

GENERAL ASSEMBLY OF NORTH CAROLINA
SECOND EXTRA SESSION 1996

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SENATE BILL 41
Rules and Operation of the Senate Committee Substitute Adopted 8/1/96
Third Edition Engrossed 8/1/96

Short Title: Nonpartisan Superior Court Elections.

(Public)

Sponsors:

Referred to:

July 15, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR PARTISAN ELECTION OF SUPERIOR COURT
3 JUDGES IN THEIR DISTRICTS IN 1996 AND NONPARTISAN ELECTION IN
4 THEIR DISTRICTS THEREAFTER AND CONCERNING VACANCIES IN
5 SUPERIOR COURT JUDGESHIPS.

6 The General Assembly of North Carolina enacts:

7 **PART 1. PARTISAN ELECTION WITHIN DISTRICTS**

8 Section 1. Chapter 7A of the General Statutes is amended by inserting a new
9 section to read:

10 **"§ 7A-41.2. Nomination and election of regular superior court judges.**

11 Candidates for the office of regular superior court judge shall be both nominated and
12 elected by the qualified voters of the superior court district for which the election is
13 sought."

14 Sec. 2. G.S. 163-1 is amended in the table by deleting the word "State" in the
15 column entitled "Jurisdiction" under the entry for "Judges of the superior courts", and
16 substituting "Superior Court District".

17 Sec. 3. G.S. 163-140(a) reads as rewritten:

1 "(a) Kinds of General Election Ballots; Right to Combine. – For purposes of
2 general elections, there shall be seven kinds of official ballots entitled:

- 3 (1) Ballot for presidential electors
- 4 (2) Ballot for United States Senator
- 5 (3) Ballot for member of the United States House of Representatives
- 6 (4) State ballot
- 7 (5) County ballot
- 8 (6) Repealed by Session Laws 1973, c. 793, s. 56.
- 9 (7) Ballot for constitutional amendments and other propositions submitted
10 to the people.

11 Use of official ballots shall be limited to the purposes indicated by their titles. The
12 printing on all ballots shall be plain and legible but, unless large type is specified by this
13 section, type larger than 10-point shall not be used in printing ballots. All general
14 election ballots shall be prepared in such a way as to leave sufficient blank space beneath
15 each name printed thereon in which a voter may conveniently write the name of any
16 person for whom he may desire to vote.

17 Unless prohibited by this section, the board of elections, State or county, charged by
18 law with printing ballots may, in its discretion, combine any two or more official ballots.
19 Whenever two or more ballots are combined, the voting instructions for the State ballot
20 set out in subsection (b)(4) of this section shall be used, except that if the two ballots
21 being combined do not contain a multi-seat race, then the second sentence of instruction
22 b. shall not appear on the ballot.

23 Contests in the general election for seats in the State House of Representatives and
24 State Senate shall be on ballots that are separate from ballots containing non-legislative
25 contests, except where the voting system used makes separation of ballots impractical.
26 State House and State Senate contests shall be on the same ballot, unless one is a single-
27 seat contest and the other a multi-seat contest.

28 ~~If the State Board of Elections divides the State ballot into two or more ballots, all~~
29 All candidates for superior court shall appear on the same ballot except that the ~~State~~
30 ~~Board of Elections~~ appropriate board of elections may divide the election of superior
31 court judges into two ballots ~~either because of length of the ballot or to provide a separate~~
32 ballot for multi-seat races but only superior court judges shall be on those ballots, and all
33 candidates for the Appellate Division shall appear on the same ballot."

34 Sec. 4. G.S. 163-140(b)(4) reads as rewritten:

- 35 "(4) State Ballot: Beneath the title and general instructions set out in this
36 subsection, the ballot for single-seat contests for State officers, and for
37 all State officers where mechanical voting machines are used (~~including~~
38 ~~judges of the superior court~~) shall be divided into parallel columns
39 separated by distinct black lines. The State Board of Elections shall
40 assign a separate column to each political party having candidates for
41 State offices and one to unaffiliated candidates, if any. At the head of
42 each party column the party's name shall be printed in large type, and at
43 the head of the column for unaffiliated candidates shall be printed in

1 large type the words 'Unaffiliated Candidates.' Below the party name in
2 each column shall be printed a circle, one-half inch in diameter, around
3 which shall be plainly printed the following instruction: 'For a straight
4 ticket, mark within this circle.' With distinct black lines, the State Board
5 of Elections shall divide the columns into horizontal sections and, in the
6 customary order of office, assign a separate section to each office or
7 group of offices to be filled. On a single line at the top of each section
8 shall be printed a direction as to the number of candidates for whom a
9 vote may be cast. If candidates are to be chosen for different terms to
10 the same office, the term in each instance shall be printed as part of the
11 title of the office.

12 The name or names of each political party's candidate or candidates
13 for each office listed on the ballot shall be printed in the appropriate
14 office section of the proper party column, and the names of unaffiliated
15 candidates shall be printed in the appropriate office section of the
16 column headed 'Unaffiliated Candidates.' At the left of each name shall
17 be printed a voting square, and in each column all voting squares shall
18 be arranged in a perpendicular line.

19 On the face of the ballot, above the party and unaffiliated column
20 division, the following instructions shall be printed in heavy black type,
21 and the words 'you must also' in instruction c. shall be underlined:

- 22 'a. To vote for all candidates of one party (a straight ticket), make a
23 cross (X) mark in the circle of the party for whose candidates you
24 wish to vote.
- 25 b. You may vote a split ticket by not marking a cross (X) mark in
26 the party circle, but by making a cross (X) mark in the square
27 opposite the name of each candidate for whom you wish to vote.
- 28 c. You may also vote a split ticket by marking a cross (X) mark in
29 the party circle and then making a cross (X) mark in the square
30 opposite the name of any candidate you choose of a different
31 party. In any multi-seat race where a party circle is marked and
32 you vote for candidates of another party, you must also make a
33 cross (X) mark opposite the name of any candidate you choose of
34 the party for which you marked the party circle to assure your
35 vote will count.
- 36 d. If you tear or deface or wrongly mark this ballot, return it and get
37 another.'

