

**GENERAL ASSEMBLY OF NORTH CAROLINA
FOURTH EXTRA SESSION 2016**

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**SENATE BILL 4
PROPOSED COMMITTEE SUBSTITUTE S4-PCS45005-STf-1**

Short Title: Bi-Partisan Ethics, Elections & Court Reform.

(Public)

Sponsors:

Referred to:

December 14, 2016

A BILL TO BE ENTITLED

AN ACT TO CONSOLIDATE THE FUNCTIONS OF ELECTIONS, CAMPAIGN FINANCE, LOBBYING, AND ETHICS UNDER ONE STATE AGENCY BY CREATING THE NORTH CAROLINA BIPARTISAN STATE BOARD OF ELECTIONS AND ETHICS ENFORCEMENT; TO CLARIFY THE GENERAL ASSEMBLY'S AUTHORITY TO CORRECT DEFECTS IDENTIFIED BY A COURT IN APPORTIONMENT OR DISTRICTING PLANS; TO RESTORE PARTISAN ELECTIONS FOR THE NORTH CAROLINA SUPREME COURT AND COURT OF APPEALS; TO MODIFY APPELLATE REVIEW OF CERTAIN CASES; AND TO MODIFY THE TERM FOR INDUSTRIAL COMMISSIONERS.

The General Assembly of North Carolina enacts:

PART I. CREATION OF BIPARTISAN STATE BOARD OF ELECTIONS AND ETHICS ENFORCEMENT

SECTION 1. Recodification; Technical and Conforming Changes. – The Revisor of Statutes shall recodify Chapter 138A of the General Statutes, Chapter 120C of the General Statutes, as well as Chapter 163 of the General Statutes, as amended by this act, into a new Chapter 138B of the General Statutes to be entitled "Elections and Ethics Enforcement Act," as enacted by Section 2 of this act. The Revisor may also recodify into the new Chapter 138B of the General Statutes other existing statutory laws relating to elections and ethics enforcement that are located elsewhere in the General Statutes as the Revisor deems appropriate. The new Chapter 138B of the General Statutes shall have the following structure:

SUBCHAPTER I. GENERAL PROVISIONS

Article 1. Bipartisan State Board of Elections and Ethics Enforcement.

SUBCHAPTER II. ETHICS AND LOBBYING

Article 5. General Provisions.

Article 6. Public Disclosure of Economic Interests.

Article 7. Ethical Standards for Covered Persons.

Article 8. Lobbying.

Part 1. Registration

Part 2. Prohibitions and Restrictions

Part 3. Reporting

Part 4. Liaison Personnel

Part 5. Exemptions

Part 6. Miscellaneous

Article 9. Violation Consequences.



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1 SUBCHAPTER III. ELECTION AND ELECTION LAWS

2 Article 15. Time of Primaries and Elections.

3 Part 1. Time of Primaries and Elections

4 Part 2. Time of Elections to Fill Vacancies

5 Article 16. Election Officers.

6 Part 1. State Board Powers and Duties

7 Part 2. County Boards of Elections

8 Part 3. Political Activities by Board of Elections Members and Employees

9 Part 4. Precinct Election Officials

10 Article 17. Qualifying to Vote.

11 Part 1. Qualifications of Voters

12 Part 2. Registration of Voters

13 Part 3. Challenges

14 Part 4. HAVA Administrative Complaint Procedure

15 Article 18. Political Parties.

16 Article 19. Nomination of Candidates.

17 Part 1. Primary Elections

18 Part 2. Nomination by Petition

19 Part 3. Challenge to Candidacy

20 Article 20. Conduct of Primaries and Elections.

21 Part 1. Precincts and Voting Places

22 Part 2. Precinct Boundaries

23 Part 3. Voting

24 Part 4. Counting Official Ballots, Canvassing Votes, Hearing Protests, and
25 Certifying Results

26 Part 5. Members of United States House of Representatives

27 Part 6. Presidential Electors

28 Part 7. Presidential Preference Primary Act

29 Part 8. Petitions for Elections and Referenda

30 Article 21. Absentee Voting.

31 Part 1. Absentee Ballot

32 Part 2. Uniform Military and Overseas Voters Act

33 Article 22. Regulation of Election Campaigns.

34 Part 1. Corrupt Practices and Other Offenses Against the Elective Franchise

35 Article 23. Regulating Contributions and Expenditures in Political Campaigns.

36 Part 1. In General

37 Part 2. Disclosure Requirements for Media Advertisements

38 Part 3. Municipal Campaign Reporting

39 Article 24. The North Carolina Public Campaign Fund.

40 Article 25. The Voter-Owned Elections Act.

41 Article 26. Legal Expense Funds.

42 Article 27. Municipal Elections.

43 Part 1. Municipal Election Procedure

44 Part 2. Conduct of Municipal Elections

45 Article 28. Nomination and Election of Appellate, Superior, and District Court Judges.

46 When recodifying, the Revisor is authorized to change all references to the State Ethics
47 Commission, to the State Board of Elections, or to the Secretary of State, to instead be references
48 to the Bipartisan State Board of Elections and Ethics Enforcement. The Revisor may separate
49 subsections of existing statutory sections into new sections and, when necessary to organize
50 relevant law into its proper place in the above structure, may rearrange sentences that currently
51 appear within subsections. The Revisor may modify statutory citations throughout the General

1 Statutes, as appropriate, and may modify any references to statutory divisions, such as "Chapter,"
2 "Subchapter," "Article," "Part," "section," and "subsection," adjust the order of lists of multiple
3 statutes to maintain statutory order, correct terms and conform names and titles changed by this
4 act, eliminate duplicative references to the Bipartisan State Board of Elections and Ethics
5 Enforcement that result from the changes authorized by this section, and make conforming
6 changes to catch lines and references to catch lines. The Revisor may also adjust subject and verb
7 agreement and the placement of conjunctions. The Revisor shall consult with the State Ethics
8 Commission, the State Board of Elections, the Secretary of State, and the new Bipartisan State
9 Board of Elections and Ethics Enforcement on this recodification.

10 **SECTION 2.(a)** The General Statutes are amended by adding a new Chapter to read:

11 **"Chapter 138B.**

12 **"Elections and Ethics Enforcement Act."**

13 **SECTION 2.(b)** Chapter 138B of the General Statutes, as enacted by this act, is
14 amended by adding a new Subchapter to read:

15 **"SUBCHAPTER I. GENERAL PROVISIONS."**

16 **SECTION 2.(c)** Subchapter I of Chapter 138B of the General Statutes, as enacted by
17 this act, is amended by adding a new Article to read:

18 **"Article 1.**

19 **"Bipartisan State Board of Elections and Ethics Enforcement.**

20 **"§ 138B-1. Bipartisan State Board of Elections and Ethics Enforcement established.**

21 There is established the Bipartisan State Board of Elections and Ethics Enforcement, referred
22 to as the State Board in this Chapter.

