

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 222
Committee Substitute Favorable 4/20/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H222-PCS20360-ST-54

Short Title: Retention Elections/Supreme Court.

(Public)

Sponsors:

Referred to:

March 12, 2015

1 A BILL TO BE ENTITLED
2 AN ACT ALLOWING VOTERS TO ELECT, AND THEN RETAIN, JUSTICES OF THE
3 NORTH CAROLINA SUPREME COURT FOR ELECTION.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 7A of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 1A.

8 "Retention Elections.

9 "§ 7A-4.1. Retention elections.

10 (a) A Justice of the Supreme Court who was elected to that office by vote of the voters
11 who desires to continue in office shall be subject to approval by the qualified voters of the
12 whole State in a retention election at the general election immediately preceding the expiration
13 of the elected term. Approval shall be by a majority of votes cast on the issue of the justice's
14 retention in accordance with this Article.

15 (b) If a Justice of the Supreme Court was appointed to fill a vacancy to that office, then
16 the next election for that office shall be by ballot as provided by Article 25 of Chapter 163 of
17 the General Statutes. Following that election, the justice shall be eligible for retention election
18 as provided for in this Article.

19 (c) A justice seeking retention shall indicate the desire to continue in office by filing a
20 notice to that effect with the State Board of Elections no later than 12:00 noon on the first
21 business day of July in the year prior to the general election immediately preceding the
22 expiration of the elected term. The notice shall be on a form provided by the State Board of
23 Elections. Notice may be withdrawn at any time prior to December 15 of that year. If no
24 retention notice is filed, or if it is filed and timely withdrawn, then an election shall be held the
25 next year to elect a successor in accordance with Article 25 of Chapter 163 of the General
26 Statutes.

27 (d) At the time of filing the notice under this Article, the justice shall pay to the State
28 Board of Elections a filing fee for the office the candidate seeks in the amount of one percent
29 (1%) of the annual salary of the office sought.

30 (e) Except as provided for in this Article, retention elections shall be conducted and
31 canvassed in accordance with rules of the State Board of Elections in the same general manner
32 as general elections under Chapter 163 of the General Statutes. The State Board of Elections
33 shall certify the results.

34 (f) The question on the ballot shall be substantially in the following form, as
35 appropriate:



* H 2 2 2 - P C S 2 0 3 6 0 - S T - 5 4 *

1 Justices of the Supreme Court. –

2 "[] FOR [] AGAINST

3 The retention of [name of Justice] on the North Carolina Supreme Court for a new term of
4 eight years."

5 (g) If a person who has filed a notice of intent for a retention election dies or is removed
6 from office prior to the time that the ballots are printed, the retention election is cancelled and
7 the vacancy shall be filled as provided by law. If a person who has filed a notice calling a
8 retention election dies or is removed from office after the ballots are printed, the State Board of
9 Elections may cancel the retention election if it determines that the ballots can be reprinted
10 without significant expense. If the ballots cannot be reprinted, then the results of the retention
11 election shall be ineffective.

12 **"§ 7A-4.2. Retention approval; failure to retain.**

13 (a) If the voters vote to approve the retention in office, the justice shall be retained for a
14 new eight-year term.

15 (b) If the voters fail to approve the retention in office, the office shall become vacant at
16 the end of the term of office, the incumbent shall not hold over, and the vacancy shall be filled
17 as provided by law."

18 **SECTION 2.** G.S. 7A-10(a) reads as rewritten:

19 (a) The Supreme Court shall consist of a Chief Justice and six associate justices, elected
20 by the qualified voters of the State for terms of eight years. Such election shall be under Article
21 25 of Chapter 163 of the General Statutes or Article 1A of this Chapter. Before entering upon
22 the duties of ~~his~~the office, each justice shall take an oath of office. Four justices shall
23 constitute a quorum for the transaction of the business of the court. Except as otherwise
24 provided in this subsection, sessions of the court shall be held in the city of Raleigh, and
25 scheduled by rule of court so as to discharge expeditiously the court's business. The court may
26 by rule hold sessions not more than twice annually in the Old Chowan County Courthouse
27 (1767) in the Town of Edenton, which is a State-owned court facility that is designated as a
28 National Historic Landmark by the United States Department of the Interior."

29 **SECTION 3.** G.S. 163-1 is amended in the table relating to entries for "Justices
30 and State Judges of the Appellate Division" by deleting the word "At" at the beginning of the
31 entry under the column titled "Date of Election" and substituting the phrase "Except as
32 provided in Article 1A of Chapter 7A of the General Statutes, at".

