

Lawmakers Want to Grow Size of State's Top Court – and Their Control Over Judges

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By Rick Brundrett - The Nerve

Powerful S.C. House speaker, who controls half of the appointments on a committee that nominates judges for election in the Legislature, wants to expand the size of the state's highest court and eliminate the cap on judicial nominees.

Rep. Jay Lucas, R-Darlington, is the main sponsor of a [joint resolution](#) calling for an amendment to the state constitution that would increase the total number of justices on the S.C. Supreme Court from five to seven, and a related [bill](#) that would keep the General Assembly in control of electing those judges for 10-year terms.

A constitutional amendment would require approval by two-thirds of the 170-member Legislature, and a simple majority of the state's registered voters in the next general election for House members, which would be in November 2022.

Both proposals are co-sponsored by Rep. Murrell Smith, R-Sumter, a lawyer who has served as vice chairman of the six-legislator, 10-member judicial screening committee known as the Judicial Merit Selection Commission (JMSC). Smith also is chairman of the budget-writing House Ways and Means Committee.

Lucas, an attorney who appoints five of the 10 JMSC members, also is the lead sponsor of another [bill](#) that would eliminate the JMSC's current cap of three nominees for a judicial seat filled by lawmakers, and instead would require that all candidates found qualified by the JMSC be eligible for election in the Legislature. The Senate has a similar [bill](#).

All three House proposals, each of which has at least eight co-sponsors and were prefiled last month, were referred to the House Judiciary Committee, headed by Rep. Chris Murphy, R-Dorchester, who is an attorney and a JMSC member.

Neither Lucas nor Smith responded Tuesday to The Nerve's written messages seeking comment. Judicial Department spokeswoman Ginny Jones also didn't respond to written questions related to Supreme Court chief justice Donald Beatty's positions on the proposals. Beatty is the administrative head of the state Judicial Department.

The JMSC, which has been chaired by Sen. Luke Rankin, R-Horry, nominates candidates for the Supreme Court, Court of Appeals, Administrative Law Court, circuit and family courts. Those seats are filled in a joint session of the Legislature.

South Carolina and Virginia are the only states in which their legislatures play primary roles in electing judges.

The S.C. Legislature is tentatively scheduled in a Feb. 3 joint session to fill three seats on the nine-

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member Court of Appeals – the state's second-highest court – 18 circuit court seats, one family court seat, and two Administrative Law Court seats.

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Only six of the total number of open seats are contested races. As The Nerve previously has [pointed out](#), incumbent judges rarely are challenged, and races with only newcomers typically wind up with a sole candidate on election day after the unsuccessful candidates tally lawmakers' likely votes in advance.

The highest-level race on Feb. 3 is for a Court of Appeals seat currently held by Thomas Huff, who plans to retire this year. Huff was a longtime House member until 1996 when he resigned his legislative seat to join the Court of Appeals.

Beatty and Court of Appeals chief judge James Lockemy, who is running unopposed for a six-year term, also are former House members.

In 2019, Beatty convinced lawmakers to give a [33% pay hike](#) to himself and other judges. Beatty's annual salary is \$212,160, according to court records provided to The Nerve in November after the Judicial Department initially [rejected](#) a formal open-records request for staff salary information.

Besides having the authority to choose higher-level judges, lawmakers also exert considerable control in the selection of county [magistrates](#) and [master-in-equity judges](#), as The Nerve has revealed.

At least two [joint resolutions](#) in the Senate and [one](#) in the House would constitutionally change the selection of appellate and circuit court judges by giving the appointment power for those seats to the governor, with consent of the Senate. One of the Senate [resolutions](#) would expand the size of the JMSC, though it would still be legislatively controlled.

All three resolutions were referred to the chambers' respective judiciary committees. The Senate committee is headed by Rankin, an attorney who, as the committee chairman, appointed three JMSC members, including himself. Senate president Harvey Peeler, R-Cherokee, appoints two JMSC members under state law.

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