23 **"§ 138B-2. Membership.**

24 (a) The State Board shall consist of eight individuals registered to vote in North Carolina,
25 as follows:

- 26 (1) Four members shall be appointed by the Governor, two of whom shall be of the
27 political party with the highest number of registered affiliates and two of whom
28 shall be of the political party with the second highest number of registered
29 affiliates, as reflected by the latest registration statistics published by the State
30 Board. The Governor shall appoint two members each from a list of three
31 nominees submitted by the State party chairs of the two political parties with
32 the highest number of registered affiliates, as reflected by the latest registration
33 statistics published by the State Board.
- 34 (2) Two members shall be appointed by the General Assembly upon the
35 recommendation of the Speaker of the House of Representatives, as provided in
36 G.S. 120-121. One member shall be of the political party with the highest
37 number of registered affiliates and one member shall be of the political party
38 with the second highest number of registered affiliates, as reflected by the latest
39 registration statistics published by the State Board. All appointments shall be
40 from a list of three nominees submitted to the Speaker of the House of
41 Representatives by the majority leader of the House of Representatives and a
42 list of three nominees submitted to the Speaker of the House of Representatives
43 by the minority leader of the House of Representatives.
- 44 (3) Two members shall be appointed by the General Assembly upon the
45 recommendation of the President Pro Tempore of the Senate, as provided in
46 G.S. 120-121. One member shall be of the political party with the highest
47 number of registered affiliates and one member shall be of the political party
48 with the second highest number of registered affiliates, as reflected by the latest
49 registration statistics published by the State Board. All appointments shall be
50 from a list of three nominees submitted to the President Pro Tempore by the

1 majority leader of the Senate and a list of three nominees submitted to the
2 President Pro Tempore by the minority leader of the Senate.

3 (b) Members shall serve for four-year terms, beginning May 1 immediately following the
4 election of the Governor.

5 (c) Members shall be removed by the member's appointing authority from the State Board
6 only for misfeasance, malfeasance, or nonfeasance.

7 (d) Any vacancy occurring on the State Board shall be filled by an individual affiliated
8 with the same political party of the vacating member. Any vacancy occurring in the State Board in
9 an appointment made by the Governor shall be filled by the Governor, and the person so appointed
10 shall fill the unexpired term. The Governor shall fill the vacancy from a list of two names
11 submitted by the State party chair of the political party with which the vacating member was
12 affiliated if that list is submitted within 30 days of the occurrence of the vacancy. Any vacancy
13 occurring on the State Board in an appointment made by the General Assembly upon the
14 recommendation of the Speaker of the House of Representatives shall be filled in accordance with
15 G.S. 120-122 for the remainder of the unfulfilled term. Any vacancy occurring on the State Board
16 in an appointment made by the General Assembly upon the recommendation of the President Pro
17 Tempore of the Senate shall be filled in accordance with G.S. 120-122 for the remainder of the
18 unfulfilled term.

19 (e) At the first meeting held after new appointments are made, the members of the State
20 Board shall take the following oath:

21 "I, _____, do solemnly swear (or affirm) that I will support the Constitution
22 of the United States; that I will be faithful and bear true allegiance to the State of North
23 Carolina and to the constitutional powers and authorities which are or may be
24 established for the government thereof; that I will endeavor to support, maintain, and
25 defend the Constitution of said State; and that I will well and truly execute the duties of
26 the office of member of the Bipartisan State Board of Elections and Ethics
27 Enforcement according to the best of my knowledge and ability, according to law, so
28 help me God."

29 (f) At the first meeting in May, the State Board shall organize by electing one of its
30 members chair and one of its members vice-chair, each to serve a one-year term as such. In the
31 odd-numbered year, the chair shall be a member of the political party with the highest number of
32 registered affiliates, as reflected by the latest registration statistics published by the State Board,
33 and the vice-chair a member of the political party with the second highest number of registered
34 affiliates. In the even-numbered year, the chair shall be a member of the political party with the
35 second highest number of registered affiliates, as reflected by the latest registration statistics
36 published by the State Board, and the vice-chair a member of the political party with the highest
37 number of registered affiliates.

38 (g) At the first meeting held after new appointments are made after taking the oath, the
39 State Board shall elect one of its members secretary, to serve a four-year term as such.

40 (h) No person shall be eligible to serve as a member of the State Board who holds any
41 elective or appointive office under the government of the United States, the State of North
42 Carolina, or any political subdivision thereof. No person who holds any office in a political party
43 or organization, or who is a candidate for nomination or election to any office, or who is a
44 campaign manager or treasurer of any candidate in a primary or election shall be eligible to serve
45 as a member of the State Board. In addition, no person while serving on the State Board shall:

46 (1) Make a reportable contribution to a candidate for a public office over which the
47 State Board would have jurisdiction or authority.

48 (2) Register as a lobbyist under Article 8 of this Chapter.

49 (3) Make written or oral statements intended for general distribution or
50 dissemination to the public at large supporting or opposing the nomination or
51 election of one or more clearly identified candidates for public office.

1 (4) Make written or oral statements intended for general distribution or
2 dissemination to the public at large supporting or opposing the passage of one
3 or more clearly identified referendum or ballot issue proposals.

4 (5) Solicit contributions for a candidate, political committee, or referendum
5 committee.

6 (i) Members of the State Board shall receive per diem, subsistence, and travel, as provided
7 in G.S. 138-5 and G.S. 138-6.

8 **"§ 138B-3. Meetings; quorum; majority.**

9 The State Board shall meet at least monthly and at other times as called by its chair or by six
10 of its members. In the case of a vacancy in the chair, meetings may be called by the vice-chair. Six
11 members of the State Board constitute a quorum for the transaction of business. Except where
12 required by law to act unanimously, a majority vote for action of the State Board shall require six
13 of the eight members.

14 **"§ 138B-4. Powers of the State Board in the execution of State Board duties.**

15 (a) In the performance of the duties enumerated in this Chapter, the State Board, upon a
16 vote of six or more of its members, shall have power to administer oaths, issue subpoenas,
17 summon witnesses, and compel the production of papers, books, records, and other evidence. Such
18 subpoenas for designated witnesses or identified papers, books, records, and other evidence shall
19 be signed and issued by the chair.

20 (b) In the absence of the chair or upon the chair's refusal to act, the vice-chair may sign
21 and issue subpoenas, summon witnesses, and compel the production of papers, books, records, and
22 other evidence approved in accordance with subsection (a) of this section. In the absence of the
23 chair or upon the chair's refusal to act, any member of the State Board may administer oaths.

24 (c) The State Board, upon a vote of six or more of its members, may petition the Superior
25 Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as
26 necessary to conduct investigations of violations of this Chapter. The court shall authorize
27 subpoenas under this subsection when the court determines they are necessary for the enforcement
28 of this Chapter. Subpoenas issued under this subsection shall be enforceable by the court through
29 contempt powers. Venue shall be with the Superior Court of Wake County for any nonresident
30 person, or that person's agent, who makes a reportable expenditure under this Chapter, and
31 personal jurisdiction may be asserted under G.S. 1-75.4.

32 **"§ 138B-5. Independent agency, staff, and offices.**

33 (a) The State Board shall be and remain an independent regulatory and quasi-judicial
34 agency and shall not be placed within any principal administrative department. The State Board
35 shall exercise its statutory powers, duties, functions, and authority and shall have all powers and
36 duties conferred upon the heads of principal departments under G.S. 143B-10.

37 (b) The State Board may employ professional and clerical staff, including an Executive
38 Director.