38 On the bottom of the ballot shall be printed an identified facsimile of
39 the signature of the Chairman of the State Board of Elections. If the
40 State ballot contains no multi-seat race, then the second sentence of
41 instruction b. shall not appear on the ballot."

42 Sec. 5. G.S. 163-140(b)(5) reads as rewritten:

1 "(5) County Ballot: Beneath the title and general instructions set out in this
2 subsection, the ballot for single-seat contests for county officers
3 (including district attorney for the prosecutorial district in which the
4 county is situated, district judge for the district court district in which
5 the county is situated, regular resident superior court judge for the
6 superior court district in which the county or part thereof is situated, and
7 members of the General Assembly in the senatorial and representative
8 districts in which the county is situated), and for all county offices
9 where mechanical voting machines are used, shall be divided into
10 parallel columns separated by distinct black lines. The county board of
11 elections shall assign a separate column to each political party having
12 candidates for the offices on the ballot and one to unaffiliated
13 candidates, if any. At the head of each party column the party's name
14 shall be printed in large type and at the head of the column for
15 unaffiliated candidates shall be printed in large type the words
16 'Unaffiliated Candidates.' Below the party name in each column shall be
17 printed a circle, one-half inch in diameter, around which shall be plainly
18 printed the following instruction: 'For a straight ticket, mark within this
19 circle.' With distinct black lines, the county board of elections shall
20 divide the columns into horizontal sections and, in the customary order
21 of office, assign a separate section to each office or group of offices to
22 be filled. On a single line at the top of each section shall be printed the
23 title of the office, and directly below the title shall be printed a direction
24 as to the number of candidates for whom a vote may be cast. If
25 candidates are to be chosen for different terms to the same office, the
26 term in each instance shall be printed as part of the title of the office.

27 The name or names of each political party's candidate or candidates
28 for each office listed on the ballot shall be printed in the appropriate
29 office section of the proper party column, and the names of unaffiliated
30 candidates shall be printed in the appropriate office section of the
31 column headed 'Unaffiliated Candidates.' At the left of each name shall
32 be printed a voting square, and in each column all voting squares shall
33 be arranged in a perpendicular line.

34 On the face of the ballot, above the party and unaffiliated column
35 division, the following instructions shall be printed in heavy black type,
36 and the words 'you must also' in instruction c. shall be underlined:

- 37 'a. To vote for all candidates of one party (a straight ticket), make a
38 cross (X) mark in the circle of the party for whose candidates you
39 wish to vote.
- 40 b. You may vote a split ticket by not marking a cross (X) mark in
41 the party circle, but by making a cross (X) mark in the square
42 opposite the name of each candidate for whom you wish to vote.

- 1 c. You may also vote a split ticket by marking a cross (X) mark in
2 the party circle and then making a cross (X) mark in the square
3 opposite the name of any candidate you choose of a different
4 party. In any multi-seat race where a party circle is marked and
5 you vote for candidates of another party, you must also make a
6 cross (X) mark opposite the name of any candidate you choose of
7 the party for which you marked the party circle to assure your
8 vote will count.
- 9 d. If you tear or deface or wrongly mark this ballot, return it and get
10 another.'

11 On the bottom of the ballot shall be printed an identified facsimile of
12 the signature of the chairman of the county board of elections. If the
13 county ballot contains no multi-seat race, then the second sentence of
14 instruction b. shall not appear on the ballot."

15 Sec. 6. G.S. 163-192 reads as rewritten:

16 **"§ 163-192. State Board of Elections to prepare abstracts and declare results of**
17 **primaries and elections.**

18 (a) After Primary. – At the conclusion of its canvass of the primary election, the
19 State Board of Elections shall prepare separate abstracts of the votes cast:

- 20 (1) For Governor and all State officers, justices of the Supreme Court,
21 judges of the Court of Appeals, ~~judges of the superior court,~~ and United
22 States Senators.
- 23 (2) For members of the United States House of Representatives for the
24 several congressional districts in the State.
- 25 (3) For district court judges for the several district court districts in the
26 State.
- 27 (3a) For superior court judges for the several superior court districts in the
28 State.
- 29 (4) For district attorney in the several prosecutorial districts in the State.
- 30 (5) For State Senators in the several senatorial districts in the State
31 composed of more than one county.
- 32 (6) For members of the State House of Representatives in the several
33 representative districts in the State composed of more than one county.

34 Abstracts prepared by the State Board of Elections under this subsection shall state
35 the total number of votes cast for each candidate of each political party for each of the
36 various offices canvassed by the State Board of Elections. They shall also state the name
37 or names of the person or persons whom the State Board of Elections shall ascertain and
38 judicially determine by the count to be nominated for each office.

39 Abstracts prepared under this subsection shall be signed by the members of the State
40 Board of Elections in their official capacity and shall have the great seal of the State
41 affixed thereto.

42 (b) After General Election. – At the conclusion of its canvass of the general
43 election, the State Board of Elections shall prepare abstracts of the votes cast:

- 1 (1) For President and Vice-President of the United States, when an election
2 is held for those offices.
- 3 (2) For Governor and all State officers, justices of the Supreme Court,
4 judges of the Court of Appeals, ~~judges of the superior court,~~ and United
5 States Senators.
- 6 (3) For members of the United States House of Representatives for the
7 several congressional districts in the State.
- 8 (4) For district court judges for the several district court districts as defined
9 in G.S. 7A-133 in the State.
- 10 (4a) For superior court judges for the several superior court districts in the
11 State.
- 12 (5) For district attorney in the several prosecutorial districts in the State.
- 13 (6) For State Senators in the several senatorial districts in the State
14 composed of more than one county.
- 15 (7) For members of the State House of Representatives in the several
16 representative districts in the State composed of more than one county.
- 17 (8) For and against any constitutional amendments or propositions
18 submitted to the people.

