

March 4, 2009

**H 414. JUDICIAL APPOINTMENT/VOTER RETENTION.** Filed 3/4/09. 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.

Subject to approval by the voters at the November 3, 2009, general election, amends Section 16 of Article IV of the North Carolina Constitution and GS Chapter 7A to create a nomination, appointment, and retention election system for appellate judges and justices.

Current law provides for the election of judges of the Superior Court, judges of the Court of Appeals, and justices of the Supreme Court. This act retains elections for Superior Court judges but creates a new appointment and retention process for Court of Appeals judges and Supreme Court justices beginning with all vacancies on those two courts existing or arising on or after January 1, 2010. To fill such a vacancy, the Governor will appoint a person for a term that extends through June 30 after the next statewide election for members of the General Assembly that is held more than 18 months after the appointment. At that election, the judge or justice will be subject to voter approval in a nonpartisan retention election. If the voters fail to approve the retention of the judge or justice by a majority of votes cast, the office shall become vacant at the end of the term and the Governor will appoint a replacement as above. If the voters approve the retention of the judge or justice, that individual will serve an 8-year regular term. Judges or justices who desire to continue in office after the expiration of an 8-year regular term will sit for a retention election during the next general election preceding June 30 of the year in which the regular term will expire.

The term of an elected appellate judge or justice in office on January 1, 2010, will be extended to June 30 of the year following the eighth year after the judge or justice was most recently elected. If such person wishes to remain in office at the end of that term, he or she must sit for a retention election as above.

The term of appointed appellate justices or judges in office on January 1, 2010 will end on June 30, 2011. If such person wishes to remain in office after that date, he or she must sit for a retention election in the 2010 statewide elections.

Requires persons appointed by the Governor to fill appellate judge and justice vacancies as above to first be nominated by an 18-member Judicial Nomination Commission (JNC) created by the new GS Chapter 7A, Article 1A. Specifies JNC members, who serve staggered four-year terms. Establishes JNC duties and nomination procedures. Within 60 days of an appellate judge or justice vacancy, the JNC must nominate between three and five individuals for consideration by the Governor. Requires the Governor to issue commissions to those judges appointed or retained in office. Establishes the procedure for retention elections.

Makes additional conforming statutory changes.

**Intro. by Rhyne.**

CONST, GS 7A, 143,163