

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE DRH10282-LUX-65 (02/12)

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

Sponsors: Representative Bryan.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO REPLACE THE PRESENT PRACTICE OF SELECTING JUDGES OF THE SUPERIOR AND DISTRICT COURTS WITH NOMINATION FROM A JUDICIAL NOMINATING COMMISSION AND APPOINTMENT BY THE GENERAL ASSEMBLY, FOLLOWED BY A RETENTION ELECTION AND TO MAKE CONFORMING STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Section 9(1) of Article IV of the Constitution of North Carolina reads as rewritten:

"Sec. 9. Superior Courts.

(1) Superior Court districts. The General Assembly shall, from time to time, divide the State into a convenient number of Superior Court judicial districts and shall provide for the ~~election—appointment and retention~~ of one or more Superior Court Judges for each ~~district-district~~ in the manner prescribed by Section 16 of this Article. Each regular Superior Court Judge shall reside in the district for which he is ~~elected-appointed~~. The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district.

...."

SECTION 1.(b) Section 10 of Article IV of the Constitution of North Carolina reads as rewritten:

"Sec. 10. District Courts.

The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be ~~elected-appointed by the General Assembly~~ for each district for a term of four ~~years, years~~ and retained by the ~~qualified voters of their respective districts~~ in a manner prescribed by law. When more than one District Judge is authorized and ~~elected-appointed~~ for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is ~~elected-appointed or retained~~. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The initial term of appointment for a magistrate shall be for two years and subsequent terms shall be for four years. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner



1 provided for original appointment to the office, unless otherwise provided by the General
2 Assembly."

3 **SECTION 1.(c)** Section 16 of Article IV of the Constitution of North Carolina
4 reads as rewritten:

5 "**Sec. 16. Terms of office and election of Justices of the Supreme Court, Court and Judges**
6 **of the Court of Appeals, and appointment and retention of Judges of the Superior Court.**

7 Justices of the Supreme ~~Court, Court and~~ Judges of the Court of Appeals, and regular Judges
8 ~~of the Superior Court Appeals~~ shall be elected by the qualified voters and shall hold office for
9 terms of eight years and until their successors are elected and qualified. Justices of the Supreme
10 Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State.
11 Regular Judges of the Superior Court ~~may~~ shall be ~~elected~~ appointed by the General Assembly
12 and retained by the qualified voters of ~~the State or by the voters of their respective districts, as~~
13 ~~the General Assembly may prescribe districts in a manner prescribed by law and shall hold~~
14 office for terms of eight years and until their successors are appointed and qualified. Vacancies
15 in the office of Judge of the Superior Court shall be filled for the unexpired term in a manner
16 prescribed by law."

17 **SECTION 1.(d)** The amendments set out in subsections (a) through (c) of this
18 section shall be submitted to the qualified voters of the State at an election on November 8,
19 2016, which election shall be conducted under the laws then governing elections in the State.
20 Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General
21 Statutes. The question on the ballot shall be:

22 " [] FOR [] AGAINST

23 Constitutional amendment to replace the present practice of selecting Judges of the
24 Superior Court and the District Court by appointment by the General Assembly, followed by
25 retention elections, and to provide that vacancies in the office of Regular Superior Court Judge
26 shall be filled as provided by law."

27 **SECTION 1.(e)** If a majority of votes cast on the question are in favor of the
28 amendments set out in subsections (a) through (c) of this section, the State Board of Elections
29 shall certify the amendments to the Secretary of State. The amendments become effective upon
30 this certification. The Secretary of State shall enroll the amendments so certified among the
31 permanent records of that office.

32 **SECTION 2.** Chapter 7A of the General Statutes is amended by adding a new
33 Article to read:

34 "Article 1A.

35 "Appointment and Retention of Superior and District Court Judges.

36 "Part 1. Appointment of Superior and District Court Judges.

