

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE PRINCIPAL CLERK

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HOUSE DRH20002-LU-15A (12/08)

Short Title: Restore Partisan Statewide Judicial Elections. (Public)

Sponsors: Representatives Jones, Iler, R. Brown, and Jordan (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO RESTORE PARTISAN STATEWIDE JUDICIAL ELECTIONS.  
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 163-106 reads as rewritten:  
5 "**§ 163-106. Notices of candidacy; pledge; with whom filed; date for filing; withdrawal.**

6 ...  
7 (c) Time for Filing Notice of Candidacy. – Candidates seeking party primary  
8 nominations for the following offices shall file their notice of candidacy with the State Board of  
9 Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00  
10 noon on the last business day in February preceding the primary:

11 Governor  
12 Lieutenant Governor  
13 All State executive officers  
14 Justices of the Supreme Court  
15 Judges of the Court of Appeals  
16 United States Senators  
17 Members of the House of Representatives of the United States  
18 District attorneys

19 Candidates seeking party primary nominations for the following offices shall file their  
20 notice of candidacy with the county board of elections no earlier than 12:00 noon on the second  
21 Monday in February and no later than 12:00 noon on the last business day in February  
22 preceding the primary:

23 State Senators  
24 Members of the State House of Representatives  
25 All county offices.

26 (d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any primary in  
27 which there are two or more vacancies for associate justices for the Supreme Court, two or  
28 more vacancies for the Court of Appeals, or two vacancies for United States Senator from  
29 North Carolina, each candidate shall, at the time of filing notice of candidacy, file with the  
30 State Board of Elections a written statement designating the vacancy to which ~~he~~the candidate  
31 seeks nomination. Votes cast for a candidate shall be effective only for ~~his~~the candidate  
32 vacancy for which ~~he~~the candidate has given notice of candidacy as provided in this  
33 subsection.

34 ...."

35 **SECTION 2.** G.S. 163-107(a) reads as rewritten:



\* D R H 2 0 0 0 2 - L U - 1 5 A \*

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

<b>Office Sought</b>	<b>Amount of Filing Fee</b>
Governor	One percent (1%) of the annual salary of the office sought
Lieutenant Governor	One percent (1%) of the annual salary of the office sought
All State executive offices	One percent (1%) of the annual salary of the office sought
All <u>Justices of the Supreme Court, Judges of the Court of Appeals, and District Attorneys of the General Court of Justice</u>	One percent (1%) of the annual salary of the office sought
United States Senator	One percent (1%) of the annual salary of the office sought
Members of the United States House of Representatives	One percent (1%) of the annual salary of the office sought
State Senator	One percent (1%) of the annual salary of the office sought
Member of the State House of Representatives	One percent (1%) of the annual salary of the office sought
All county offices not compensated by fees	One percent (1%) of the annual salary of the office sought
All county offices compensated partly by salary and partly by fees	One percent (1%) of the first annual salary to be received (exclusive of fees)

The salary of any office that is the basis for calculating the filing fee is the starting salary for the office, rather than the salary received by the incumbent, if different. If no starting salary can be determined for the office, then the salary used for calculation is the salary of the incumbent, as of January 1 of the election year."

**SECTION 3.** G.S. 163-107.1(b) reads as rewritten:

"(b) If the candidate is seeking the office of United States Senator, Governor, Lieutenant Governor, ~~or~~ any State executive officer, Justice of the Supreme Court, or Judge of the Court of Appeals, the petition must be signed by 10,000 registered voters who are members of the political party in whose primary the candidate desires to run, except that in the case of a political party as defined by G.S. 163-96(a)(2) which will be making nominations by primary election, the petition must be signed by five percent (5%) of the registered voters of the State who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 8,000 registered voters regardless of the voter's political party affiliation, whichever requirement is greater. The petition must be filed with the State Board of Elections not later than 12:00 noon on Monday preceding the filing deadline before the primary in which he seeks to run. The names on the petition shall be verified by the board of elections of the county where the signer is registered, and the petition must be presented to the county board of elections at least 15 days before the petition is due to be filed with the State Board of Elections. When a proper petition has been filed, the candidate's name shall be printed on the primary ballot."