39 **"§ 138B-6. Executive Director of the State Board.**

40 (a) There is hereby created the position of Executive Director of the State Board, who shall
41 perform all duties imposed by statute and such duties as may be assigned by the State Board.

42 (b) The State Board shall appoint an Executive Director for a term of four years with
43 compensation to be determined by the Office of State Human Resources. The Executive Director
44 shall serve beginning May 15 after the first meeting held after new appointments to the State
45 Board are made, unless removed for cause, until a successor is appointed. In the event of a
46 vacancy, the vacancy shall be filled for the remainder of the term.

47 (c) The Executive Director shall be responsible for staffing, administration, execution of
48 the State Board's decisions and orders, and shall perform such other responsibilities as may be
49 assigned by the State Board.

50 (d) The Executive Director shall be the chief State elections official."

51 **SECTION 3.(a)** G.S. 138A-6 is repealed.

1 **SECTION 3.(b)** G.S. 138A-7 is repealed.
2 **SECTION 3.(c)** G.S. 138A-8 is repealed.
3 **SECTION 3.(d)** G.S. 138A-9 is repealed.
4 **SECTION 3.(e)** G.S. 138A-13 reads as rewritten:
5 **"§ 138A-13. Request for advice.**

6 ...
7 (a2) A request for a formal advisory opinion under subsection (a) of this section shall be in
8 writing, electronic or otherwise. The ~~Commission~~State Board shall issue formal advisory opinions
9 having prospective application only. A public servant or legislative employee who relies upon the
10 advice provided to that public servant or legislative employee on a specific matter addressed by
11 the requested formal advisory opinion shall be immune from all of the following:

- 12 (1) Investigation by the ~~Commission~~State Board, except for an inquiry under
13 G.S. 138A-12(b)(3).
- 14 (2) Any adverse action by the employing entity.
- 15 (3) ~~Investigation by the Secretary of State.~~

16 ...
17 (b1) A request by a legislator for a recommended formal advisory opinion shall be in
18 writing, electronic or otherwise. The ~~Commission~~State Board shall issue recommended formal
19 advisory opinions having prospective application only. Until action is taken by the Committee
20 under G.S. 120-104, a legislator who relies upon the advice provided to that legislator on a
21 specific matter addressed by the requested recommended formal advisory opinion shall be immune
22 from all of the following:

- 23 (1) Investigation by the Committee or ~~Commission~~State Board, except for an
24 inquiry under G.S. 138A-12(b)(3).
- 25 (2) Any adverse action by the house of which the legislator is a member.
- 26 (3) ~~Investigation by the Secretary of State.~~

27 "

28 **SECTION 4.** Chapter 120C of the General Statutes reads as rewritten:

29 "...

30 **"§ 120C-101. Rules and forms.**

31 (a) The ~~Commission~~State Board shall adopt any rules or definitions necessary to interpret
32 the provisions of this Chapter and adopt any rules necessary to administer the provisions of this
33 ~~Chapter, except for Articles 2, 4 and 8 of this Chapter. The Secretary of State shall adopt any~~
34 ~~rules, orders, and forms as are necessary to administer the provisions of Articles 2, 4 and 8 of this~~
35 ~~Chapter. The Secretary of State may appoint a council to advise the Secretary in adopting rules~~
36 ~~under this section.~~Chapter.

37 (b) With respect to the forms adopted under subsection (a) of this section, the ~~Secretary of~~
38 ~~State~~State Board shall adopt rules to protect from disclosure all confidential information under
39 Chapter 132 of the General Statutes related to economic development initiatives or to industrial or
40 business recruitment activities. The information shall remain confidential until the State, a unit of
41 local government, or the business has announced a commitment by the business to expand or
42 locate a specific project in this State or a final decision not to do so, and the business has
43 communicated that commitment or decision to the State or local government agency involved with
44 the project.

45 (c) In adopting rules under this Chapter, the ~~Commission~~State Board is exempt from the
46 requirements of Article 2A of Chapter 150B of the General Statutes, except that the ~~Commission~~
47 State Board shall comply with G.S. 150B-21.2(d). At least 30 business days prior to adopting a
48 rule, the ~~Commission~~State Board shall:

- 49 (1) Publish the proposed rules in the North Carolina Register.

- 1 (2) Submit the rule and a notice of public hearing to the Codifier of Rules, and the
2 Codifier of Rules shall publish the proposed rule and the notice of public
3 hearing on the Internet to be posted within five business days.
- 4 (3) Notify those on the mailing list maintained in accordance with
5 G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a rule
6 and of the public hearing.
- 7 (4) Accept written comments on the proposed rule for at least 15 business days
8 prior to adoption of the rule.
- 9 (5) Hold at least one public hearing on the proposed rule no less than five days
10 after the rule and notice have been published.

11 A rule adopted under this subsection becomes effective the first day of the month following the
12 month the final rule is submitted to the Codifier of Rules for entry into the North Carolina
13 Administrative Code, and applies prospectively. A rule adopted by the Commission that does not
14 comply with the procedural requirements of this subsection shall be null, void, and without effect.
15 For purposes of this subsection, a rule is any ~~Commission~~State Board regulation, standard, or
16 statement of general applicability that interprets an enactment by the General Assembly or
17 Congress, or a regulation adopted by a federal agency, or that describes the procedure or practice
18 requirements of the ~~Commission~~State Board.

19 ~~(d) For purposes of G.S. 150B-21.3(b2), a written objection filed by the Commission to a~~
20 ~~rule adopted by the Secretary of State pursuant to this Chapter shall be deemed written objections~~
21 ~~from 10 or more persons under that statute. Notwithstanding G.S. 150B-21.3(b2), a rule adopted~~
22 ~~by the Secretary of State pursuant to this Chapter objected to by the Commission under this~~
23 ~~subsection shall not become effective until an act of the General Assembly approving the rule has~~
24 ~~become law. If the General Assembly does not approve a rule under this subsection by the day of~~
25 ~~adjournment of the next regular session of the General Assembly that begins at least 25 days after~~
26 ~~the date the Rules Review Commission approves the rule, the permanent rule shall not become~~
27 ~~effective and any temporary rule associated with the permanent rule expires. If the General~~
28 ~~Assembly fails to approve a rule by the day of adjournment, the Secretary of State may initiate~~
29 ~~rulemaking for a new permanent rule, including by the adoption of a temporary rule.~~

30 **"§ 120C-102. Request for advice.**

31 (a) At the request of any person, State agency, or governmental unit affected by this
32 Chapter, the ~~Commission~~State Board shall render advice on specific questions involving the
33 meaning and application of this Chapter and that person's, State agency's, or any governmental
34 unit's compliance therewith. Requests for advice and advice rendered in response to those requests
35 shall relate to real or reasonably anticipated fact settings or circumstances.

36 (a1) A request for a formal opinion under subsection (a) of this section shall be in writing,
37 electronic or otherwise. The ~~Commission~~State Board shall issue formal advisory opinions having
38 prospective application only. An individual, State agency, or governmental unit who relies upon
39 the advice provided to that individual, State agency, or governmental unit on a specific matter
40 addressed by a requested formal advisory opinion shall be immune from all of the following:

- 41 (1) Investigation by the ~~Commission~~State Board.
- 42 (2) Any adverse action by the employing entity.
- 43 ~~(3) Investigation by the Secretary of State.~~

44 (b) Staff to the ~~Commission~~State Board may issue advice, but not formal advisory
45 opinions, under procedures adopted by the ~~Commission~~State Board.