37 "**§ 7A-4.1. Nomination of superior and district court judges by Judicial Nominating**
38 **Commission and appointment by General Assembly.**

39 Vacancies in the offices of superior court judge and district court judge are filled by
40 nomination of five candidates by the Judicial Nominating Commission and appointment of one
41 of the five nominees or another qualified person by the General Assembly as provided in this
42 Article.

43 "**§ 7A-4.2. Judicial Nominating Commission; creation; membership; terms;**
44 **administration.**

45 (a) The Judicial Nominating Commission is created within the Administrative Office of
46 the Courts for budgetary purposes.

47 (b) The Commission shall consist of 12 voting members appointed as follows:

48 (1) Two persons who are not attorneys, appointed by the Governor.

49 (2) One person who is not an attorney, appointed by the President Pro Tempore
50 of the Senate.

- 1 (3) One person who is not an attorney, appointed by the Speaker of the House of
2 Representatives.
- 3 (4) One person appointed by the President Pro Tempore of the Senate from a list
4 of three persons authorized to practice law in the courts of this State,
5 submitted by the North Carolina Bar Association.
- 6 (5) One person appointed by the Speaker of the House of Representatives from a
7 list of three persons authorized to practice law in the courts of this State,
8 submitted by the North Carolina Conference of District Attorneys.
- 9 (6) One person appointed by the Governor from a list of three persons
10 authorized to practice law in the courts of this State, submitted by the North
11 Carolina Advocates For Justice, Inc.
- 12 (7) One person appointed by the Governor from a list of three persons
13 authorized to practice law in the courts of this State, submitted by the North
14 Carolina Association of Defense Attorneys.
- 15 (8) One person appointed by the Governor from a list of three persons
16 authorized to practice law in the courts of this State, submitted by the North
17 Carolina Association of Women Attorneys, Inc.
- 18 (9) One person appointed by the Governor from a list of three persons
19 authorized to practice law in the courts of this State, submitted by the North
20 Carolina Association of Black Lawyers, Inc.
- 21 (10) One person appointed by the Governor from a list of three persons
22 authorized to practice law in the courts of this State, submitted by the
23 Council of the State Bar.
- 24 (11) One person appointed by the Governor from a list of three persons
25 authorized to practice law in the courts of this State, submitted by the
26 Commission on Indigent Defense Services.
- 27 (c) In addition to the voting members, all retired Chief Justices are nonvoting members
28 but shall not be considered in determining a quorum and may serve in addition to any other
29 offices they are authorized to hold under Chapter 128 of the General Statutes.
- 30 (d) Members of the Commission shall serve staggered four-year terms. One half of the
31 appointees shall serve an initial term of two years, as determined by lot at the first meeting of
32 the Commission. The remainder of the appointees shall serve an initial term of four years.
33 Commission members may not serve more than one full four-year term.
- 34 (e) Vacancies in the membership of the Commission shall be filled for the remainder of
35 the unexpired term by the appointing officer who made the initial appointment under the same
36 process as a regular appointment.
- 37 (f) The Governor shall appoint a chair from among the voting membership to serve a
38 two-year term. The Commission shall appoint from among its membership a vice-chair for a
39 two-year term and shall appoint a secretary.
- 40 (g) Members of the Commission shall not receive compensation but shall be paid
41 necessary subsistence and travel expenses as provided by G.S. 138-5 and G.S. 138-6 as
42 applicable, paid from funds appropriated to implement this Article and within the limits of
43 those funds.
- 44 (h) No member of the General Assembly shall serve concurrently as a member of the
45 Commission.
- 46 (i) In making appointments to the Commission from among lists of three nominated
47 persons, the General Assembly shall consider and give due regard to the following:
- 48 (1) An even balance of party affiliation.
- 49 (2) Law practice background, practice area, and practice setting.
- 50 (3) Race and ethnicity.
- 51 (4) Gender.

1 (5) Geography.

2 **"§ 7A-4.3. Judicial Nominating Commission; duties.**

3 The Commission shall do the following:

4 (1) Establish operating procedures for the Commission.

