

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS15158-LBx-141 (3/9)

Short Title: Judicial Appointment/Voter Retention. (Public)

Sponsors: Senator Clodfelter.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE FOR NOMINATION OF JUSTICES OF THE SUPREME COURT AND JUDGES OF THE COURT OF APPEALS, GUBERNATORIAL APPOINTMENT, AND RETENTION BY VOTE OF THE PEOPLE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 16 of Article IV of the North Carolina Constitution reads as rewritten:

"Sec. 16. Terms of office and election of Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court. Selection and tenure of Justices of the Supreme Court and Judges of the Court of Appeals; election of Judges of the Superior Court.

~~Justices of the Supreme Court, Judges of the Court of Appeals, and regular~~

(1) ~~Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until their successors are elected and qualified. Justices of the Supreme Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of the Superior Court may shall be elected by the qualified voters of the State or by the voters of their respective districts, as the General Assembly may prescribe. districts.~~

(2) General principles. Justices and Judges of the Appellate Division should be selected for and continue to hold office solely upon the basis of personal and professional fitness to administer justice wisely, according to law, and without favor, denial, or delay, to all persons who come into the courts. While their continuation in office should be periodically subject to approval by the people, both their initial selection and continuation in office should be free from the influences and necessities of partisan political activity.

1 (3) Nomination, appointment, retention election, and terms of Justices and
2 Judges. On and after January 1, 2006, when a vacancy occurs in the office of Chief
3 Justice, Associate Justice, or Judge of the Appellate Division, the Governor shall
4 appoint a person to fill the vacancy. For the purposes of this section, creation of a new
5 judgeship within the Appellate Division creates a vacancy.

6 The term of office by appointment as Chief Justice, Associate Justice, or Judge of
7 the Appellate Division extends through June 30 after the next statewide election for
8 members of the General Assembly that is held more than 18 months after the
9 appointment. At that election, a person holding by appointment the office of Chief
10 Justice, Associate Justice, or Judge of the Appellate Division who desires to continue in
11 office shall be subject to approval by nonpartisan ballot, by a majority of the votes cast
12 on the issue of the Justice's or Judge's retention. A Chief Justice, Associate Justice, or
13 Judge of the Appellate Division then approved for retention serves a regular term.

14 The regular term of office of the Chief Justice, Associate Justices, and Judges of the
15 Appellate Division is eight years and expires on June 30.

16 A Chief Justice, Associate Justice, or Judge of the Appellate Division who desires to
17 continue in office shall be subject to approval by nonpartisan ballot, by a majority of the
18 votes cast on the issue of the Justice's or Judge's retention during the next general
19 election preceding June 30 of the year that the Justice's or Judge's eight-year term would
20 expire.

21 If the voters fail to approve the retention in office of a Chief Justice, Associate
22 Justice, or Judge of the Appellate Division serving an appointed or regular term, the
23 office shall become vacant at the end of the term of office, and it shall be filled by
24 nomination and appointment as prescribed in this section.

25 Voting in a retention election on the Chief Justice, Associate Justices, and Judges of
26 the Appellate Division shall be the qualified voters of the whole State.

27 (4) Transition provisions. The term of office of a person who has been elected
28 before January 1, 2006, to the office of Chief Justice, Associate Justice, or Judge of the
29 Appellate Division for a term which extends beyond January 1, 2006, and who is in
30 office on January 1, 2006, is extended through June 30 of the year following the eighth
31 year after the date any such Justice or Judge was last elected to the office. If the person
32 so elected continues to serve for the remainder of the term, that person may stand for
33 retention in the office for a succeeding regular term as provided in this section, subject
34 to the provisions of G.S. 7A-4.20. If the person continues to serve for the remainder of
35 the term but does not stand for retention election, a vacancy is created in the office upon
36 expiration of the term, and this vacancy shall be filled by nomination and appointment
37 as provided in this section.