19 Abstracts prepared by the State Board of Elections under this subsection shall state
20 the names of all persons voted for, the office for which each received votes, and the
21 number of legal ballots cast for each candidate for each office canvassed by the State
22 Board of Elections. They shall also state the name or names of the person or persons
23 whom the State Board of Elections shall ascertain and judicially determine by the count
24 to be elected to each office.

25 Abstracts prepared under this subsection shall be signed by the members of the State
26 Board of Elections in their official capacity and shall have the great seal of the State
27 affixed thereto.

28 (c) Disposition of Abstracts of Returns. – The State Board of Elections shall file
29 with the Secretary of State the original abstracts of returns prepared by it under the
30 provisions of subsections (a) and (b) of this section, and also the duplicate county
31 abstracts transmitted to the State Board of Elections under the provisions of G.S. 163-
32 177. Upon the request of the Legislative Services Office, the Secretary of State shall
33 submit a copy of the original abstracts to that Office."

34 **PART 2. NONPARTISAN ELECTIONS**

35 Sec. 7. Chapter 163 of the General Statutes is amended by adding a new
36 Subchapter to read:

37 **"SUBCHAPTER X. ELECTION OF SUPERIOR COURT JUDGES.**

38 **"ARTICLE 25.**

39 **"NOMINATION AND ELECTION OF SUPERIOR COURT JUDGES.**

40 **"§ 163-321. Applicability.**

41 The nomination and election of superior court judges of the General Court of Justice
42 shall be as provided by this Article.

43 **"§ 163-322. Nonpartisan primary election method.**

1 (a) General. Except as provided in G.S. 163-329, there shall be a primary to
2 narrow the field of candidates to two candidates for each position to be filled if, when the
3 filing period closes, there are more than two candidates for a single office or the number
4 of candidates for a group of offices exceeds twice the number of positions to be filled. If
5 only one or two candidates file for a single office, no primary shall be held for that office
6 and the candidates shall be declared nominated. If the number of candidates for a group
7 of offices does not exceed twice the number of positions to be filled, no primary shall be
8 held for those offices and the candidates shall be declared nominated.

9 (b) Determination of Nominees. In the primary, the two candidates for a single
10 office receiving the highest number of votes, and those candidates for a group of offices
11 receiving the highest number of votes, equal to twice the number of positions to be filled,
12 shall be declared nominated. If two or more candidates receiving the highest number of
13 votes each receive the same number of votes, the State Board of Elections shall determine
14 their relative ranking by lot, and shall declare the nominees accordingly. The canvass of
15 the primary shall be held on the same date as the primary canvass fixed under G.S. 163-
16 188. The canvass shall be conducted in accordance with Article 16 of this Chapter.

17 (c) Determination of Election Winners. In the election, the names of those
18 candidates declared nominated without a primary and those candidates nominated in the
19 primary shall be placed on the ballot. The candidate for a single office receiving the
20 highest number of votes shall be elected. Those candidates for a group of offices
21 receiving the highest number of votes, equal in number to the number of positions to be
22 filled, shall be elected. If two candidates receiving the highest number of votes each
23 received the same number of votes, the State Board of Elections shall determine the
24 winner by lot.

25 **§ 163-323. Notice of candidacy.**

26 (a) Form of Notice. Each person offering to be a candidate for election shall do so
27 by filing a notice of candidacy with the State Board of Elections in the following form,
28 inserting the words in parentheses when appropriate:

29 Date _____;
30 I hereby file notice that I am a candidate for election to the office of
31 _____ in the regular election to be held _____,
32 _____.

33 Signed _____;
34 (Name of Candidate)

35 Witness: _____.

36 The notice of candidacy shall be either signed in the presence of the chairman or
37 secretary of the State Board of Elections, or signed and acknowledged before an officer
38 authorized to take acknowledgments who shall certify the notice under seal. An
39 acknowledged and certified notice may be mailed to the State Board of Elections. In
40 signing a notice of candidacy, the candidate shall use only the candidate's legal name and,
41 in his discretion, any nickname by which commonly known. A candidate may also, in
42 lieu of that candidate's first name and legal middle initial or middle name, if any, sign
43 that candidate's nickname, provided the candidate appends to the notice of candidacy an

1 affidavit that the candidate has been commonly known by that nickname for at least five
2 years prior to the date of making the affidavit. The candidate shall also include with the
3 affidavit the way the candidate's name (as permitted by law) should be listed on the ballot
4 if another candidate with the same last name files a notice of candidacy for that office.

5 A notice of candidacy signed by an agent or any person other than the candidate
6 himself shall be invalid.

7 (b) Time for Filing Notice of Candidacy. Candidates seeking election to the
8 following offices shall file their notice of candidacy with the State Board of Elections no
9 earlier than 12:00 noon on the first Monday in January and no later than 12:00 noon on
10 the first Monday in February preceding the election:

11 Judges of the superior courts.

12 (c) Withdrawal of Notice of Candidacy. Any person who has filed a notice of
13 candidacy for an office shall have the right to withdraw it at any time prior to the date on
14 which the right to file for that office expires under the terms of subsection (b) of this
15 section.

16 (d) Certificate That Candidate Is Registered Voter. Candidates shall file along
17 with their notice a certificate signed by the chairman of the board of elections or the
18 supervisor of elections of the county in which they are registered to vote, stating that the
19 person is registered to vote in that county, and if the county contains more than one
20 superior court district, stating the superior court district of which the person is a resident.
21 In issuing such certificate, the chairman or supervisor shall check the registration records
22 of the county to verify such information. During the period commencing 36 hours
23 immediately preceding the filing deadline, the State Board of Elections shall accept, on a
24 conditional basis, the notice of candidacy of a candidate who has failed to secure the
25 verification ordered herein subject to receipt of verification no later than three days
26 following the filing deadline. The State Board of Elections shall prescribe the form for
27 such certificate, and distribute it to each county board of elections no later than the last
28 Monday in December of each odd-numbered year.