**SECTION 4.** G.S. 163-111(c)(1) reads as rewritten:

"(c) Procedure for Requesting Second Primary.  
 (1) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and

1 desiring to do so, shall file a request for a second primary in writing with the  
 2 Executive Director of the State Board of Elections no later than 12:00 noon  
 3 on the ninth day (including Saturdays and Sundays) following the date on  
 4 which the primary was conducted, and such request shall be subject to the  
 5 certification of the official results by the State Board of Elections. If the vote  
 6 certification by the State Board of Elections determines that a candidate who  
 7 was not originally thought to be eligible to call for a second primary is in  
 8 fact eligible to call for a second primary, the Executive Director of the State  
 9 Board of Elections shall immediately notify such candidate and permit ~~him~~  
 10 the candidate to exercise any options available to ~~him~~ the candidate within a  
 11 48-hour period following the notification:

- 12 Governor,
- 13 Lieutenant Governor,
- 14 All State executive officers,
- 15 Justices of the Supreme Court, Judges of the Court of Appeals, or
- 16 District Attorneys of the General Court of Justice,
- 17 United States Senators,
- 18 Members of the United States House of Representatives,
- 19 State Senators in multi-county senatorial districts, and
- 20 Members of the State House of Representatives in multi-county
- 21 representative districts."

22 **SECTION 5.** Subchapter X of Chapter 163 of the General Statutes reads as  
 23 rewritten:

24 **"SUBCHAPTER X. ELECTION OF APPELLATE, SUPERIOR, SUPERIOR AND**  
 25 **DISTRICT COURT JUDGES.**

26 "Article 25.

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

28 **"§ 163-321. Applicability.**

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

32 ...

33 **"§ 163-323. Notice of candidacy.**

34 ...

35 (b) Time for Filing Notice of Candidacy. – Candidates seeking election to the following  
 36 offices shall file their notice of candidacy with the State Board of Elections no earlier than  
 37 12:00 noon on the second Monday in February and no later than 12:00 noon on the last  
 38 business day in February preceding the election:

39 ~~Justices of the Supreme Court.~~

40 ~~Judges of the Court of Appeals.~~

41 Judges of the superior courts.

42 Judges of the district courts.

43 ...

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

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

4 ...  
5 **"§ 163-325. Petition in lieu of payment of filing fee.**

6 ...  
7 (b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking the  
8 office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ superior or district  
9 court judge, that individual shall file a written petition with the State Board of Elections no  
10 later than 12:00 noon on Monday preceding the filing deadline before the primary. ~~If the office~~  
11 ~~is justice of the Supreme Court or judge of the Court of Appeals, the petition shall be signed by~~  
12 ~~8,000 registered voters in the State. If the office is superior court or district court judge, the~~ The  
13 petition shall be signed by five percent (5%) of the registered voters of the election area in  
14 which ~~the office will be voted for. the registered voters will vote for the office.~~ The board of  
15 elections shall verify the names on the petition, and if the petition and notice of candidacy are  
16 found to be sufficient, the candidate's name shall be printed on the appropriate ballot. Petitions  
17 must be presented to the county board of elections for verification at least 15 days before the  
18 petition is due to be filed with the State Board of Elections. The State Board of Elections may  
19 adopt rules to implement this section and to provide standard petition forms.