46 (c) The ~~Commission~~State Board shall publish its formal advisory opinions within 30 days
47 of issuance, edited as necessary to protect the identities of the individuals requesting opinions.

48 (d) Except as provided under subsections (c) and (d1) of this section, a request for advice,
49 any advice provided by ~~Commission~~State Board staff, any formal advisory opinions, any
50 supporting documents submitted or caused to be submitted to the ~~Commission~~State Board or
51 ~~Commission~~State Board staff, and any documents prepared or collected by the ~~Commission~~State

1 ~~Board~~ or the ~~Commission~~State Board staff in connection with a request for advice are confidential.
2 The identity of the individual, State agency, or governmental unit making the request for advice,
3 the existence of the request, and any information related to the request may not be revealed
4 without the consent of the requestor. An individual, State agency, or governmental unit who
5 requests advice or receives advice, including a formal advisory opinion, may authorize the release
6 to any other person, the State, or any governmental unit of the request, the advice, or any
7 supporting documents.

8 For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice,
9 any advice, and any documents related to requests for advice are not "public records" as defined in
10 G.S. 132-1.

11 ~~(d1) Staff to the Commission may share all information and documents related to requests~~
12 ~~under subsection (a) and (a1) of this section with staff of the Office of the Secretary of State. The~~
13 ~~information and documents in the possession of the staff of the Office of the Secretary of State~~
14 ~~shall remain confidential and not public records. The Commission shall forward an unedited copy~~
15 ~~of each formal advisory opinion under this section to the Secretary of State at the time the formal~~
16 ~~advisory opinion is issued to the requestor, and the Secretary of State shall treat that unedited~~
17 ~~advisory opinion as confidential and not a public record.~~

18 (e) Requests for advisory opinions may be withdrawn by the requestor at any time prior to
19 the issuance of a formal advisory opinion.

20 ...

21 **"§ 120C-601. Powers and duties of the ~~Commission~~State Board.**

22 (a) The ~~Commission~~State Board may investigate complaints of violations of this Chapter
23 ~~and shall refer complaints related solely to Articles 2, 4, or 8 of this Chapter to the Secretary of~~
24 ~~State Chapter.~~

25 (b) The ~~Commission~~State Board may petition the Superior Court of Wake County for the
26 approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of
27 violations of this Chapter. The court shall authorize subpoenas under this subsection when the
28 court determines they are necessary for the enforcement of this Chapter. Subpoenas issued under
29 this subsection shall be enforceable by the court through contempt powers. Venue shall be with
30 the Superior Court of Wake County for any nonresident person, or that person's agent, who makes
31 a reportable expenditure under this Chapter, and personal jurisdiction may be asserted under
32 G.S. 1-75.4.

33 (c) Complaints of violations of this Chapter and all other records accumulated in
34 conjunction with the investigation of these complaints shall be considered confidential records and
35 may be released only by order of a court of competent jurisdiction. Any information obtained by
36 the ~~Commission~~State Board from any law enforcement agency, administrative agency, or
37 regulatory organization on a confidential or otherwise restricted basis in the course of an
38 investigation shall be confidential and exempt from G.S. 132-6 to the same extent that it is
39 confidential in the possession of the providing agency or organization.

40 (d) The ~~Commission~~State Board shall publish annual statistics on complaints, including
41 the number of complaints, the number of apparent violations of this Chapter referred to a district
42 attorney, the number of dismissals, and the number and age of complaints pending.

43 **"§ 120C-602. Punishment for violation.**

44 (a) Whoever willfully violates any provision of Article 2 or Article 3 of this Chapter shall
45 be guilty of a Class 1 misdemeanor, except as provided in those Articles. In addition, no lobbyist
46 who is convicted of a violation of the provisions of this Chapter shall in any way act as a lobbyist
47 for a period of two years from the date of conviction.

48 (b) ~~In addition to the criminal penalties set forth in this section, the Secretary of State may~~
49 ~~levy civil fines for a violation of any provision of Articles 2, 4, or 8 of this Chapter up to five~~
50 ~~thousand dollars (\$5,000) per violation. In addition to the criminal penalties set forth in this~~

1 section, the ~~Commission~~State Board may levy civil fines for a violation of any provision of this
2 Chapter ~~except Article 2, 4, or 8 of this Chapter~~ up to five thousand dollars (\$5,000) per violation.

3 **"§ 120C-603. Enforcement by district attorney and Attorney General.**

4 (a) The ~~Commission or the Secretary of State, as appropriate,~~State Board may investigate
5 complaints of violations of this Chapter and shall report apparent violations of this Chapter to the
6 district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a
7 part, who shall prosecute any person or governmental unit who violates any provisions of this
8 Chapter.

9 (b) Complaints of violations of this Chapter involving the ~~Commission~~State Board or any
10 member employee of the ~~Commission~~State Board shall be referred to the Attorney General for
11 investigation. The Attorney General shall, upon receipt of a complaint, make an appropriate
12 investigation thereof, and the Attorney General shall forward a copy of the investigation to the
13 district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a
14 part, who shall prosecute any person or governmental unit who violates any provisions of this
15 Chapter.

16"

17 **SECTION 5.(a)** G.S. 163-19 is repealed.

18 **SECTION 5.(b)** G.S. 163-20 reads as rewritten:

19 **"§ 163-20. Meetings of Board; quorum; minutes.**

20 (a) ~~Call of Meeting.—The State Board of Elections shall meet at the call of the chairman~~
21 ~~whenever necessary to discharge the duties and functions imposed upon it by this Chapter. The~~
22 ~~chairman shall call a meeting of the Board upon the written application or applications of any two~~
23 ~~members thereof. If there is no chairman, or if the chairman does not call a meeting within three~~
24 ~~days after receiving a written request or requests from two members, any three members of the~~
25 ~~Board shall have power to call a meeting of the Board, and any duties imposed or powers~~
26 ~~conferred on the Board by this Chapter may be performed or exercised at that meeting, although~~
27 ~~the time for performing or exercising the same prescribed by this Chapter may have expired.~~

28 (b) Place of Meeting. – Except as provided in subsection (c), below, the State Board of
29 ~~Elections~~ shall meet in its offices in the City of Raleigh, or at another place in Raleigh to be
30 designated by the chairman. However, subject to the limitation imposed by subsection (c), below,
31 upon the prior written request of any ~~four~~six members, the State Board of ~~Elections~~ shall meet at
32 any other place in the State designated by the ~~four~~six members.

33 (c) Meetings to Investigate Alleged Violations of This Chapter. – When called upon to
34 investigate or hear sworn alleged violations of this Chapter, the State Board of ~~Elections~~ shall
35 meet and hear the matter in the county in which the violations are alleged to have occurred.