29 (e) Candidacy for More Than One Office Prohibited. No person may file a notice
30 of candidacy for more than one office or group of offices described in subsection (b) of
31 this section for any one election. If a person has filed a notice of candidacy with a board
32 of elections under this section for one office or group of offices, then a notice of
33 candidacy may not later be filed for any other office or group of offices under this section
34 when the election is on the same date unless the notice of candidacy for the first office is
35 withdrawn under subsection (c) of this section.

36 **"§ 163-324. Filing fees required of candidates; refunds.**

37 (a) Fee Schedule. At the time of filing a notice of candidacy under this Article,
38 each candidate shall pay to the State Board of Elections a filing fee for the office he seeks
39 in the amount of one percent (1%) of the annual salary of the office sought.

40 (b) Refund of Fees. If any person who has filed a notice of candidacy and paid the
41 filing fee prescribed in subsection (a) of this section withdraws his notice of candidacy
42 within the period prescribed in G.S. 163-323(c), he shall be entitled to have the fee he

1 paid refunded. The chairman of the State Board of Elections shall cause a warrant to be
2 drawn on the State Treasurer for the refund payment.

3 If any person who has filed a notice of candidacy and paid the filing fee prescribed in
4 subsection (a) of this section dies prior to the date of the election, the personal
5 representative of the estate shall be entitled to have the fee refunded if application is
6 made to the board of elections to which the fee was paid no later than one year after the
7 date of death, and refund shall be made in the same manner as in withdrawal of notice of
8 candidacy.

9 **"§ 163-325. Petition in lieu of payment of filing fee.**

10 (a) General. Any qualified voter who seeks election under this Article may, in lieu
11 of payment of any filing fee required for the office he seeks, file a written petition
12 requesting him to be a candidate for a specified office with the State Board of Elections.

13 (b) Requirements of Petition; Deadline for Filing. If the candidate is seeking the
14 office of superior court judge, that individual shall file a written petition with the State
15 Board of Elections no later than 12:00 noon on Monday preceding the filing deadline
16 before the primary. The petition shall be signed by ten percent (10%) of the registered
17 voters of the election area in which the office will be voted for. The board of elections
18 shall verify the names on the petition, and if the petition and notice of candidacy are
19 found to be sufficient, the candidate's name shall be printed on the appropriate ballot.
20 Petitions must be presented to the county board of elections for verification at least 15
21 days before the petition is due to be filed with the State Board of Elections. The State
22 Board of Elections may adopt rules to implement this section and to provide standard
23 petition forms.

24 **"§ 163-326. Certification of notices of candidacy.**

25 (a) Names of Candidates Sent to Secretary of State. Within three days after the
26 time for filing notices of candidacy with the State Board of Elections under the provisions
27 of G.S. 163-323(b) has expired, the chairman or secretary of that Board shall certify to
28 the Secretary of State the name and address of each person who has filed with the State
29 Board of Elections, indicating in each instance the office sought.

30 (b) Notification of Local Boards. No later than 10 days after the time for filing
31 notices of candidacy under the provisions of G.S. 163-323(b) has expired, the chairman
32 of the State Board of Elections shall certify to the chairman of the county board of
33 elections in each county in the appropriate district the names of candidates for
34 nomination to the offices of superior court judge who have filed the required notice and
35 paid the required filing fee or presented the required petition to the State Board of
36 Elections, so that their names may be printed on the official judicial ballot for superior
37 court.

38 (c) Receipt of Notification by County Board. Within two days after receipt of
39 each of the letters of certification from the chairman of the State Board of Elections
40 required by subsection (b) of this section, each county elections board chairman shall
41 acknowledge receipt by letter addressed to the chairman of the State Board of Elections.

42 **"§ 163-327. Death of candidates or elected officers.**

1 (a) Death or Disqualification of Candidate Before Primary. If a candidate for
2 nomination in a primary dies, becomes disqualified, or withdraws before the primary but
3 after the ballots have been printed, the State Board of Elections shall determine whether
4 or not there is time to reprint the ballots. If the Board determines that there is not enough
5 time to reprint the ballots, the deceased or disqualified candidate's name shall remain on
6 the ballots. If that candidate receives enough votes for nomination, such votes shall be
7 disregarded and the candidate receiving the next highest number of votes below the
8 number necessary for nomination shall be declared nominated. If the death or
9 disqualification of the candidate leaves only two candidates for each office to be filled,
10 the nonpartisan primary shall not be held and all candidates shall be declared nominees.

11 (b) Death, Disqualification, or Resignation of Official After Election. If a person
12 elected to the office of superior court judge dies, becomes disqualified, or resigns on or
13 after election day and before he has qualified by taking the oath of office, the office shall
14 be deemed vacant and shall be filled as provided by law.

15 **"§ 163-328. Failure of candidates to file; death of a candidate before election.**

16 (a) Insufficient Number of Candidates. If when the filing period expires,
17 candidates have not filed for an office to be filled under this Article, the State Board of
18 Elections shall extend the filing period for five days for any such offices.

19 (b) Death of Candidate; Reopening Filing. If there is no primary because only one
20 or two candidates have filed for a single office, or the number of candidates filed for a
21 group of offices does not exceed twice the number of positions to be filled, and thereafter
22 a candidate dies before the election and before the ballots are printed, the State Board of
23 Elections shall, upon notification of the death, immediately reopen the filing period for an
24 additional five days during which time additional candidates shall be permitted to file for
25 election. If the ballots have been printed at the time the State Board of Elections receives
26 notice of the candidate's death, the Board shall determine whether there will be sufficient
27 time to reprint them before the election if the filing period is reopened for three days. If
28 the Board determines that there will be sufficient time to reprint the ballots, it shall
29 reopen the filing period for three days to allow other candidates to file for election, and
30 such election shall be conducted on the plurality basis.