38 The term of office of a person who has been appointed before January 1, 2006, to the
39 office of Chief Justice, Associate Justice, or Judge of the Appellate Division for a term
40 which extends beyond January 1, 2006, and who is in office on January 1, 2006, shall
41 end on June 30, 2007. If the person so appointed continues to serve for the remainder of
42 the term, that person may stand for retention in the office for a regular term as provided
43 by this section at the statewide election for members of the General Assembly held in
44 2006.

1 Upon the death, resignation, removal, or retirement of any incumbent Justice or
2 Judge on or after January 1, 2006, and before the expiration of the Justice's or Judge's
3 term of office, the resulting vacancy shall be filled by nomination and appointment as
4 provided in this section.

5 Vacancies in judicial offices in the Appellate Division occurring before January 1,
6 2006, and not filled by that date, shall be filled by nomination and appointment as
7 provided in this section.

8 From the date any incumbent described in this subsection is continued in office by
9 retention vote for a term next succeeding the term in progress on January 1, 2006, or is
10 succeeded in office by another person, the office is held subject to the provisions of this
11 section.

12 (5) The General Assembly may implement this section by general law."

13 **SECTION 2.** The amendment set out in Section 1 of this act shall be
14 submitted to the qualified voters of the State at an election on November 8, 2005, which
15 election shall be conducted under the laws then governing elections in the State.
16 Ballots, voting systems, or both may be used in accordance with Chapter 163 of the
17 General Statutes. The question on the ballot shall be:

18 "[] FOR [] AGAINST

19 Constitutional amendment to replace the present practice of selecting Justices
20 and Judges of the Appellate Division by gubernatorial appointment, followed by
21 partisan elections, with a method by which Justices and Judges of the Appellate
22 Division will be nominated by a nominating commission, appointed by the Governor,
23 and then serve for limited terms after which the question of the Justice's or Judge's
24 retention in office is regularly submitted for approval or disapproval by nonpartisan vote
25 of the people at general elections, and to provide for election of superior court judges in
26 their districts."

27 **SECTION 3.** If a majority of votes cast on the question are in favor of the
28 amendment set out in Section 1 of this act, the State Board of Elections shall certify the
29 amendment to the Secretary of State. The amendment becomes effective upon this
30 certification. The Secretary of State shall enroll the amendment so certified among the
31 permanent records of that office.

32 **SECTION 3.1.** Chapter 7A of the General Statutes is amended by adding a
33 new Article to read:

34 "Article 1A.

35 "Appointment of Justices and Judges; Retention Elections."

36 "**§ 7A-4.1. Nomination of justices and judges by nominating commission and**
37 **appointment by Governor.**

38 The offices of Chief Justice and Justice of the Supreme Court and Judge of the Court
39 of Appeals are filled by nomination by the Judicial Nomination Commission and
40 appointment by the Governor in accordance with Section 16 of Article IV of the North
41 Carolina Constitution.

42 "**§ 7A-4.2. Judicial Nomination Commission – creation; membership; terms;**
43 **administration.**

1 (a) The Judicial Nomination Commission is created within the Administrative
2 Office of the Courts for budgetary purposes.

3 (b) The Commission shall consist of 18 members as follows:

4 (1) A district attorney chosen by the Conference of District Attorneys;

5 (2) A public defender chosen by the public defenders;

6 (3) A superior court judge chosen by the Conference of Superior Court
7 Judges;

8 (4) A district court judge chosen by the Conference of District Court
9 Judges;

10 (5) A clerk of superior court chosen by the Association of Clerks of
11 Superior Court of North Carolina;

12 (6) Six attorneys appointed by the Council of the State Bar to include at
13 least one attorney actively engaged in the practice of criminal defense
14 law, one attorney actively engaged in a civil law practice representing
15 plaintiffs, and one attorney actively engaged in a civil law practice
16 representing defendants;

17 (7) A present or former dean of an accredited law school in North
18 Carolina appointed by the Council of the State Bar;

19 (8) Two nonattorneys appointed by the Governor;

20 (9) Two nonattorneys appointed by the General Assembly upon the
21 recommendation of the Speaker of the House of Representatives; and

22 (10) Two nonattorneys appointed by the General Assembly upon the
23 recommendation of the President Pro Tempore of the Senate.