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

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

9 (4) Interview and investigate candidates for judicial appointment to the appellate
10 courts.

11 (5) Nominate persons to the Governor for appointment to the superior and
12 district courts.

13 (6) Review and evaluate the tenure of judges who must stand for a retention
14 election.

15 (7) Issue a report on justices and judges standing for a retention election 90 days
16 before the election. The report shall include (i) information the Commission
17 believes would be helpful to the citizens of North Carolina and (ii)
18 information regarding any disciplinary action taken against a justice or judge
19 during tenure. The report may include a recommendation by the
20 Commission for or against the justice's or judge's retention.

21 (8) Perform any other duties the Commission deems necessary to carry out the
22 mandate of this Article.

23 **"§ 7A-4.4. Nomination procedures; appointment by enactment of bill.**

24 (a) The Commission shall conduct an investigation of a candidate for nomination based
25 on criteria it establishes, including the following at a minimum:

26 (1) Integrity.

27 (2) Legal knowledge and ability.

28 (3) Professional experience demonstrating excellence in the profession.

29 (4) Judicial temperament.

30 (5) Diligence.

31 (6) Health.

32 (7) Personal financial responsibility.

33 (8) Public service.

34 (b) In choosing nominees, the Commission shall foster diversity in race, sex, ethnicity,
35 geography, and professional experience.

36 (c) The Commission shall establish a procedure for eligible persons to submit
37 themselves as candidates for nomination. If fewer than five eligible persons apply, the
38 Commission shall reopen the process one time.

39 (d) A candidate for nomination shall be given an opportunity to present to the
40 Commission any information that the candidate determines to be appropriate, including a
41 request for consideration for a specialized judgeship in accordance with G.S. 7A-147.

42 (e) The Commission shall not investigate any candidate for nomination who is not
43 eligible to hold the office.

44 (f) Notwithstanding G.S. 7A-377, the Commission may inspect the files of the Judicial
45 Standards Commission by request of the chair of the Commission. Testimony and other
46 evidence presented to the Commission are privileged in any action for defamation.

47 (g) The Commission shall nominate five persons to be considered by the General
48 Assembly for judicial appointment within 60 days of any vacancy in office. The General
49 Assembly shall appoint one of the persons nominated by the Commission or another qualified
50 person by enactment of a bill. The bill shall state the name of the person being appointed, the
51 office to which the appointment is being made, and the county of residence of the appointee.

1 (h) The internal files and information obtained by the Commission during the
2 examination of a potential judicial nominee are not public records until such time as the
3 candidate is recommended to the General Assembly for a judicial appointment. Nominations,
4 the Commission's vote on judicial nominees, and reports made by the Commission are public
5 records.

6 "Part 2. Retention Elections for Superior and District Court Judges.

7 **"§ 7A-4.10. Retention elections.**

8 (a) If a judge of superior court or a judge of district court was appointed to that office,
9 then the next election for that office shall be by ballot as otherwise provided by this Chapter
10 and Chapter 163 of the General Statutes.

11 (b) A judge of superior court or a judge of district court who was elected to that office
12 at the most recent election, whether by nonpartisan election or by retention election, who
13 desires to continue in office shall be subject to approval by nonpartisan ballot at the general
14 election immediately preceding the expiration of the term. Approval shall be by a majority of
15 votes cast on the issue of the judge's retention. The qualified voters of the whole State shall be
16 allowed to vote in a retention election of a judge of superior court or judge of district court.

17 (c) A person subject to subsection (b) of this section shall indicate the desire to continue
18 in office by filing a notice to that effect with the State Board of Elections no later than 12:00
19 noon on the first business day of July in the year prior to the election. The notice shall be on a
20 form approved by the State Board of Elections. Notice can be withdrawn at any time prior to
21 December 15 of that year. If no retention notice is filed, or if it is filed and timely withdrawn,
22 then a successor shall be appointed in accordance with Part 1 of this Article.