20 **"§ 163-326. Certification of notices of candidacy.**

21 ...  
22 (b) Notification of Local Boards. – No later than 10 days after the time for filing notices  
23 of candidacy under the provisions of G.S. 163-323(b) has expired, the chairman of the State  
24 Board of Elections shall certify to the chairman of the county board of elections in each county  
25 in the appropriate district the names of candidates for nomination to the offices of ~~justice of the~~  
26 ~~Supreme Court, judge of the Court of Appeals, and~~ superior and district court judge who have  
27 filed the required notice and paid the required filing fee or presented the required petition to the  
28 State Board of Elections, so that their names may be printed on the official judicial ballot for  
29 ~~justice of the Supreme Court, judge of the Court of Appeals, and~~ superior and district court.

30 ...  
31 **"§ 163-329. Elections to fill vacancy in office created after primary filing period opens.**

32 (a) General. – If a vacancy is created in the office of ~~justice of the Supreme Court,~~  
33 ~~judge of the Court of Appeals, or~~ judge of superior court after the filing period for the primary  
34 opens but more than 60 days before the general election, and under the Constitution of North  
35 Carolina an election is to be held for that position, such that the office shall be filled in the  
36 general election as provided in G.S. 163-9, the election to fill the office for the remainder of the  
37 term shall be conducted without a primary using the method provided in subsection (b1) of this  
38 section. If a vacancy is created in the office of ~~justice of the Supreme Court, judge of the Court~~  
39 ~~of Appeals, or~~ judge of superior court before the filing period for the primary opens, and under  
40 the Constitution of North Carolina an election is to be held for that position, such that the office  
41 shall be filled in the general election as provided in G.S. 163-9, the election to fill the office for  
42 the remainder of the term shall be conducted in accordance with G.S. 163-322.

43 (b) Repealed by Session Laws 2006-192, s. 8(a), effective August 3, 2006, and  
44 applicable to vacancies occurring on or after that date.

45 (b1) Method for Vacancy Election. – If a vacancy for the office of ~~justice of the Supreme~~  
46 ~~Court, judge of the Court of Appeals, or~~ judge of the superior court occurs more than 60 days  
47 before the general election and after the opening of the filing period for the primary, then the  
48 State Board of Elections shall designate a special filing period of one week for candidates for  
49 the office. If more than two candidates file and qualify for the office in accordance with  
50 G.S. 163-323, then the Board shall conduct the election for the office as follows:

(1) When the vacancy described in this section occurs more than 63 days before the date of the second primary for members of the General Assembly, a special primary shall be held on the same day as the second primary. The two candidates with the most votes in the special primary shall have their names placed on the ballot for the general election held on the same day as the general election for members of the General Assembly.

(2) When the vacancy described in this section occurs less than 64 days before the date of the second primary, a general election for all the candidates shall be held on the same day as the general election for members of the General Assembly and the results shall be determined on a plurality basis as provided by G.S. 163-292.

(3) Repealed by Session Laws 2013-381, s. 51.1, effective January 1, 2014.

(c) Applicable Provisions. – Except as provided in this section, the provisions of this Article apply to elections conducted under this section.

(d) Rules. – The State Board of Elections shall adopt rules for the implementation of this section. The rules are not subject to Article 2A of Chapter 150B of the General Statutes. The rules shall include the following:

(1) If after the first-choice candidate is eliminated, a ballot does not indicate one of the uneliminated candidates as an alternative choice, the ballot is exhausted and shall not be counted after the initial round.

(2) The fact that the voter does not designate a second or third choice does not invalidate the voter's higher choice or choices.

(3) The fact that the voter gives more than one ranking to the same candidate shall not invalidate the vote. The highest ranking given a particular candidate shall count as long as the candidate is not eliminated.

(4) In case of a tie between candidates such that two or more candidates have an equal number of first choices and more than two candidates qualify for the second round, instant runoff voting shall be used to determine which two candidates shall advance to the second round.

...  
**"§ 163-332. Ballots.**

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

- ~~Justice of the Supreme Court.~~
- ~~Judge of the Court of Appeals.~~
- Superior court judge.
- District court judge.

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

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

...."

**SECTION 6.** This act becomes effective with respect to primaries and elections held on or after January 1, 2016.