders of the holding company to elect or remove directors or managers,
30 managing members, or other members of the governing body of the surviving entity.

31 (f) From and after the effective time of a merger adopted by a constituent corporation
32 by action of its board of directors and without any vote of shareholders pursuant to this section,
33 the following provisions apply:

34 (1) To the extent the restrictions of Articles 9 and 9A of this Chapter applied to
35 the constituent corporation and its shareholders at the effective time of the
36 merger, such restrictions shall apply to the holding company and its
37 shareholders immediately after the effective time of the merger as though it
38 were the constituent corporation.

39 (2) If the corporate name of the holding company immediately following the
40 effective time of the merger is the same as the corporate name of the
41 constituent corporation immediately prior to the effective time of the merger,
42 the shares of capital stock of the holding company into which the shares of
43 capital stock of the constituent corporation are converted in the merger shall
44 be represented by the stock certificates that previously represented shares of
45 capital stock of the constituent corporation.

46 (3) To the extent a shareholder of the constituent corporation immediately prior
47 to the merger had standing to institute or maintain derivative litigation on
48 behalf of the constituent corporation, nothing in this section limits or
49 extinguishes that standing.

50 (g) If a plan of merger is adopted by a constituent corporation by action of its board of
51 directors and without any vote of shareholders pursuant to this section, but otherwise in

1 accordance with G.S. 55-11-01, the secretary or assistant secretary of the constituent
2 corporation shall certify on the plan of merger that the plan has been adopted pursuant to this
3 section and that the conditions specified in subsection (b) of this section have been satisfied.
4 This certification on the plan of merger is not required if a certificate of merger or
5 consolidation is registered in lieu of filing the plan of merger. The plan so adopted and certified
6 shall then be filed and become effective, in accordance with G.S. 55-11-05. That filing is a
7 representation by the person who executes the agreement that the facts stated in the certificate
8 remain true immediately prior to the filing.

9 (h) Except as otherwise provided in this section:

10 (1) The provisions of G.S. 55-11-06(a) and G.S. 55-11-06(c) shall apply to any
11 merger effected pursuant to this section.

12 (2) The provisions of Article 13 of this Chapter shall not apply to any merger
13 effected pursuant to this section."

14 **SECTION 6.(b)** G.S. 55-11-06(a) reads as rewritten:

15 **"§ 55-11-06. Effect of merger or share exchange.**

16 (a) When a merger pursuant to G.S. 55-11-01, 55-11-04, 55-11-07, ~~or~~
17 ~~55-11-09~~55-11-09, or 55-11-11 takes effect:

18"

19 **SECTION 7.** Article 7 of Chapter 55 of the General Statutes is amended by adding
20 a new section to read:

21 **"§ 55-7-50. Exclusive forum or venue provisions valid.**

22 A provision in the articles of incorporation or bylaws of a corporation that specifies a forum
23 or venue in North Carolina as the exclusive forum or venue for litigation relating to the internal
24 affairs of the corporation shall be valid and enforceable."

25 **SECTION 8.(a)** The Working Group on Judicial Efficiency and Business Court
26 Modernization (Working Group) is established.

27 **SECTION 8.(b)** The Working Group consists of 18 members as follows:

28 (1) Three Senators appointed by the President Pro Tempore of the Senate.

29 (2) Three Representatives appointed by the Speaker of the House of
30 Representatives.

31 (3) One representative of the Administrative Office of the Courts appointed by
32 the Chief Justice upon the recommendation of the Administrative Officer of
33 the Courts.

34 (4) One current or former employee of the UNC School of Government
35 appointed by the Governor.

36 (5) Three Superior Court judges. The President Pro Tempore of the Senate, the
37 Speaker of the House of Representatives, and the Governor shall appoint one
38 judge each under this subdivision.

39 (6) A district attorney appointed by the Speaker of the House of
40 Representatives.

41 (7) A licensed attorney who works regularly on criminal matters who is not a
42 district attorney appointed by the President Pro Tempore of the Senate.

43 (8) An individual with expertise and familiarity with Information Technology in
44 the Judicial Branch of Government in North Carolina appointed by the
45 President Pro Tempore of the Senate upon the recommendation of the
46 Administrative Officer of the Courts.

47 (9) An experienced civil litigator appointed by the Speaker of the House of
48 Representatives.

49 (10) An experienced civil litigator appointed by the President Pro Tempore of the
50 Senate.

1 (11) A public interest attorney appointed by the Speaker of the House of
2 Representatives.

3 (12) An attorney with experience in appellate cases appointed by the Chief
4 Justice of the North Carolina Supreme Court.

5 **SECTION 8.(c)** The President Pro Tempore of the Senate and the Speaker of the
6 House of Representatives shall each designate one member to serve as cochair of the Working
7 Group. The Working Group may meet at any time upon the call of either cochair. A cochair or
8 other member of the Working Group continues to serve until a successor is appointed.
9 Members serve at the pleasure of the appointing officer.

10 **SECTION 8.(d)** The Working Group may study court efficiency, resource
11 management, and other management needs of the General Court of Justice to better guide the
12 General Assembly in determining the needs of the court system. The Working Group may
13 study the implementation of this act, Senate Bill 853, and its efforts to modernize complex
14 business cases. The Working Group may study any other issue it deems relevant to this study.

15 **SECTION 8.(e)** A quorum is a majority of members of the Working Group. No
16 action may be taken except by a majority vote at a meeting at which a quorum is present.

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

21 **SECTION 8.(g)** Members of the Working Group shall receive per diem,
22 subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5, and 138-6, as appropriate.

23 **SECTION 8.(h)** All expenses of the Working Group shall be paid from the
24 Legislative Services Commission's Reserve for Studies. Individual expenses of five thousand
25 dollars (\$5,000) or less, including per diem, travel, and subsistence expenses of members of the
26 Working Group, and clerical expenses shall be paid upon the authorization of a cochair of the
27 Working Group. Individual expenses in excess of five thousand dollars (\$5,000) shall be paid
28 upon the written approval of the President Pro Tempore of the Senate and the Speaker of the
29 House of Representatives.

30 **SECTION 8.(i)** The Legislative Services Officer shall assign professional and
31 clerical staff to assist the Working Group in its work. The Director of Legislative Assistants of
32 the House of Representatives and the Director of Legislative Assistants of the Senate shall
33 assign clerical support staff to the Working Group.

34 **SECTION 8.(j)** The Working Group may submit an interim report on the results of
35 its study, including any proposed legislation, to the General Assembly at any time. The
36 Working Group shall submit a final report on the results of its study, including any proposed
37 legislation, to the General Assembly prior to the convening of the 2015 General Assembly.
38 Reports shall be submitted by filing a copy of the report with the Office of the President Pro
39 Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the
40 Legislative Library. The Working Group shall terminate upon the convening of the 2015
41 General Assembly or upon the filing of its final report, whichever occurs first.

42 **SECTION 9.** Section 1 of this act becomes effective October 1, 2014, and applies
43 to actions designated as mandatory complex business cases on or after that date. Sections 3 and
44 4 of this act become effective October 1, 2014, and apply to actions commenced or petitions
45 filed on or after that date. Section 6 of this act becomes effective October 1, 2014. Section 7 of
46 this act is effective when it becomes law and applies to all articles of incorporation and bylaws
47 and all amendments to articles of incorporation and bylaws adopted on or after that date. Unless
48 otherwise provided by this act, the remainder of this act is effective when it becomes law.