23 (d) Retention elections shall be conducted and canvassed in accordance with rules of
24 the State Board of Elections in the same general manner as general elections under Article 25
25 of Chapter 163 of the General Statutes.

26 (e) Retention elections shall be placed on the ballot in the same place as other
27 nonpartisan judicial elections. The question on the ballot shall be substantially in the following
28 form:

29 " FOR AGAINST

30 The retention of [name of Judge] on the superior court for a new term of eight years.";
31 " FOR AGAINST

32 The retention of [name of Judge] on the district court for a new term of eight years.", as
33 appropriate.

34 (f) If a person who has filed a notice calling a retention election dies or is removed
35 from office prior to the time that the ballots are printed, the retention election is cancelled. If a
36 person who has filed a notice calling a retention election dies or is removed from office after
37 the ballots are printed, the State Board of Elections may cancel the retention election if it
38 determines that the ballots can be reprinted without significant expense. If the ballots cannot be
39 reprinted, then the results of the retention election shall be ineffective.

40 (g) A person seeking retention for a specialized district judgeship established under
41 G.S. 7A-147 shall file with the State Board of Elections a written statement designating the
42 specialized judgeship to which the person seeks to be retained.

43 **"§ 7A-4.11. Retention approval; failure to retain.**

44 (a) If the voters vote to approve the retention in office of a superior court judge, the
45 judge shall be retained for a new eight-year term. If the voters vote to approve the retention in
46 office of a district court judge, the judge shall be retained for a new four-year term.

47 (b) If the voters fail to approve the retention in office of a judge of superior court or a
48 judge of district court, the office shall become vacant at the end of the term of office, the
49 incumbent shall not hold over, and it shall be filled by appointment as provided in Part 1 of this
50 Article.

51 **"§ 7A-4.12. Governor to issue commissions to judges.**

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

4 **SECTION 3.** G.S. 7A-41.2 reads as rewritten:

5 "**~~§ 7A-41.2. Nomination and election~~Selection of regular superior court judges.**

6 Candidates for the office of regular superior court judge shall be ~~both nominated and~~
7 ~~elected by the qualified voters of the superior court district for which the election is~~
8 ~~sought.~~selected as provided by Article 1A of this Chapter."

9 **SECTION 4.(a)** G.S. 7A-45.1 reads as rewritten:

10 "(a10) Except for the judgeships abolished pursuant to subsection (a8) of this section, upon
11 the retirement, resignation, removal from office, death, or expiration of the term of any special
12 superior court judge on or after September 1, 2014, but before January 1, 2018, each judgeship
13 shall be filled for a full five-year term beginning upon the judge's taking office according to the
14 following procedure prescribed by the General Assembly pursuant to Article IV, Section 9(1)
15 of the North Carolina Constitution. As each judgeship becomes vacant or the term expires, the
16 Governor shall submit the name of a nominee for that judgeship to the General Assembly for
17 confirmation by ratified joint resolution. Upon each such confirmation, the Governor shall
18 appoint the confirmed nominee to that judgeship.

19 However, upon the failure of the Governor to submit the name of a nominee within 90 days
20 of the occurrence of the vacancy or within 90 days of the expiration of the judge's term, as
21 applicable, the President Pro Tempore of the Senate and the Speaker of the House of
22 Representatives jointly shall submit the name of a nominee to the General Assembly. The
23 appointment shall then be made by enactment of a bill. The bill shall state the name of the
24 person being appointed, the office to which the appointment is being made, and the county of
25 residence of the appointee.

26 The Governor may withdraw any nomination prior to it failing on any reading, and in case
27 of such withdrawal the Governor shall submit a different nomination within 45 days of
28 withdrawal. If a nomination shall fail any reading, the Governor shall submit a different
29 nomination within 45 days of such failure. In either case of failure to submit a new nomination
30 within 45 days, the President Pro Tempore of the Senate and the Speaker of the House of
31 Representatives shall submit the name of a nominee to the General Assembly under the
32 procedure provided in the preceding paragraph.