24 (c) Members of the Commission shall serve for staggered four-year terms.
25 One-half of the appointees shall serve an initial term of two years, as determined by lot
26 at the first meeting of the Commission. The remainder of the appointees shall serve an
27 initial term of four years. Commission members may not serve more than two
28 consecutive terms.

29 (d) All members of the Commission are voting members. The members shall
30 elect a chair at the Commission's first meeting. The chair shall preside for the duration
31 of the chair's term as a member. Vacancies in the appointed membership shall be filled
32 by the appointing officer who made the initial appointment.

33 (e) Members, staff, and consultants of the Commission shall receive travel and
34 subsistence expenses in accordance with the provisions of G.S. 120-3.1, paid from funds
35 appropriated to implement this Article and within the limits of those funds.

36 (f) No member of the General Assembly shall serve concurrently as a member of
37 the Commission.

38 **"§ 7A-4.3. Judicial Nomination Commission; duties.**

39 The Commission shall:

40 (1) Establish operating procedures for the Commission.

41 (2) Solicit judicial nominations from interested persons and members of
42 the general public to fill appellate court vacancies.

43 (3) Establish and publicize the procedures for submitting a candidate to be
44 considered by the Commission.

- 1 (4) Interview and investigate candidates for judicial appointment to the
2 appellate courts.
- 3 (5) Nominate persons to the Governor for appointment to the appellate
4 courts.
- 5 (6) Review and evaluate the tenure of Justices and Judges who must stand
6 for a retention election.
- 7 (7) Issue a report on Justices and Judges standing for a retention election
8 90 days before the retention election. The report shall include: (i)
9 information the Commission believes would be helpful to the citizens
10 of North Carolina; and (ii) information regarding any disciplinary
11 action taken against a Justice or Judge during tenure. The report may
12 include a recommendation by the Commission for or against the
13 Justice's or Judge's retention.
- 14 (8) Perform any other duties the Commission deems necessary to carry out
15 the mandate of this Article.

16 **"§ 7A-4.4. Nomination procedures.**

17 (a) The Commission may conduct an investigation of a nominee. The
18 investigation may include an evaluation of the nominee's ethical conduct, the nominee's
19 knowledge of and application of the law, the nominee's management of the courts over
20 which he has presided, the nominee's work habits, the nominee's health, and the
21 nominee's judicial demeanor. The nominee or Judge shall be given an opportunity to
22 present to the Commission any information that the nominee determines to be
23 appropriate.

24 (b) The Commission shall be allowed to inspect the files of the Judicial Standards
25 Commission by request of the chair of the Commission. Notwithstanding the provisions
26 of G.S. 7A-377, the files of the Judicial Standards Commission shall be made available
27 to the Commission. Testimony and other evidence presented to the Commission are
28 privileged in any action for defamation.

29 (c) The Commission shall nominate at least three and no more than five persons
30 to be considered by the Governor for judicial appointment within 60 days of any
31 vacancy in office that occurs because of death, resignation, retirement, failure to be
32 retained, or any other reason. The Governor may appoint a person who was not
33 nominated by the Commission.

34 (d) The internal files and information obtained by the Commission during the
35 examination of a potential judicial nominee are not public records until such time as the
36 candidate is recommended to the Governor for a judicial appointment. Nominations, the
37 Commission's vote on judicial nominees, and reports made by the Commission are
38 public records.