33 **SECTION 4.** G.S. 163-165.6(b) reads as rewritten:

34 (b) Order of Precedence for Candidate Ballot Items. – The State Board of Elections
35 shall promulgate rules prescribing the order of offices to be voted on the official ballot. Those
36 rules shall adhere to the following guidelines:

- 37 (1) Federal offices shall be listed before State and local offices. Member of the
38 United States House of Representatives shall be listed immediately after
39 United States Senator.
- 40 (2) State and local offices shall be listed according to the size of the electorate.
- 41 (3) Partisan offices, regardless of the size of the constituency, shall be listed
42 before nonpartisan offices.
- 43 (4) When offices are in the same class, they shall be listed in alphabetical order
44 by office name, or in numerical or alphabetical order by district name.
45 Governor and Lieutenant Governor, in that order, shall be listed before other
46 Council of State offices. Mayor shall be listed before other citywide offices.
47 Chair of a board, where elected separately, shall be listed before other board
48 seats having the same electorate. Chief Justice shall be listed before
49 Associate Justices.
- 50 (5) Ballot items for full terms of an office shall be listed before ballot items for
51 partial terms of the same office.

1 (6) Ballot items for retention elections held under Article 1A of Chapter 7A of
2 the General Statutes shall be grouped with like State offices, but shall be
3 listed after offices for which an election is conducted under Article 25 of this
4 Chapter."

5 **SECTION 5.** G.S. 163-182.16 reads as rewritten:

6 **"§ 163-182.16. Governor to issue commissions for certain offices.**

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

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

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

13 **SECTION 6.** G.S. 163-321 reads as rewritten:

14 **"§ 163-321. Applicability.**

15 The nomination and election of justices of the Supreme Court, judges of the Court of
16 Appeals, and superior and district court judges of the General Court of Justice shall be as
17 provided by this Article. Retention elections of Justices of the Supreme Court shall be as
18 provided in Article 1A of Chapter 7A of the General Statutes."

19 **SECTION 7.** G.S. 163-335 reads as rewritten:

20 **"§ 163-335. Other rules.**

21 (a) Except as provided by this Article, the conduct of elections shall be governed by
22 Subchapter VI of this Chapter.

23 (b) Following election under this Article, a duly elected justice of the Supreme Court
24 may opt for a retention election under Article 1A of Chapter 7A of the General Statutes. Any
25 such retention shall be conducted in accordance with this Chapter except as specifically stated
26 in that Article."

27 **SECTION 8.(a)** G.S. 163-278.6(4) reads as rewritten:

28 "(4) The term "candidate" means any individual who, with respect to a public
29 office listed in G.S. 163-278.6(18), has taken positive action for the purpose
30 of bringing about that individual's ~~nomination~~nomination, retention, or
31 election to public office. Examples of positive action ~~include~~include any of
32 the following:

33 a. Filing a notice of ~~andidacy~~andidacy, filing a notice to be retained,
34 or a petition requesting to be a ~~andidate~~andidate.

35 b. Being certified as a nominee of a political party for a
36 ~~vacancy~~vacancy.

37 c. Otherwise qualifying as a candidate in a manner authorized by
38 ~~law~~law.

39 d. Making a public announcement of a definite intent to run for public
40 office in a particular ~~election~~election.

41 e. Receiving funds or making payments or giving the consent for
42 anyone else to receive funds or transfer anything of value for the
43 purpose of bringing about that individual's nomination or election to
44 office. Transferring anything of value includes incurring an
45 obligation to transfer anything of value.

46 Status as a candidate for the purpose of this Article continues if the
47 individual is receiving contributions to repay loans or cover a deficit or is
48 making expenditures to satisfy obligations from an election already held.
49 Special definitions of "candidate" and "candidate campaign committee" that
50 apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z."

51 **SECTION 8.(b)** G.S. 163-278.38Z(2) reads as rewritten:

1 "(2) "Candidate" means any individual who, with respect to a public office listed
2 in G.S. 163-278.6(18), has filed a notice of ~~candidacy~~candidacy, notice of
3 retention, or a petition requesting to be a candidate, or has been certified as a
4 nominee of a political party for a vacancy, or has otherwise qualified as a
5 candidate in a manner authorized by law, or has filed a statement of
6 organization under G.S. 163-278.7 and is required to file periodic financial
7 disclosure statements under G.S. 163-278.9."

8 **SECTION 9.** This act is effective when it becomes law.