31 (c) Death of Nominated Candidate; Ballots Not Reprinted. If the ballots have
32 been printed at the time the State Board of Elections receives notice of a candidate's
33 death, and if the Board determines that there is not enough time to reprint the ballots
34 before the election if the filing period is reopened for three days, then regardless of the
35 number of candidates remaining for the office or group of offices, the ballots shall not be
36 reprinted and the name of the deceased candidate shall remain on the ballots. If a
37 deceased candidate should poll the highest number of votes in the election for a single
38 office or enough votes to be elected to one of a group of offices, the State Board of
39 Elections shall declare the office vacant and it shall be filled in the manner provided by
40 law.

41 **"§ 163-329. Elections to fill vacancy created after primary filing period to use**
42 **plurality method.**

1 (a) General. If a vacancy is created in the office of judge of superior court after
2 the filing period for the primary opens but more than 60 days before the general election,
3 and under the Constitution of North Carolina an election is to be held for that position,
4 such that the office shall be filled in the general election as provided in G.S. 163-9, the
5 election to fill the office for the remainder of the term shall be conducted without a
6 primary using the plurality method as provided in subsection (b) of this section. If a
7 vacancy is created in the office of judge of superior court before the filing period for the
8 primary opens, and under the Constitution of North Carolina an election is to be held for
9 that position, such that the office shall be filled in the general election as provided in G.S.
10 163-9, the election to fill the office for the remainder of the term shall be conducted in
11 accordance with G.S. 163-322.

12 (b) Plurality Election Rules. Elections under this section shall be conducted using
13 the following rules:

14 (1) The filing period shall be prescribed by the State Board of Elections, but
15 in no event may it be less than five working days. If a vacancy occurs
16 in a second office in the same superior court district after the first filing
17 period established under the section has closed, the State Board of
18 Elections shall reopen filing for a period of not less than five working
19 days for the office of superior court judge. All persons filing in either
20 filing period shall run as a group and the election results shall be
21 determined by subdivision (3) of this subsection.

22 (2) When more than one person is seeking election to a single office, the
23 candidate who receives the highest number of votes shall be declared
24 elected.

25 (3) When more persons are seeking election to two or more offices
26 (constituting a group) than there are offices to be filled, those candidates
27 receiving the highest number of votes, equal in number to the number of
28 offices to be filled, shall be declared elected.

29 (4) If two or more candidates receiving the highest number of votes each
30 receive the same number of votes, the board of elections shall determine
31 the winner by lot.

32 (5) Except as provided in this section, the provisions of this Article apply to
33 elections conducted under this section.

34 **"§ 163-330. Voting in primary.**

35 Any person who will become qualified by age or residence to register and vote in the
36 general election for which the primary is held, even though not so qualified by the date of
37 the primary, shall be entitled to register for the primary and general election prior to the
38 primary and then to vote in the primary after being registered. Such person may register
39 not earlier than 60 days nor later than the last day for making application to register under
40 G.S. 163-82.6(c) prior to the primary.

41 **"§ 163-331. Date of primary.**

42 The primary shall be held on the same date as established for primary elections under
43 G.S. 163-1(b).

1 **"§ 163-332. Ballots.**

2 (a) General. In elections there shall be official ballots. The ballots shall be printed
3 to conform to the requirement of G.S. 163-140(c) and to show the name of each person
4 who has filed notice of candidacy, and the office for which each aspirant is a candidate.

5 Only those who have filed the required notice of candidacy with the proper board of
6 elections, and who have paid the required filing fee or qualified by petition, shall have
7 their names printed on the official primary ballots. Only those candidates properly
8 nominated shall have their names appear on the official general election ballots.

9 (b) Ballots to be Furnished by County Board of Elections. It shall be the duty of
10 the county board of elections to print official ballots for the following offices to be voted
11 for in the primary:

12 Superior court judge.

13 In printing ballots, the county board of elections shall be governed by instructions of
14 the State Board of Elections with regard to width, color, kind of paper, form, and size of
15 type.

16 Three days before the election, the chairman of the county board of elections shall
17 distribute official ballots to the chief judge of each precinct in his county, and the chief
18 judge shall give a receipt for the ballots received. On the day of the primary, it shall be
19 the chief judge's duty to have all the ballots so delivered available for use at the precinct
20 voting place.

21 **"§ 163-333. Canvass.**

22 The county board of elections shall, in addition to the requirements contained in G.S.
23 163-175, canvass the results in judicial primaries and elections, the number of legal votes
24 cast in each precinct for each candidate, the name of each person voted for, and the total
25 number of votes cast in the county for each person for each different office.

26 **"§ 163-334. Counting of ballots.**

27 Counting of ballots in primaries and elections held under this Article shall be under
28 the same rules as for counting of ballots in nonpartisan municipal elections under Article
29 24 of this Chapter.

30 **"§ 163-335. Other rules.**

31 Except as provided by this Article, the conduct of elections shall be governed by
32 Subchapter VI of this Chapter."

33 Sec. 8. G.S. 163-106(c) reads as rewritten:

34 "(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary
35 nominations for the following offices shall file their notice of candidacy with the State
36 Board of Elections no earlier than 12:00 noon on the first Monday in January and no later
37 than 12:00 noon on the first Monday in February preceding the primary:

38 Governor

39 Lieutenant Governor

40 All State executive officers

41 Justices of the Supreme Court, Judges of the Court of Appeals

42 Judges of the superior courts

43 Judges of the district courts

1 United States Senators
 2 Members of the House of Representatives of the United States
 3 District attorneys
 4 Candidates seeking party primary nominations for the following offices shall file their
 5 notice of candidacy with the county board of elections no earlier than 12:00 noon on the
 6 first Monday in January and no later than 12:00 noon on the first Monday in February
 7 preceding the primary:

- 8 State Senators
- 9 Members of the State House of Representatives
- 10 All county offices."