39 **"§ 7A-4.5. Governor to issue commissions to justices and judges.**

40 Every person duly nominated by the Judicial Nomination Commission and
41 appointed by the Governor as Chief Justice of the Supreme Court, Associate Justice of
42 the Supreme Court, or Judge of the Court of Appeals shall procure from the Governor a
43 commission attesting that fact.

1 When a Judge is retained in office by vote of the people, the Governor shall issue a
2 commission attesting that fact, which the Governor shall issue upon receipt of a
3 certification by the Secretary of State of the results of the election.

4 **"§ 7A-4.6. No elections in 2006.**

5 No election as previously provided by law for Chief Justice or Associate Justice of
6 the Supreme Court, or Judge of the Court of Appeals shall be held in 2006 or thereafter.

7 **"§ 7A-4.7. Retention elections.**

8 (a) As provided by Section 16 of Article IV of the North Carolina Constitution, a
9 Chief Justice or Associate Justice of the Supreme Court or Judge of the Court of
10 Appeals desiring to continue in office shall be subject to approval by nonpartisan ballot,
11 by a majority of votes cast on the issue of the Justice's or Judge's retention.

12 (b) A person subject to subsection (a) of this section shall indicate the desire to
13 continue in office by filing a notice to that effect with the State Board of Elections no
14 later than 12:00 noon on the first business day of July in the year of the election. The
15 notice shall be on a form approved by the State Board of Elections. Notice can be
16 withdrawn at any time prior to the deadline for filing notice under this subsection.

17 (c) Retention elections shall be conducted and canvassed in accordance with
18 rules of the State Board of Elections in the same general manner as general elections
19 under Chapter 163 of the General Statutes, except that the retention election is
20 nonpartisan. The form of the ballot shall be determined by the State Board of Elections.

21 (d) Retention elections shall be placed at the top of the ballot above all other
22 elections or matters for decision, whether partisan, nonpartisan, or otherwise.

23 (e) If a person who has filed a notice calling a retention election dies or is
24 removed from office prior to the time that the ballots are printed, the retention election
25 is cancelled. If a person who has filed a notice calling a retention election dies or is
26 removed from office after the ballots are printed, the State Board of Elections may
27 cancel the election if it determines that the ballots can be reprinted without significant
28 expense. If the ballots cannot be reprinted, then the results of the election shall be
29 ineffective."

30 **SECTION 3.2.** For the purpose of Section 1 of this act, terms of Justices and
31 Judges covered by Section 2 of Chapter 98 of the 1995 Session Laws are as provided by
32 that act.

33 **SECTION 3.3.** G.S. 7A-10(a) reads as rewritten:

34 "(a) The Supreme Court shall consist of a Chief Justice and six associate justices,
35 elected by the qualified voters of the State for terms of eight yearsselected as provided
36 by Article 1A of this Chapter. Before entering upon the duties of his office, each justice
37 shall take an oath of office. Four justices shall constitute a quorum for the transaction of
38 the business of the court. Sessions of the court shall be held in the city of Raleigh, and
39 scheduled by rule of court so as to discharge expeditiously the court's business. The
40 court may by rule hold sessions not more than twice annually in the Old Chowan
41 County Courthouse (1767) in the Town of Edenton, which is a State-owned court
42 facility that is designated as a National Historic Landmark by the United States
43 Department of the Interior."

44 **SECTION 3.4.** G.S. 7A-16 reads as rewritten:

1 **"§ 7A-16. Creation and organization.**

2 ~~The Court of Appeals is created effective January 1, 1967. It shall consist initially of~~
3 ~~six judges, elected by the qualified voters of the State for terms of eight years. The~~
4 ~~Chief Justice of the Supreme Court shall designate one of the judges as Chief Judge, to~~
5 ~~serve in such capacity at the pleasure of the Chief Justice. Before entering upon the~~
6 ~~duties of his office, a judge of the Court of Appeals shall take the oath of office~~
7 ~~prescribed for a judge of the General Court of Justice.~~