33 No person shall occupy a special superior court judgeship authorized under this subsection
34 in any capacity, or have any right to, claim upon, or powers of those judgeships, unless that
35 person's nomination has been confirmed by the General Assembly by joint resolution or
36 appointed through the enactment of a bill upon the failure of the Governor to submit a nominee.
37 Until confirmed by the General Assembly and appointed by the Governor, or appointed by the
38 General Assembly upon the failure of the Governor to appoint a nominee, and qualified by
39 taking the oath of office, a nominee is neither a de jure nor a de facto officer."

40 **SECTION 4.(b)** G.S. 7A-45.1 is amended by adding a new subsection to read:

41 "(a11) Upon the retirement, resignation, removal from office, death, or expiration of the
42 term of any special superior court judge on or after January 1, 2018, each judgeship shall be
43 filled for a full five-year term beginning upon the judge's taking office as provided in Article
44 1A of this Chapter."

45 **SECTION 5.** G.S. 7A-140 reads as rewritten:

46 "**~~§ 7A-140. Number; election;~~selection; term; qualification; oath.**

47 There shall be at least one district judge for each district. Each district judge shall be ~~elected~~
48 ~~by the qualified voters of the district court district in which he or she is to serve at the time of~~
49 ~~the election for members of the General Assembly.~~selected as provided by Article 1A of this
50 Chapter. The number of judges for each district shall be determined by the General Assembly.

1 Each judge shall be a resident of the district ~~for which elected,~~from which selected, and shall
2 serve a term of four ~~years, beginning on the first day in January next after election.~~years.

3 Each district judge shall devote his or her full time to the duties of the office. He or she
4 shall not practice law during the term, nor shall he or she during such term be the partner or
5 associate of any person engaged in the practice of law.

6 Before entering upon his or her duties, each district judge, in addition to other oaths
7 prescribed by law, shall take the oath of office prescribed for a judge of the General Court of
8 Justice."

9 **SECTION 6.** G.S. 7A-142 is repealed.

10 **SECTION 7.** G.S. 7A-147 reads as rewritten:

11 "**§ 7A-147. Specialized judgeships.**

12 (a) ~~Prior to January 1 of each year in which elections for district court judges are to be~~
13 ~~held, the~~The Administrative Officer of the Courts may, with the approval of the chief district
14 judge, designate one or more judgeships in districts having three or more judgeships, as
15 specialized judgeships, naming in each case the specialty. Designations shall become effective
16 ~~when filed with the State Board of Elections. Nominees for the position or positions of~~
17 ~~specialist judge shall be made in the ensuing primary and the position or positions shall be~~
18 ~~filled at the general election thereafter. The State Board of Elections shall prepare primary and~~
19 ~~general election ballots to effectuate the purposes of this section.~~upon appointments or
20 retentions made in accordance with Article 1A of this Chapter.

21 (b) The designation of a specialized judgeship shall in no way impair the right of the
22 chief district judge to arrange sessions for the trial of specialized cases and to assign any district
23 judge to preside over these sessions. A judge ~~elected to~~appointed or retained for a specialized
24 judgeship has the same powers as a regular district judge.

25 (c) The policy of the State is to encourage specialization in juvenile cases by district
26 court judges who are qualified by training and temperament to be effective in relating to youth
27 and in the use of appropriate community resources to meet their needs. The Administrative
28 Office of the Courts is therefore authorized to encourage judges who hear juvenile cases to
29 secure appropriate training whether or not they were elected to a specialized judgeship as
30 provided herein. Such training shall be provided within the funds available to the
31 Administrative Office of the Courts for such training, and judges attending such training shall
32 be reimbursed for travel and subsistence expenses at the same rate as is applicable to other
33 State employees.