11 Sec. 9. G.S. 163-107(a) reads as rewritten:

12 "(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate
 13 shall pay to the board of elections with which he files under the provisions of G.S. 163-
 14 106 a filing fee for the office he seeks in the amount specified in the following tabulation:

15 Office Sought	Amount of Filing Fee
17 Governor	One percent (1%) of the annual salary of the office sought
18 Lieutenant Governor	One percent (1%) of the annual salary of the office sought
19 All State executive offices	One percent (1%) of the annual salary of the office sought
20 All Justices, Judges, and District Attorneys of the General Court of Justice	One percent (1%) of the annual salary of the office sought
21 <u>other than superior court judge</u>	
22 United States Senator	One percent (1%) of the annual salary of the office sought
23 Members of the United States House of Representatives	One percent (1%) of the annual salary of the office sought
24 State Senator	One percent (1%) of the annual salary of the office sought
25 Member of the State House of Representatives	One percent (1%) of the annual salary of the office sought
26 All county offices not compensated by fees	One percent (1%) of the annual salary of the office sought
27 County commissioners, if compensated entirely by fees	Ten dollars (\$10.00)
28 Members of county board of education, if compensated entirely by fees	Five dollars (\$5.00)
29 Sheriff, if compensated	Forty dollars (\$40.00), plus one

1	entirely by fees	percent (1%) of the income of the
2		office above four thousand
3		dollars (\$4,000)
4	Clerk of superior court, if	Forty dollars (\$40.00), plus one
5	compensated entirely by fees	percent (1%) of the income of the
6		office above four thousand
7		dollars (\$4,000)
8	Register of deeds, if	Forty dollars (\$40.00), plus one
9	compensated entirely by fees	percent (1%) of the income of the
10		office above four thousand
11		dollars (\$4,000)
12	Any other county office, if	Twenty dollars (\$20.00), plus one
13	compensated entirely by fees	percent (1%) of the income of the
14		office above two thousand dollars
15		(\$2,000)
16	All county offices compensated	One percent (1%) of the first
17	partly by salary and partly	annual salary to be received
18	by fees (exclusive of fees)." Sec. 10. G.S. 163-111(c)(1) reads as rewritten:	
19	"(1) A candidate who is apparently entitled to demand a second primary,	
20	according to the unofficial results, for one of the offices listed below,	
21	and desiring to do so, shall file a request for a second primary in writing	
22	or by telegram with the Executive Secretary-Director of the State Board	
23	of Elections no later than 12:00 noon on the seventh day (including	
24	Saturdays and Sundays) following the date on which the primary was	
25	conducted, and such request shall be subject to the certification of the	
26	official results by the State Board of Elections. If the vote certification	
27	by the State Board of Elections determines that a candidate who was not	
28	originally thought to be eligible to call for a second primary is in fact	
29	eligible to call for a second primary, the Executive Secretary-Director of	
30	the State Board of Elections shall immediately notify such candidate	
31	and permit him to exercise any options available to him within a 48-	
32	hour period following the notification:	
33	Governor,	
34	Lieutenant Governor,	
35	All State executive officers,	
36	Justices, Judges, or District Attorneys of the General Court of	
37	Justice, <u>other than superior court judge,</u>	
38	United States Senators,	
39	Members of the United States House of Representatives,	
40	State Senators in multi-county senatorial districts, and	
41	Members of the State House of Representatives in multi-county	
42	representative districts."	

1 Sec. 11. G.S. 163-140(a), as amended by Section 3 of this act, reads as
2 rewritten:

3 "(a) Kinds of General Election Ballots; Right to Combine. – For purposes of
4 general elections, there shall be seven kinds of official ballots entitled:

- 5 (1) Ballot for presidential electors
- 6 (2) Ballot for United States Senator
- 7 (3) Ballot for member of the United States House of Representatives
- 8 (4) State ballot
- 9 (5) County ballot
- 10 (6) Repealed by Session Laws 1973, c. 793, s. 56.
- 11 (7) Ballot for constitutional amendments and other propositions submitted
12 to the people.
- 13 (8) Judicial ballot for superior court.

14 Use of official ballots shall be limited to the purposes indicated by their titles. The
15 printing on all ballots shall be plain and legible but, unless large type is specified by this
16 section, type larger than 10-point shall not be used in printing ballots. All general election
17 ballots shall be prepared in such a way as to leave sufficient blank space beneath each
18 name printed thereon in which a voter may conveniently write the name of any person for
19 whom he may desire to vote.

20 Unless prohibited by this section, the board of elections, State or county, charged by
21 law with printing ballots may, in its discretion, combine any two or more official ballots.
22 Whenever two or more ballots are combined, the voting instructions for the State ballot
23 set out in subsection (b)(4) of this section shall be used, except that if the two ballots
24 being combined do not contain a multi-seat race, then the second sentence of instruction
25 b. shall not appear on the ballot.

26 Contests in the general election for seats in the State House of Representatives and
27 State Senate shall be on ballots that are separate from ballots containing non-legislative
28 contests, except where the voting system used makes separation of ballots impractical.
29 State House and State Senate contests shall be on the same ballot, unless one is a single-
30 seat contest and the other a multi-seat contest.

31 ~~All candidates for superior court shall appear on the same ballot except that the
32 appropriate board of elections may divide the election of superior court judges into two
33 ballots to provide a separate ballot for multi-seat races but only superior court judges
34 shall be on those ballots, and all candidates for the Appellate Division shall appear on the
35 same ballot."~~

36 Sec. 12. G.S. 163-107.1(c) reads as rewritten:

37 "(c) County, Municipal and District Primaries. – If the candidate is seeking one of
38 the offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this
39 section, or a municipal or any other office requiring a partisan primary which is not set
40 forth in G.S. 163-106(c) or (d), he shall file a written petition with the appropriate board
41 of elections no later than 12:00 noon on Monday preceding the filing deadline before the
42 primary. The petition shall be signed by ten percent (10%) of the registered voters of the
43 election area in which the office will be voted for, who are affiliated with the same

1	county senatorial district		of political party in which
2	Member of State House of		vacancy occurs, provided, in
3	Representatives in a		the case of the State
4	single-county		Senator or State
5	representative district		Representative in a
6	Any elective county office		single-county district where
7			not all the county is
8			located in that district,
9			then in voting, only those
10			members of the county
11			executive committee who
12			reside within the
13			district shall vote

15	Judge of Superior Court in a	†	County executive committee
16	single-county superior	†	of political party in
17	court district where the	†	which vacancy occurs;
18	district is the whole	†	provided, in the case of
19	county or part of the		a superior court judge in a
20	county		single-county district where
21			not all the county is
22			located in that district,
23			then in voting, only those
24			members of the county
25			executive committee who
26			reside within the
27			district shall vote

29	Judge of Superior Court in a	†	Appropriate district
30	multi-county superior	†	executive committee of
31	court district	†	political party in which
32			vacancy occurs.