8 ~~The Governor on or after July 1, 1967, shall make temporary appointments to the six~~
9 ~~initial judgeships. The appointees shall serve until January 1, 1969. Their successors~~
10 ~~shall be elected at the general election for members of the General Assembly in~~
11 ~~November, 1968, and shall take office on January 1, 1969, to serve for the remainder of~~
12 ~~the unexpired term which began on January 1, 1967.~~

13 ~~Upon the appointment of at least five judges, and the designation of a Chief Judge,~~
14 ~~the court is authorized to convene, organize, and promulgate, subject to the approval of~~
15 ~~the Supreme Court, such supplementary rules as it deems necessary and appropriate for~~
16 ~~the discharge of the judicial business lawfully assigned to it.~~

17 ~~Effective January 1, 1969, the number of judges is increased to nine, and the~~
18 ~~Governor, on or after March 1, 1969, shall make temporary appointments to the~~
19 ~~additional judgeships thus created. The appointees shall serve until January 1, 1971.~~
20 ~~Their successors shall be elected at the general election for members of the General~~
21 ~~Assembly in November, 1970, and shall take office on January 1, 1971, to serve for the~~
22 ~~remainder of the unexpired term which began on January 1, 1969.~~

23 ~~Effective January 1, 1977, the number of judges is increased to 12; and the~~
24 ~~Governor, on or after July 1, 1977, shall make temporary appointments to the additional~~
25 ~~judgeships thus created. The appointees shall serve until January 1, 1979. Their~~
26 ~~successors shall be elected at the general election for members of the General Assembly~~
27 ~~in November, 1978, and shall take office on January 1, 1979, to serve the remainder of~~
28 ~~the unexpired term which began on January 1, 1977.~~

29 ~~On or after December 15, 2000, the Governor shall appoint three additional judges~~
30 ~~to increase the number of judges to 15.~~

31 The Court of Appeals shall consist of 15 judges, selected as provided in Article 1A
32 of this Chapter. The Chief Justice of the Supreme Court shall designate one of the
33 judges as Chief Judge to serve in such capacity at the pleasure of the Chief Justice.
34 Before entering upon the duties of his office, a Judge of the Court of Appeals shall take
35 the oath of office prescribed for a Judge of the General Court of Justice.

36 The Court of Appeals shall sit in panels of three judges each. The Chief Judge
37 insofar as practicable shall assign the members to panels in such fashion that each
38 member sits a substantially equal number of times with each other member. He shall
39 preside over the panel of which he is a member, and shall designate the presiding judge
40 of the other panel or panels.

41 Three judges shall constitute a quorum for the transaction of the business of the
42 court, except as may be provided in G.S. 7A-32.

43 In the event the Chief Judge is unable, on account of absence or temporary
44 incapacity, to perform the duties placed upon him as Chief Judge, the Chief Justice shall

1 appoint an acting Chief Judge from the other judges of the Court, to temporarily
2 discharge the duties of Chief Judge."

3 **SECTION 3.5.** G.S. 163-1 is amended in the table by deleting the entries for
4 "Justices and Judges of the Appellate Division".

5 **SECTION 3.6.** G.S. 163-9 reads as rewritten:

6 "**§ 163-9. Filling vacancies in State and district judicial offices.**

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

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

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

20 (1) With only one resident judge; or

21 (2) In which no county is subject to section 5 of the Voting Rights Act of
22 1965,

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

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

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

33 **SECTION 3.7.** G.S. 143-318.11(a) is amended by adding the following new
34 subdivision to read:

35 "(10) To consider the qualifications, competence, performance, character,
36 and fitness of a candidate who is seeking a judicial nomination to the
37 Governor by the Judicial Nomination Commission."