34 The Administrative Office of the Courts shall develop a plan whereby a district court judge
35 may be better qualified to hear juvenile cases by reason of training, experience, and
36 demonstrated ability. Any district court judge who completes the training under this plan shall
37 receive a certificate to this effect from the Administrative Office of the Courts. In districts
38 where there is a district court judge who has completed this training as herein provided, the
39 chief district judge shall give due consideration in the assignment of such cases where practical
40 and feasible."

41 **SECTION 8.** G.S. 143-318.11(a) reads as rewritten:

42 "(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held
43 only when required to permit a public body to act in the public interest as permitted in this
44 section. A public body may hold a closed session and exclude the public only when a closed
45 session is required:

46 ...

47 (10) To consider the qualifications, competence, performance, character, and
48 fitness of a candidate who is seeking a judicial nomination to the General
49 Assembly by the Judicial Nominating Commission."

50 **SECTION 9.** G.S. 163-1 is amended in the table by deleting the entries for "Judges
51 of the superior courts" and "Judges of the district courts."

SECTION 10. G.S. 163-9 reads as rewritten:

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

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

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

Appointees for judges of the superior court from any district:

(1) With only one resident judge; or

(2) In which no county is subject to section 5 of the Voting Rights Act of 1965, shall hold the office until the next election of members of the General Assembly that is held more than 60 days after the vacancy occurs, at which time an election shall be held to fill an eight-year term.

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

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

SECTION 11. G.S. 163-182.16 reads as rewritten:

"§ 163-182.16. Governor to issue commissions for certain offices.

The Secretary of State shall send a notice to the Governor that a certificate of election has been issued for any of the following offices, and upon receiving the notice, the Governor shall provide to each such elected official a commission attesting to that person's ~~election~~ election, or retention, as applicable:

(1) Members of the United States House of Representatives.

(2) Justices, judges, and district attorneys of the General Court of Justice."

SECTION 12. Subchapter X of Chapter 163 of the General Statutes reads as rewritten:

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

"Article 25.

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

"§ 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 Court and judges of the Court of Appeals shall be as provided by this Article.

...

"§ 163-323. Notice of candidacy.

...

(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.

1 Judges of the Court of Appeals.

2 ~~Judges of the superior courts.~~

3 ~~Judges of the district courts.~~

4 ...

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

18 ...

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

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

29 ~~(g) No person may file a notice of candidacy for superior court judge unless that person~~
30 ~~is at the time of filing the notice of candidacy a resident of the judicial district as it will exist at~~
31 ~~the time the person would take office if elected. No person may be nominated as a superior~~
32 ~~court judge under G.S. 163-114 unless that person is at the time of nomination a resident of the~~
33 ~~judicial district as it will exist at the time the person would take office if elected. This~~
34 ~~subsection implements Article IV, Section 9(1) of the North Carolina Constitution which~~
35 ~~requires regular Superior Court Judges to reside in the district for which elected.~~

36 ...

37 **"§ 163-325. Petition in lieu of payment of filing fee.**

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

41 (b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking the
42 office of justice of the Supreme ~~Court,~~Court or judge of the Court of ~~Appeals, or superior or~~
43 ~~district court judge,~~Appeals, that individual shall file a written petition with the State Board of
44 Elections no later than 12:00 noon on Monday preceding the filing deadline before the primary.
45 ~~If the office is justice of the Supreme Court or judge of the Court of Appeals, the~~The petition
46 shall be signed by 8,000 registered voters in the State. ~~If the office is superior court or district~~
47 ~~court judge, the petition shall be signed by five percent (5%) of the registered voters of the~~
48 ~~election area in which the office will be voted for.~~ The board of elections shall verify the names
49 on the petition, and if the petition and notice of candidacy are found to be sufficient, the
50 candidate's name shall be printed on the appropriate ballot. Petitions must be presented to the
51 county board of elections for verification at least 15 days before the petition is due to be filed

1 with the State Board of Elections. The State Board of Elections may adopt rules to implement
2 this section and to provide standard petition forms.