33 The party executive making a nomination in accordance with the provisions of this
 34 section shall certify the name of its nominee to the chairman of the board of elections,
 35 State or county, charged with the duty of printing the ballots on which the name is to
 36 appear. If at the time a nomination is made under this section the general election ballots
 37 have already been printed, the provisions of G.S. 163-139 shall apply. If any person
 38 nominated as a candidate of a political party vacates such nomination and such vacancy
 39 arises from a cause other than death and the vacancy in nomination occurs more than 120
 40 days before the general election, the vacancy in nomination may be filled under this
 41 section only if the appropriate executive committee certifies the name of the nominee in
 42 accordance with this paragraph at least 75 days before the general election.

1 In a county which is partly in a multi-county superior court district, in choosing that
2 county's member or members of the superior court district executive committee for the
3 multi-county district, only the county convention delegates or county executive
4 committee members who reside within the area of the county which is within that multi-
5 county district may vote.

6 In a county not all of which is located in one congressional district, in choosing the
7 congressional district executive committee member or members from that area of the
8 county, only the county convention delegates or county executive committee members
9 who reside within the area of the county which is within the congressional district may
10 vote.

11 In a county which is partly in a multi-county senatorial district or which is partly in a
12 multi-county House of Representatives district, in choosing that county's member or
13 members of the senatorial district executive committee or House of Representatives
14 district executive committee for the multi-county district, only the county convention
15 delegates or county executive committee members who reside within the area of the
16 county which is within that multi-county district may vote."

17 Sec. 14. G.S. 163-122 is amended by adding the following subsection:

18 "(c) This section does not apply to elections under Article 25 of this Chapter."

19 Sec. 15. G.S. 163-135 is amended by adding a new subsection to read:

20 "(f) Judicial Elections. – Except as provided by Article 25 of this Chapter, this
21 Article shall apply to and control all elections for judges of the superior court."

22 Sec. 16. G.S. 163-137(a) is amended by adding the following new subdivision:

23 "(4) The names of all candidates nominated under Article 25 of this
24 Chapter."

25 Sec. 17. G.S. 163-138 reads as rewritten:

26 **"§ 163-138. Instructions for printing names on primary and election ballots.**

27 In preparing primary, general, and special election ballots, the legal name of a
28 candidate (together with his nickname in the situation outlined below) shall be printed
29 precisely as it appears on the notice of candidacy form filed in accordance with G.S. ~~163-~~
30 ~~106-163-106, G.S. 163-323,~~ or in petition forms filed in accordance with G.S. 163-122.
31 If the candidate has inserted a nickname on the notice of candidacy or in the petition, it
32 shall be printed on the ballot immediately before the candidate's surname and shall be
33 enclosed by parentheses. Notwithstanding the previous sentence, if the candidate has
34 used his nickname in lieu of first and middle names as permitted by G.S. 163-106(a),
35 unless another candidate for the same office who files a notice of candidacy has the same
36 last name, the nickname shall be printed on the ballot immediately before the candidate's
37 surname but shall not be enclosed by parentheses. If another candidate for the same
38 office who filed a notice of candidacy has the same last name, then the candidate's name
39 shall be printed on the ballot in accordance with the alternate indicated by the candidate
40 on his affidavit under G.S. ~~163-106(a)-163-106(a) or G.S. 163-323(a).~~ No title,
41 appendage, or appellation indicating rank, status, or position, shall be printed before or
42 following or as a nickname or in connection with the name of any candidate on any
43 ballot. Nevertheless, a candidate who is a married woman may use the prefix 'Mrs.' and a

1 candidate who is a single woman may use the prefix 'Miss' before her name if she so
2 elects."

3 Sec. 18. G.S. 163-140(b) is amended by adding a new subdivision to read:

4 "(9) Judicial ballot for superior court. The form of the judicial ballot for
5 judges of the superior court and district court shall be prepared by the
6 county board of elections. On the face of the ballot, shall be printed
7 instructions for marking the voter's choice, in addition to the following
8 instruction: 'If you tear or deface or wrongly mark this ballot, return it
9 and get another.' On the bottom of the ballot shall be printed an
10 identified facsimile of the signature of the chairman of the responsible
11 county board of elections. This ballot may not be combined with any
12 other ballot except another judicial ballot."

13 Sec. 19. G.S. 163-140(c)(2) reads as rewritten:

14 "(2) Separate Ballots for Each Political Party: For each political party
15 conducting a primary election separate ballots shall be printed, and the
16 paper used for each party's ballots shall be different in color from that
17 used for the ballots of other parties. Ballots for primaries held under
18 Article 25 of this Chapter shall be different in color than the ballots of
19 parties. Primary ballots shall not provide for voting a straight-party
20 ticket, but a voting square shall be printed to the left of the name of each
21 candidate appearing on the ballot."