38 **SECTION 3.8.** The title of Subchapter X of Chapter 163 of the General
39 Statutes reads as rewritten:

40 "**SUBCHAPTER X. ELECTION OF APPELLATE, SUPERIOR, SUPERIOR**
41 **AND DISTRICT COURT JUDGES.**"

42 **SECTION 3.9.** The title of Article 25 of Chapter 163 of the General Statutes
43 reads as rewritten:

44 "Article 25.

"Nomination and Election of ~~Appellate, Superior, Superior~~ and District Court Judges."

SECTION 3.9A. G.S. 163-321 reads as rewritten:

"§ 163-321. Applicability.

The nomination and election of ~~justices of the Supreme Court, judges of the Court of Appeals, and~~ superior and district court judges of the General Court of Justice shall be as provided by this Article."

SECTION 3.9B. G.S. 163-323 reads as rewritten:

"§ 163-323. Notice of candidacy.

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

Date: _____

I hereby file notice that I am a candidate for election to the office of _____ in the regular election to be held _____, ____.

Signed: _____

(Name of Candidate)

Witness: _____

The notice of candidacy shall be either signed in the presence of the chairman or secretary of the State Board of Elections, or signed and acknowledged before an officer authorized to take acknowledgments who shall certify the notice under seal. An acknowledged and certified notice may be mailed to the State Board of Elections. In signing a notice of candidacy, the candidate shall use only the candidate's legal name and, in his discretion, any nickname by which commonly known. A candidate may also, in lieu of that candidate's first name and legal middle initial or middle name, if any, sign that candidate's nickname, provided the candidate appends to the notice of candidacy an affidavit that the candidate has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way the candidate's name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

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

(b) Time for Filing Notice of Candidacy. – Candidates seeking election to the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the election:

~~Justices of the Supreme Court.~~

~~Judges of the Court of Appeals.~~

Judges of the superior courts.

1 Judges of the district courts.

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

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

20 (e) Candidacy for More Than One Office Prohibited. – No person may file a
21 notice of candidacy for more than one office or group of offices described in subsection
22 (b) of this section, or for an office or group of offices described in subsection (b) of this
23 section and an office described in G.S. 163-106(c), for any one election. If a person has
24 filed a notice of candidacy with a board of elections under this section or under
25 G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not
26 later be filed for any other office or group of offices under this section when the election
27 is on the same date unless the notice of candidacy for the first office is withdrawn under
28 subsection (c) of this section.

29 (f) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any
30 election in which there are two or more vacancies for the office of ~~justice of the~~
31 ~~Supreme Court, judge of the Court of Appeals, or~~ district court judge to be filled by
32 nominations, each candidate shall, at the time of filing notice of candidacy, file with the
33 State Board of Elections a written statement designating the vacancy to which the
34 candidate seeks election. Votes cast for a candidate shall be effective only for election
35 to the vacancy for which the candidate has given notice of candidacy as provided in this
36 subsection.

37 A person seeking election for a specialized district judgeship established under
38 G.S. 7A-147 shall, at the time of filing notice of candidacy, file with the State Board of
39 Elections a written statement designating the specialized judgeship to which the person
40 seeks nomination.

41 (g) No person may file a notice of candidacy for superior court judge unless that
42 person is at the time of filing the notice of candidacy a resident of the judicial district as
43 it will exist at the time the person would take office if elected. No person may be
44 nominated as a superior court judge under G.S. 163-114 unless that person is at the time

1 of nomination a resident of the judicial district as it will exist at the time the person
2 would take office if elected. This subsection implements Article IV, Section 9(1) of the
3 North Carolina Constitution which requires regular Superior Court Judges to reside in
4 the district for which elected."