36 (d) ~~Quorum.—A majority of the members constitutes a quorum for the transaction of~~
37 ~~business by the State Board of Elections. If any member of the Board fails to attend a meeting, and~~
38 ~~by reason thereof there is no quorum, the members present shall adjourn from day to day for not~~
39 ~~more than three days, by the end of which time, if there is no quorum, the Governor may~~
40 ~~summarily remove any member failing to attend and appoint his successor.~~

41 (e) Minutes. – The State Board of ~~Elections~~ shall keep minutes recording all proceedings
42 and findings at each of its meetings. The minutes shall be recorded in a book which shall be kept
43 in the office of the Board in Raleigh."

44 **SECTION 5.(c)** G.S. 163-21 is repealed.

45 **SECTION 5.(d)** G.S. 163-23 is repealed.

46 **SECTION 5.(e)** G.S. 163-26 is repealed.

47 **SECTION 5.(f)** G.S. 163-27 is repealed.

48 **SECTION 5.(g)** G.S. 163-28 is repealed.

49 **SECTION 5.(h)** G.S. 163-30 reads as rewritten:

50 **"§ 163-30. County boards of elections; appointments; terms of office; qualifications;**
51 **vacancies; oath of office; instructional meetings.**

1 In every county of the State there shall be a county board of elections, to consist of ~~three~~^{four}
2 persons of good moral character who are registered voters in the county in which they are to act.
3 Two of the members of the county board of elections shall be of the political party with the
4 highest number of registered affiliates and two shall be of the political party with the second
5 highest number of registered affiliates, as reflected by the latest registration statistics published by
6 the State Board. Members of county boards of elections shall be appointed by the State Board of
7 ~~Elections~~ on the last Tuesday in June ~~1985~~,2017, and every two years thereafter, and their terms of
8 office shall continue for two years from the specified date of appointment and until their
9 successors are appointed and qualified. ~~Not more than two members of the county board of~~
10 ~~elections shall belong to the same political party.~~

11 No person shall be eligible to serve as a member of a county board of elections who holds any
12 elective office under the government of the United States, or of the State of North Carolina or any
13 political subdivision thereof.

14 No person who holds any office in a state, congressional district, county or precinct political
15 party or organization, or who is a campaign manager or treasurer of any candidate or political
16 party in a primary or election, shall be eligible to serve as a member of a county board of
17 elections, provided however that the position of delegate to a political party convention shall not
18 be considered an office for the purpose of this section.

19 No person shall be eligible to serve as a member of a county board of elections who is a
20 candidate for nomination or election.

21 No person shall be eligible to serve as a member of a county board of elections who is the
22 wife, husband, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father,
23 father-in-law, sister, sister-in-law, brother, brother-in-law, aunt, uncle, niece, or nephew of any
24 candidate for nomination or election. Upon any member of the board of elections becoming
25 ineligible, that member's seat shall be declared vacant. This paragraph only applies if the county
26 board of elections is conducting the election for which the relative is a candidate.

27 The State ~~chairman~~^{chair} of each political party shall have the right to recommend to the State
28 Board of ~~Elections~~ three registered voters in each county for appointment to the board of elections
29 for that county. If such recommendations are received by the Board 15 or more days before the
30 last Tuesday in June ~~1985~~,2017, and each two years thereafter, it shall be the duty of the State
31 Board of ~~Elections~~ to appoint the county boards from the names thus recommended.

32 Whenever a vacancy occurs in the membership of a county board of elections for any cause the
33 State ~~chairman~~^{chair} of the political party of the vacating member shall have the right to
34 recommend two registered voters of the affected county for such office, and it shall be the duty of
35 the State Board of ~~Elections~~ to fill the vacancy from the names thus recommended.

36 At the meeting of the county board of elections required by G.S. 163-31 to be held on Tuesday
37 following the third Monday in July in the year of their appointment the members shall take the
38 following oath of office:

39 "I, _____, do solemnly swear (or affirm) that I will support the
40 Constitution of the United States; that I will be faithful and bear true allegiance to
41 the State of North Carolina and to the constitutional powers and authorities which
42 are or may be established for the government thereof; that I will endeavor to
43 support, maintain and defend the Constitution of said State, not inconsistent with
44 the Constitution of the United States; and that I will well and truly execute the
45 duties of the office of member of the _____ County Board of Elections to the
46 best of my knowledge and ability, according to law; so help me God."

47 At the first meeting in July annually, the county boards shall organize by electing one of its
48 members chair and one of its members vice-chair, each to serve a one-year term as such. In the
49 odd-numbered year, the chair shall be a member of the political party with the highest number of
50 registered affiliates, as reflected by the latest registration statistics published by the State Board,
51 and the vice-chair a member of the political party with the second highest number of registered

1 affiliates. In the even-numbered year, the chair shall be a member of the political party with the
2 second highest number of registered affiliates, as reflected by the latest registration statistics
3 published by the State Board, and the vice-chair a member of the political party with the highest
4 number of registered affiliates.

5 Each member of the county board of elections shall attend each instructional meeting held
6 pursuant to G.S. 163-46, unless excused for good cause by the ~~chairman~~ chair of the board, and
7 shall be paid the sum of twenty-five dollars (\$25.00) per day for attending each of those
8 meetings."

9 **SECTION 5.(i)** G.S. 163-31 reads as rewritten:

10 **"§ 163-31. Meetings of county boards of elections; quorum; majority; minutes.**

11 In each county of the State the members of the county board of elections shall meet at the
12 courthouse or board office at noon on the Tuesday following the third Monday in July in the year
13 of their appointment by the State Board of Elections and, after taking the oath of office provided in
14 G.S. 163-30, they shall organize by electing one member ~~chairman~~ chair and another member
15 secretary of the county board of elections. On the Tuesday following the third Monday in August
16 of the year in which they are appointed the county board of elections shall meet and appoint
17 precinct chief judges and judges of elections. The board may hold other meetings at such times as
18 the ~~chairman~~ chair of the board, or any ~~two~~ three members thereof, may direct, for the
19 performance of duties prescribed by law. ~~A majority of the~~ Three members shall constitute a
20 quorum for the transaction of board business. Except where required by law to act unanimously, a
21 majority vote for action of the board shall require three of the four members. The ~~chairman~~ chair
22 shall notify, or cause to be notified, all members regarding every meeting to be held by the board.

23 The county board of elections shall keep minutes recording all proceedings and findings at
24 each of its meetings. The minutes shall be recorded in a book which shall be kept in the board
25 office and it shall be the responsibility of the secretary, elected by the board, to keep the required
26 minute book current and accurate. The secretary of the board may designate the director of
27 elections to record and maintain the minutes under his or her supervision."

28 **SECTION 5.(j)** G.S. 163-182.13 reads as rewritten:

29 **"§ 163-182.13. New elections.**

30 (a) When State Board May Order New Election. – The State Board of Elections may order
31 a new election, upon agreement of at least ~~four~~ six of its members, in the case of any one or more
32 of the following:

- 33 (1) Ineligible voters sufficient in number to change the outcome of the election
34 were allowed to vote in the election, and it is not possible from examination of
35 the official ballots to determine how those ineligible voters voted and to correct
36 the totals.
- 37 (2) Eligible voters sufficient in number to change the outcome of the election were
38 improperly prevented from voting.
- 39 (3) Other irregularities affected a sufficient number of votes to change the outcome
40 of the election.
- 41 (4) Irregularities or improprieties occurred to such an extent that they taint the
42 results of the entire election and cast doubt on its fairness.