3 **"§ 163-326. Certification of notices of candidacy.**

4 ...

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

14 ...

15 **"§ 163-327.1. Rules when vacancies for superior court judge are to be voted on.**

16 If a vacancy occurs in a judicial district for any offices of superior court judge, and on
17 account of the occurrence of such vacancy, there is to be an election for one or more terms in
18 that district to fill the vacancy or vacancies, at that same election in accordance with G.S. 163-9
19 and Article IV, Section 19 of the North Carolina Constitution, the nomination and election shall
20 be determined by the following special rules in addition to any other provisions of law:

- 21 (1) If the vacancy occurs prior to the opening of the filing period under
22 G.S. 163-323(b), nominations shall be made by primary election as provided
23 by this Article, without designation as to the vacancy.
- 24 (2) If the vacancy occurs beginning on opening of the filing period under
25 G.S. 163-323(b), and ending on the sixtieth day before the general election,
26 candidate filing shall be as provided by G.S. 163-329 without designation as
27 to the vacancy.
- 28 (3) The general election ballot shall contain, without designation as to vacancy,
29 spaces for the election to fill the vacancy where nominations were made or
30 candidates filed under subdivision (1) or (2) of this section. Except as
31 provided in G.S. 163-329, the persons receiving the highest numbers of
32 votes equal to the term or terms to be filled shall be elected to the term or
33 terms.

34 **"§ 163-328. Failure of candidates to file; death or other disqualification of a candidate; no
35 withdrawal from candidacy.**

36 ...

37 (e) Death, Disqualification, or Failure to Qualify After Election. – If a person elected to
38 the office of justice of the Supreme ~~Court,~~Court or judge of the Court of Appeals, ~~or superior or~~
39 ~~district court judge~~Appeals dies or becomes disqualified on or after election day and before he
40 has qualified by taking the oath of office, or fails to qualify by refusing to take the oath of
41 office, the office shall be deemed vacant and shall be filled as provided by law.

42 **"§ 163-329. Elections to fill vacancy in office created after primary filing period opens.**

43 (a) General. – If a vacancy is created in the office of justice of the Supreme ~~Court,~~Court
44 ~~or judge of the Court of Appeals, or judge of superior court~~Appeals after the filing period for
45 the primary opens but more than 60 days before the general election, and under the Constitution
46 of North Carolina an election is to be held for that position, such that the office shall be filled in
47 the general election as provided in G.S. 163-9, the election to fill the office for the remainder of
48 the term shall be conducted without a primary using the method provided in subsection (b1) of
49 this section. If a vacancy is created in the office of justice of the Supreme ~~Court,~~Court or judge
50 of the Court of Appeals, ~~or judge of superior court~~Appeals before the filing period for the
51 primary opens, and under the Constitution of North Carolina an election is to be held for that

1 position, such that the office shall be filled in the general election as provided in G.S. 163-9,
 2 the election to fill the office for the remainder of the term shall be conducted in accordance
 3 with G.S. 163-322.

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

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

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

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

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

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

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

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

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

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

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

42 ...

43 **"§ 163-332. Ballots.**

44 ...

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

- 48 Justice of the Supreme Court.
- 49 Judge of the Court of Appeals.
- 50 ~~Superior court judge.~~
- 51 ~~District court judge.~~

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

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

7 Ballots for a superior court judge or a district court judge shall be on the question of
8 retention of the judge in accordance with Part 2 of Article 1A of Chapter 7A of the General
9 Statutes.

10"

11 **SECTION 13.** Sections 2 through 12 of this act are effective only if the
12 constitutional amendment proposed by Section 1 of this act is approved by the qualified voters
13 in accordance with that section, and apply to vacancies in district and superior court judgeships
14 on and after January 1, 2018.

15 **SECTION 14.** Except as otherwise provided, this act is effective when it becomes
16 law.