

Amendment No. 1 to SB2813

Beavers
Signature of Sponsor

AMEND Senate Bill No. 2813*

House Bill No. 3391

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 17-2-123, is amended by deleting the section in its entirety and by substituting instead the following:

(a)

(1) Notwithstanding any other law to the contrary, in any county having a metropolitan form of government and having a population of more than five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census, the circuit court judges of such county may appoint a full-time master to serve as a judicial officer in the absence of any such judges.

(2) A master appointed pursuant to subsection (1) shall be an attorney licensed to practice law by this state and in good standing with the board of professional responsibility.

(3) The compensation for a master appointed pursuant to this section shall be fixed by the presiding judge of the judicial district and shall be paid from any fund appropriated for such purpose by the county governing body.

(4) The master shall have all the powers specified in § 17-2-118 and the powers granted to masters by Tenn. R. Civ. P. 53.

(b)

(1) Notwithstanding any other law to the contrary, in any county having a metropolitan form of government and a population of more than five hundred thousand (500,000), according to the 1990 federal census or

any subsequent federal census, the circuit courts having domestic or probate jurisdiction may appoint one (1) or more suitable persons to act as magistrates at the pleasure of the judge. A magistrate shall be a member of the bar in good standing and shall hold office at the pleasure of the judge. The compensation of a magistrate shall be fixed by the judge with approval of the county legislative body or the pertinent governing body, and paid from public funds.

(2) The judge or judges for whom the magistrate serves may direct that any case or class of cases shall be heard in the first instance by the magistrate in all cases wherein the respective circuit court has jurisdiction in the manner provided for the hearing of cases by the court.

(3) A magistrate has the same authority as the judge to issue any and all process. The magistrate in the conduct of the proceedings has the powers of a trial judge.

(4) Upon the conclusion of the hearing in each case, the magistrate shall transmit to the judge all papers relating to the case, together with the magistrate's findings and recommendations in writing.

(5) Any party may, within five (5) days thereafter, excluding nonjudicial days, file a request with the court for hearing by the appropriate circuit court judge. The judge may, on the judge's own motion, order a rehearing of any matter heard before a magistrate, and shall allow a hearing if a request for such hearing is filed as herein prescribed. Unless the judge orders otherwise, the order of the magistrate shall be the decree of the court pending a rehearing.

(6) Any appeal from the magistrate to the judge from a final order shall be tried de novo by the judge.

(7) In case no hearing of a final order before the judge is requested, or when the right to a hearing is waived, the findings and recommendations of the magistrate become the decree of the court when

confirmed by an order of the judge. The final order of the court is, in any event, proof of such confirmation, and also of the fact that the matter was duly referred to the magistrate.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.