43 (b) State Board to Set Procedures. – The State Board of Elections shall determine when a
44 new election shall be held and shall set the schedule for publication of the notice, preparation of
45 absentee official ballots, and the other actions necessary to conduct the election.

46 (c) Eligibility to Vote in New Election. – Eligibility to vote in the new election shall be
47 determined by the voter's eligibility at the time of the new election, except that in a primary, no
48 person who voted in the initial primary of one party shall vote in the new election in the primary
49 of another party. The State Board of Elections shall ~~promulgate~~ adopt rules to effect the provisions
50 of this subsection.

1 (d) Jurisdiction in Which New Election Held. – The new election shall be held in the entire
2 jurisdiction in which the original election was held.

3 (e) Which Candidates to Be on Official Ballot. – All the candidates who were listed on the
4 official ballot in the original election shall be listed in the same order on the official ballot for the
5 new election, except in either of the following:

6 (1) If a candidate dies or otherwise becomes ineligible between the time of the
7 original election and the new election, that candidate may be replaced in the
8 same manner as if the vacancy occurred before the original election.

9 (2) If the election is for a multiseat office, and the irregularities could not have
10 affected the election of one or more of the candidates, the new election, upon
11 agreement of at least ~~four~~ six members of the State Board, may be held among
12 only those candidates whose election could have been affected by the
13 irregularities.

14 (f) Tie Votes. – If ineligible voters voted in an election and it is possible to determine from
15 the official ballots the way in which those votes were cast and to correct the results, and
16 consequently the election ends in a tie, the provisions of G.S. 163-182.8 concerning tie votes shall
17 apply."

18 **SECTION 5.(k)** G.S. 163-278.22(7) reads as rewritten:

19 "(7) To make investigations to the extent the State Board deems necessary with
20 respect to statements filed under the provisions of this Article and with respect
21 to alleged failures to file any statement required under the provisions of this
22 Article or Article 22M of the General Statutes and, upon complaint under oath
23 by any registered voter, with respect to alleged violations of any part of this
24 Article or Article 22M of the General Statutes. The State Board shall conclude
25 all investigations no later than one year from the date of the start of the
26 investigation, unless the State Board has reported an apparent violation to the
27 proper district attorney and additional investigation of the apparent violation is
28 deemed necessary by the State Board."

29 **SECTION 6.** G.S. 120-70.141 reads as rewritten:

30 **"§ 120-70.141. Purpose and powers of Committee.**

31 (a) The Joint Legislative Elections Oversight Committee shall examine, on a continuing
32 basis, election administration and campaign finance regulation in North Carolina, in order to make
33 ongoing recommendations to the General Assembly on ways to improve elections administration
34 and campaign finance regulation. In this examination, the Committee shall do the following:

35 (1) Study the budgets, programs, and policies of the Bipartisan State Board of
36 Elections and Ethics Enforcement and the county boards of elections to
37 determine ways in which the General Assembly may improve election
38 ~~administration and campaign finance regulation administration.~~

39 (1a) Study the budgets, programs, and policies of the Bipartisan State Board of
40 Elections and Ethics Enforcement and the county boards of elections to
41 determine ways in which the General Assembly may improve campaign finance
42 regulation.

43 (2) Examine election statutes and court decisions to determine any legislative
44 changes that are needed to improve election administration and campaign
45 finance regulation.

46 (3) Study other states' initiatives in election administration and campaign finance
47 regulation to provide an ongoing commentary to the General Assembly on these
48 initiatives and to make recommendations for implementing similar initiatives in
49 North Carolina; and

50 (4) Study any other election matters that the Committee considers necessary to
51 fulfill its mandate.

1 (b) The Committee may make interim reports to the General Assembly on matters for
2 which it may report to a regular session of the General Assembly. A report to the General
3 Assembly may contain any legislation needed to implement a recommendation of the Committee."

4 **SECTION 7.** Any previous assignment of duties of a quasi-legislative or
5 quasi-judicial nature by the Governor or General Assembly to the agencies or functions transferred
6 by this act shall have continued validity with the transfer under this act. Except as otherwise
7 specifically provided in this act, each enumerated commission, board, or other function of State
8 government transferred to the Bipartisan State Board of Elections and Ethics Enforcement, as
9 created in this act, is a continuation of the former entity for purposes of succession to all the rights,
10 powers, duties, and obligations of the former. Where the former entities are referred to by law,
11 contract, or other document in their former name, the Bipartisan State Board of Elections and
12 Ethics Enforcement, as created in this act, is charged with exercising the functions of the former
13 named entity.

14 **SECTION 8.** No action or proceeding pending on January 1, 2017, brought by or
15 against the State Board of Elections, the State Ethics Commission, or the Secretary of State
16 regarding the lobbyist registration and lobbying enforcement of the Secretary of State shall be
17 affected by any provision of this act, but the same may be prosecuted or defended in the name of
18 the Bipartisan State Board of Elections and Ethics Enforcement, as created in this act. In these
19 actions and proceedings, the Bipartisan State Board of Elections and Ethics Enforcement or its
20 Executive Director, as appropriate, shall be substituted as a party upon proper application to the
21 courts or other administrative or quasi-judicial bodies.

22 Any business or other matter undertaken or commanded by any State program or office
23 or contract transferred by this act to the Bipartisan State Board of Elections and Ethics
24 Enforcement pertaining to or connected with the functions, powers, obligations, and duties set
25 forth herein, which is pending on January 1, 2017, may be conducted and completed by the
26 Bipartisan State Board of Elections and Ethics Enforcement in the same manner and under the
27 same terms and conditions and with the same effect as if conducted and completed by the original
28 program, office, or commissioners or directors thereof.

29 **SECTION 9.** The consolidation provided for under this act shall not affect any
30 ongoing investigation or audit. Any ongoing hearing or other proceeding before the State Ethics
31 Commission or State Board of Elections on January 1, 2017, shall be transferred to the Bipartisan
32 State Board of Elections and Ethics Enforcement, as created by this act, on January 1, 2017.
33 Prosecutions for offenses or violations committed before January 1, 2017, are not abated or
34 affected by this act, and the statutes that would be applicable but for this act remain applicable to
35 those prosecutions.

36 **SECTION 10.** Rules adopted by the State Ethics Commission, Secretary of State
37 related to lobbying, and the State Board of Elections shall remain in effect as provided in
38 G.S. 150B-21.7. Policies, procedures, and guidance shall remain in effect until amended or
39 repealed by the Bipartisan State Board of Elections and Ethics Enforcement. The list of covered
40 boards adopted by the State Ethics Commission under G.S. 138A-11 as of December 31, 2016,
41 shall continue in effect until amended or repealed by the Bipartisan State Board of Elections and
42 Ethics Enforcement.

43 **SECTION 11.** Any evaluation of a statement of economic interest issued by the State
44 Ethics Commission pursuant to Article 3 of Chapter 138A of the General Statutes in 2016 shall
45 remain in effect until amended or repealed by the Bipartisan State Board of Elections and Ethics
46 Enforcement.