5 **SECTION 3.10.** G.S. 163-325 reads as rewritten:

6 "**§ 163-325. Petition in lieu of payment of filing fee.**

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

10 (b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking
11 the office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ superior or
12 district court judge, that individual shall file a written petition with the State Board of
13 Elections no later than 12:00 noon on Monday preceding the filing deadline before the
14 primary. ~~If the office is justice of the Supreme Court or judge of the Court of Appeals,~~
15 ~~the petition shall be signed by 10,000 registered voters in the State.~~ If the office is
16 superior court or district court judge, the petition shall be signed by ten percent (10%) of
17 the registered voters of the election area in which the office will be voted for. The board
18 of elections shall verify the names on the petition, and if the petition and notice of
19 candidacy are found to be sufficient, the candidate's name shall be printed on the
20 appropriate ballot. Petitions must be presented to the county board of elections for
21 verification at least 15 days before the petition is due to be filed with the State Board of
22 Elections. The State Board of Elections may adopt rules to implement this section and
23 to provide standard petition forms."

24 **SECTION 3.11.** G.S. 163-326(b) reads as rewritten:

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

35 **SECTION 3.12.** G.S. 163-327(b) reads as rewritten:

36 "(b) Death, Disqualification, or Resignation of Official After Election. – If a
37 person elected to the office of ~~justice of the Supreme Court, judge of the Court of~~
38 ~~Appeals, or~~ superior or district court judge dies, becomes disqualified, or resigns on or
39 after election day and before he has qualified by taking the oath of office, the office
40 shall be deemed vacant and shall be filled as provided by law."

41 **SECTION 3.13.** G.S. 163-329 reads as rewritten:

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

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

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

- 15 (1) The filing period shall be prescribed by the State Board of Elections,
16 but in no event may it be less than five working days. If a vacancy
17 occurs in a second office in the same superior court district after the
18 first filing period established under the section has closed, the State
19 Board of Elections shall reopen filing for a period of not less than five
20 working days for the office of ~~justice of the Supreme Court, judge of~~
21 ~~the Court of Appeals, or~~ superior court judge. All persons filing in
22 either filing period shall run as a group and the election results shall be
23 determined by subdivision (3) of this subsection.
- 24 (2) When more than one person is seeking election to a single office, the
25 candidate who receives the highest number of votes shall be declared
26 elected.
- 27 (3) When more persons are seeking election to two or more offices
28 (constituting a group) than there are offices to be filled, those
29 candidates receiving the highest number of votes, equal in number to
30 the number of offices to be filled, shall be declared elected.
- 31 (4) If two or more candidates receiving the highest number of votes each
32 receive the same number of votes, the board of elections shall resolve
33 the tie in accordance with G.S. 163-182.8.
- 34 (5) Except as provided in this section, the provisions of this Article apply
35 to elections conducted under this section."

36 **SECTION 3.14.** G.S. 163-332(b) reads as rewritten:

37 "(b) Ballots to Be Furnished by County Board of Elections. – It shall be the duty
38 of the county board of elections to print official ballots for the following offices to be
39 voted for in the primary:

- 40 ~~Justice of the Supreme Court.~~
- 41 ~~Judge of the Court of Appeals.~~
- 42 Superior court judge.
- 43 District court judge.

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

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

9 **SECTION 3.15.** The General Assembly recognizes the importance of having
10 a well-qualified and diverse group of Justices and Judges to serve on the State's
11 appellate courts. In selecting persons to serve on the Judicial Nomination Commission,
12 the appointing authority should select, from among the most qualified persons, those
13 persons whose appointment would promote gender, ethnic, racial, and geographical
14 diversity in the membership of the Commission. When appointing nonattorneys to the
15 Commission, the Governor, Speaker of the House of Representatives, and the President
16 Pro Tempore of the Senate are encouraged to consider individuals with experience in
17 alternative dispute resolution, individuals with experience working with victim
18 assistance programs, and individuals with an interest in children's and family issues.

19 **SECTION 3.16.** Sections 3.1 through 3.15 of this act are effective only if the
20 constitutional amendment proposed by Section 1 of this act is approved by the qualified
21 voters in accordance with Section 2 of this act.

22 **SECTION 4.** Except as otherwise provided for, this act is effective when it
23 becomes law.