22 Sec. 19.1. G.S. 163-156(c), as amended by Section 22 of this act, reads as
23 rewritten:

24 "(c) If a vacancy occurs in a judicial district for any offices of superior court judge,
25 and on account of the occurrence of such vacancy, there is to be an election for one or
26 more terms in that district to fill the vacancy or vacancies, at that same election in
27 accordance with G.S. 163-9 and Article VI, Section 19 of the North Carolina
28 Constitution, the nomination and election shall be determined by the following special
29 rules in addition to any other provisions of law:

30 (1) If the vacancy occurs prior to the ~~tenth day before the filing period ends~~
31 opening of the filing period under G.S. ~~163-106(e), 163-323(b),~~
32 nominations shall be made by primary election as provided by Article
33 ~~10-25~~ of this Chapter, without designation as to the vacancy;

34 (2) If the vacancy occurs beginning on the ~~tenth day before the filing period~~
35 ends opening of the filing period under G.S. ~~163-106(e), 163-323(b),~~
36 and ending on the sixtieth day before the general election, ~~a nomination~~
37 ~~shall be made by the appropriate district executive committee of each~~
38 ~~political party and the names of the nominees shall be printed on the~~
39 ~~general election ballots, candidate filing shall be as provided by G.S.~~
40 163-329 without designation as to the vacancy;

41 (3) Repealed by Session Laws 1987, c. 485, s. 3.

42 (4) The general election ballot shall contain, without designation as to
43 vacancy, spaces for the election to fill the vacancy where nominations

1 were made or candidates filed under subdivisions (1) or (2) of this
2 subsection. The persons receiving the highest numbers of votes equal to
3 the term or terms to be filled shall be elected to the term or terms."

4 Sec. 20. G.S. 163-191 reads as rewritten:

5 "**§ 163-191. Contested primaries and elections; how tie broken.**

6 In a primary for party nomination for one or more of the offices to be canvassed by
7 the State Board of Elections under the provisions of G.S. 163-187, the results shall be
8 determined in accordance with the provisions of G.S. 163-111.

9 In a general election for one or more of the offices to be canvassed by the State Board
10 of Elections under the provisions of G.S. 163-187, the persons having the highest number
11 of votes for each office, respectively, shall be declared duly elected to that office by the
12 State Board of Elections. But if two or more be equal and highest in votes for the office,
13 then the State Board of Elections shall order a new election for the purpose of breaking
14 the tie ~~vote.~~ except if there is a tie for superior court judge the tie shall be broken in
15 accordance with Article 25 of this Chapter."

16 **PART 3. SUPERIOR COURT VACANCIES**

17 Sec. 21. G.S. 163-9, as amended by Chapter 98 of the 1995 Session Laws,
18 reads as rewritten:

19 "**§ 163-9. Filling vacancies in State and district judicial offices.**

20 (a) Vacancies occurring in the offices of Justice of the Supreme Court, judge of
21 the Court of Appeals, and judge of the superior court for causes other than expiration of
22 term shall be filled by appointment of the Governor. An appointee to the office of Justice
23 of the Supreme Court or judge of the Court of Appeals shall hold office until January 1
24 next following the election for members of the General Assembly that is held more than
25 60 days after the vacancy occurs, at which time an election shall be held for an eight-year
26 term and until a successor is elected and qualified.

27 (b) ~~An~~ Except for judges specified in the next paragraph of this subsection, an
28 appointee to the office of judge of superior court shall hold his place until the next
29 election for members of the General Assembly that is held more than 60 days after the
30 vacancy occurs, at which time an election shall be held to fill the unexpired term of the
31 office.

32 Appointees for judges of the superior court from any district:

33 (1) With only one resident judge; or

34 (2) In which no county is subject to section 5 of the Voting Rights Act of
35 1965,

36 shall hold the office until the next election of members of the General Assembly that is
37 held more than 60 days after the vacancy occurs, at which time an election shall be held
38 to fill an eight-year term.

39 (c) When the unexpired term of the office in which the vacancy has occurred
40 expires on the first day of January succeeding the next election for members of the
41 General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term
42 of the office.

1 (d) Vacancies in the office of district judge which occur before the expiration of a
2 term shall not be filled by election. Vacancies in the office of district judge shall be filled
3 in accordance with G.S. 7A-142."

4 Sec. 22. G.S. 163-156(c) reads as rewritten:

5 "(c) ~~When there is no election~~ If a vacancy occurs in a judicial district for any
6 offices of superior court ~~judge for full terms, judge, and on account of the occurrence of~~
7 such vacancy, there is to be an election for one or more ~~unexpired~~ terms in that district to
8 fill the vacancy or vacancies, at that same election in accordance with G.S. 163-9 and
9 Article VI, Section 19 of the North Carolina Constitution, the nomination and election
10 shall be determined by the following special rules in addition to any other provisions of
11 law:

12 (1) If the ~~unexpired term vacancy~~ occurs prior to the tenth day before the
13 filing period ends under G.S. 163-106(c), nominations shall be made by
14 primary election as provided by Article 10 of this Chapter, without
15 designation as to the vacancy;

16 (2) If the ~~unexpired term vacancy~~ occurs beginning on the tenth day before
17 the filing period ends under G.S. 163-106(c), and ending on the sixtieth
18 day before the general election, a nomination shall be made by the
19 appropriate district executive committee of each political party and the
20 names of the nominees shall be printed on the general election ballots,
21 without designation as to the vacancy;

22 (3) Repealed by Session Laws 1987, c. 485, s. 3.

23 (4) The general election ballot shall contain, without designation as to
24 vacancy, spaces for the election ~~of all unexpired terms to fill the~~
25 vacancy where nominations were made under subdivisions (1) or (2) of
26 this subsection. The persons receiving the highest numbers of votes
27 equal to the ~~unexpired term or terms, term or terms to be filled~~ shall be
28 elected to the ~~unexpired term or terms.~~"

29 Sec. 23. Part 1 of this act becomes effective only if Parts 1 and 2 of this act are
30 both effective under section 5 of the Voting Rights Act of 1965.

31 Sec. 24. Part 1 of this act is effective upon ratification, and applies beginning
32 with the 1996 elections, except that Sections 1 and 2 of this act shall be applied to the
33 1994 general election and the results of that election validated and confirmed under those
34 sections. Part 2 of this act becomes effective with respect to elections conducted in 1998
35 and thereafter. Part 3 of this act is effective upon ratification and applies to vacancies to
36 be filled by elections conducted on or after that date. The remainder of this act is
37 effective upon ratification.