47 **SECTION 12.** The authority, powers, duties and functions, records, personnel,
48 property, and unexpended balances of appropriations, allocations, or other funds, including the
49 functions of budgeting and purchasing, of the State Ethics Commission are transferred to the
50 Bipartisan State Board of Elections and Ethics Enforcement, as created in Part I of this act. The
51 authority, powers, duties and functions, records, personnel, property, and unexpended balances of

1 appropriations, allocations, or other funds, including the functions of budgeting and purchasing, of
2 the State Board of Elections are transferred to the Bipartisan State Board of Elections and Ethics
3 Enforcement, as created in Part I of this act. The authority, powers, duties and functions, records,
4 personnel, property, and unexpended balances of appropriations, allocations, or other funds,
5 including the functions of budgeting and purchasing, of the lobbying registration and lobbying
6 enforcement functions of the Secretary of State are transferred to the Bipartisan State Board of
7 Elections and Ethics Enforcement, as created in Part I of this act. The Director of the Budget shall
8 resolve any disputes arising out of this transfer.

9 **SECTION 13.** The members of the State Ethics Commission serving on December
10 31, 2016, shall constitute and serve as the Bipartisan State Board of Elections and Ethics
11 Enforcement, as constituted and authorized by this act until June 30, 2017. The chair and
12 vice-chair of the State Ethics Commission serving on December 31, 2016, shall continue to serve
13 as the chair and vice-chair of Bipartisan State Board of Elections and Ethics Enforcement, as
14 constituted and authorized by this act until June 30, 2017. Notwithstanding G.S. 138B-2, members
15 of the Bipartisan State Board of Elections and Ethics Enforcement appointed by the Governor and
16 General Assembly in 2017 shall take office July 1, 2017.

17 **SECTION 14.** Until such time as the Bipartisan State Board of Elections and Ethics
18 Enforcement appointed in 2017 appoints an Executive Director, the Executive Director of the
19 State Board of Elections under G.S. 163-26, as of December 31, 2016, shall be acting Executive
20 Director.

21 **SECTION 15.** The appropriations and resources of the State Ethics Commission is
22 transferred to the Bipartisan State Board of Elections and Ethics Enforcement, and the transfer
23 shall have all the elements of a Type I transfer under G.S. 143A-6.

24 **SECTION 16.** The appropriations and resources of the State Board of Elections,
25 including any office space of the State Board of Elections, is transferred to the Bipartisan State
26 Board of Elections and Ethics Enforcement, and the transfer shall have all the elements of a Type I
27 transfer under G.S. 143A-6, with the Budget Code for the newly established State Board being the
28 previous State Board of Elections budget code of 18025.

29 **SECTION 17.** The appropriations and resources of the lobbying registration and
30 lobbying enforcement functions of the Secretary of State are transferred to the Bipartisan State
31 Board of Elections and Ethics Enforcement, and the transfers shall have all the elements of a Type
32 I transfer under G.S. 143A-6. Specifically, the following positions shall be transferred: Lobbying
33 Compliance Director (Position 60008800), Law Enforcement Agent (Position 60008806),
34 Administrative Assistant II (Position 60008801), Administrative Assistant II (Position 60008802),
35 and Administrative Assistant II (Position 60008803).

36 **SECTION 18.** The Bipartisan State Board of Elections and Ethics Enforcement shall
37 report to the Joint Legislative Commission on Governmental Operations, Joint Legislative
38 Elections Oversight Committee, and the Legislative Ethics Committee on or before April 1, 2018,
39 and again on or before March 1, 2019, as to recommendations for statutory changes necessary to
40 further implement this consolidation.

41 **SECTION 19.** This Part becomes effective January 1, 2017.

42 43 **PART II. CLARIFY LEGISLATIVE AUTHORITY TO APPORTION DISTRICTS**

44 **SECTION 20.(a)** G.S. 120-2.4 reads as rewritten:

45 **"§ 120-2.4. Opportunity for General Assembly to remedy defects.**

46 (a) If the General Assembly enacts a plan apportioning or redistricting State legislative or
47 congressional districts, in no event may a court impose its own substitute plan unless the court first
48 gives the General Assembly a period of time to remedy any defects identified by the court in its
49 findings of fact and conclusions of law. That period of time shall not be less than two weeks. In
50 the event the General Assembly does not act to remedy any identified defects to its plan within
51 that period of time, the court may impose an interim districting plan for use in the next general

1 election only, but that interim districting plan may differ from the districting plan enacted by the
2 General Assembly only to the extent necessary to remedy any defects identified by the court.

3 (b) Notwithstanding any other provision of law or authority of the State Board of Elections
4 under Chapter 163 of the General Statutes, the State Board of Elections shall have no authority to
5 alter, amend, correct, impose, or substitute any plan apportioning or redistricting State legislative
6 or congressional districts other than a plan imposed by a court under this section or a plan enacted
7 by the General Assembly."

8 **SECTION 20.(b)** G.S. 163-22 is amended by adding two new subsections to read:

9 "(r) Nothing in this Chapter shall grant authority to the State Board of Elections to alter,
10 amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or
11 congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted
12 by the General Assembly.

13 (s) Nothing in this Chapter shall grant authority to the State Board of Elections to alter,
14 amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of
15 local government other than a plan imposed by a court, a plan enacted by the General Assembly,
16 or a plan adopted by the appropriate unit of local government under statutory or local act
17 authority."

18 **SECTION 20.(c)** G.S. 163-33 is amended by adding two new subdivisions to read:

19 "(15) Nothing in this Chapter shall grant authority to county boards of elections to
20 alter, amend, correct, impose, or substitute any plan apportioning or
21 redistricting State legislative or congressional districts other than a plan
22 imposed by a court under G.S. 120-2.4 or a plan enacted by the General
23 Assembly.

24 (16) Nothing in this Chapter shall grant authority to county boards of elections to
25 alter, amend, correct, impose, or substitute any plan apportioning or
26 redistricting districts for a unit of local government other than a plan imposed
27 by a court, a plan enacted by the General Assembly, or a plan adopted by the
28 appropriate unit of local government under statutory or local act authority."

29 **SECTION 20.(d)** G.S. 163-27.1 reads as rewritten:

30 **"§ 163-27.1. Emergency powers.**

31 (a) The Executive Director, as chief State elections official, may exercise emergency
32 powers to conduct an election in a district where the normal schedule for the election is disrupted
33 by any of the following:

- 34 (1) A natural disaster.
- 35 (2) Extremely inclement weather.
- 36 (3) An armed conflict involving Armed Forces of the United States, or
- 37 mobilization of those forces, including North Carolina National Guard and
- 38 reserve components of the Armed Forces of the United States.

39 In exercising those emergency powers, the Executive Director shall avoid unnecessary conflict
40 with the provisions of this Chapter. The Executive Director shall adopt rules describing the
41 emergency powers and the situations in which the emergency powers will be exercised.

42 (b) Nothing in this Chapter shall grant authority to the State Board of Elections to alter,
43 amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or
44 congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted
45 by the General Assembly.

46 (c) Nothing in this Chapter shall grant authority to the State Board of Elections to alter,
47 amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of
48 local government other than a plan imposed by a court, a plan enacted by the General Assembly,
49 or a plan adopted by the appropriate unit of local government under statutory or local act
50 authority."

PART III. PARTISAN APPELLATE COURT ELECTIONS

SECTION 21.(a) G.S. 163-106 reads as rewritten:

"§ 163-106. Notices of candidacy; pledge; with whom filed; date for filing; withdrawal.

...

(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary nominations for 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 primary:

Governor

Lieutenant Governor

All State executive officers

Justices of the Supreme Court

Judges of the Court of Appeals

United States Senators

Members of the House of Representatives of the United States

District attorneys

Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the county 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 primary:

State Senators

Members of the State House of Representatives

All county offices.

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

...."

SECTION 21.(b) G.S. 163-107(a) reads as rewritten:

"(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:

Office Sought	Amount of Filing Fee
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,</u> <u>Judges of the Court of Appeals, and</u> District Attorneys of the General Court of Justice	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

1	State Senator	One percent (1%) of the annual salary of the
2		office sought
3	Member of the State House of	One percent (1%) of the annual salary of
4	Representatives	the office sought
5	All county offices not compensated by fees	One percent (1%) of the annual salary of the
6		office sought
7	All county offices compensated partly	One percent (1%) of the first annual
8	by salary and partly by fees	salary to be received (exclusive of fees)
9	The salary of any office that is the basis for calculating the filing fee is the starting salary for	
10	the office, rather than the salary received by the incumbent, if different. If no starting salary can be	
11	determined for the office, then the salary used for calculation is the salary of the incumbent, as of	
12	January 1 of the election year."	

13 **SECTION 21.(c)** G.S. 163-107.1(b) reads as rewritten:

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

28 **SECTION 21.(d)** G.S. 163-111(c)(1) reads as rewritten:

29 "(1) A candidate who is apparently entitled to demand a second primary, according
 30 to the unofficial results, for one of the offices listed below, and desiring to do
 31 so, shall file a request for a second primary in writing with the Executive
 32 Director of the State Board of Elections no later than 12:00 noon on the ninth
 33 day (including Saturdays and Sundays) following the date on which the primary
 34 was conducted, and such request shall be subject to the certification of the
 35 official results by the State Board of Elections. If the vote certification by the
 36 State Board of Elections determines that a candidate who was not originally
 37 thought to be eligible to call for a second primary is in fact eligible to call for a
 38 second primary, the Executive Director of the State Board of Elections shall
 39 immediately notify such candidate and permit ~~him~~ the candidate to exercise any
 40 options available to ~~him~~ the candidate within a 48-hour period following the
 41 notification:

- 42 Governor,
- 43 Lieutenant Governor,
- 44 All State executive officers,
- 45 Justices of the Supreme Court, Judges of the Court of Appeals, or
- 46 District Attorneys of the General Court of Justice,
- 47 United States Senators,
- 48 Members of the United States House of Representatives,
- 49 State Senators in multi-county senatorial districts, and
- 50 Members of the State House of Representatives in multi-county
- 51 representative districts."

1 SECTION 21.(e) Subchapter X of Chapter 163 of the General Statutes reads as
2 rewritten:

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

5 "Article 25.

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

7 **"§ 163-321. Applicability.**

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

11 ...

12 **"§ 163-323. Notice of candidacy.**

13 ...

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

18 ~~Justices of the Supreme Court.~~

19 ~~Judges of the Court of Appeals.~~

20 Judges of the superior courts.

21 Judges of the district courts.

22 ...

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

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

33 ...

34 **"§ 163-325. Petition in lieu of payment of filing fee.**

35 ...

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

49 **"§ 163-326. Certification of notices of candidacy.**

50 ...

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

9 ...
10 **"§ 163-329. Elections to fill vacancy in office created after primary filing period opens.**

11 (a) General. – If a vacancy is created in the office of ~~justice of the Supreme Court, judge of
12 the Court of Appeals, or~~ judge of superior court after the filing period for the primary opens but
13 more than 60 days before the general election, and under the Constitution of North Carolina an
14 election is to be held for that position, such that the office shall be filled in the general election as
15 provided in G.S. 163-9, the election to fill the office for the remainder of the term shall be
16 conducted without a primary using the method provided in subsection (b1) of this section. If a
17 vacancy is created in the office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~
18 judge of superior court before the filing period for the primary opens, and under the Constitution
19 of North Carolina an election is to be held for that position, such that the office shall be filled in
20 the general election as provided in G.S. 163-9, the election to fill the office for the remainder of
21 the term shall be conducted in accordance with G.S. 163-322.

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

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

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

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

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

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

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

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

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

- 1 (3) The fact that the voter gives more than one ranking to the same candidate shall
 2 not invalidate the vote. The highest ranking given a particular candidate shall
 3 count as long as the candidate is not eliminated.
- 4 (4) In case of a tie between candidates such that two or more candidates have an
 5 equal number of first choices and more than two candidates qualify for the
 6 second round, instant runoff voting shall be used to determine which two
 7 candidates shall advance to the second round.

8 ...
 9 **"§ 163-332. Ballots.**

10 ...
 11 (b) Ballots to Be Furnished by County Board of Elections. – It shall be the duty of the
 12 county board of elections to print official ballots for the following offices to be voted for in the
 13 primary:

- 14 ~~Justice of the Supreme Court.~~
 15 ~~Judge of the Court of Appeals.~~
 16 Superior court judge.
 17 District court judge.

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

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

24"

25 **SECTION 21.(f)** G.S. 163-323(h) is repealed.

26 **SECTION 21.(g)** G.S. 163-165.5(a)(4) reads as rewritten:

27 "(4) Party designations in partisan ballot ~~items and in nonpartisan ballot items as~~
 28 ~~required by G.S. 163-323(h).items."~~

29 **SECTION 21.(h)** This Part becomes effective January 1, 2018, and applies to
 30 primaries and elections held on or after that date.

31
 32 **PART IV. MODIFY APPELLATE REVIEW OF CERTAIN CASES**

33 **SECTION 22.(a)** G.S. 7A-16 reads as rewritten:

34 **"§ 7A-16. Creation and organization.**

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

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

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

49 Effective January 1, 1969, the number of judges is increased to nine, and the Governor, on or
 50 after March 1, 1969, shall make temporary appointments to the additional judgeships thus created.
 51 The appointees shall serve until January 1, 1971. Their successors shall be elected at the general

1 election for members of the General Assembly in November, 1970, and shall take office on
2 January 1, 1971, to serve for the remainder of the unexpired term which began on January 1, 1969.

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

8 On or after December 15, 2000, the Governor shall appoint three additional judges to increase
9 the number of judges to 15.

10 The Court of Appeals shall sit in panels of three judges ~~each~~ each and may also sit en banc to
11 hear or rehear any cause upon a vote of the majority of the judges of the court. The Chief Judge
12 insofar as practicable shall assign the members to panels in such fashion that each member sits a
13 substantially equal number of times with each other ~~member~~. He ~~member~~, shall preside ~~over the~~
14 ~~panel of which he is a member~~, when a member of a panel, and shall designate the presiding judge
15 of the other panel or panels.

16 ~~Three judges shall constitute a quorum for the transaction of the business of the court, except~~
17 ~~as may be provided in G.S. 7A-32.~~ Except as may be provided in G.S. 7A-32, three judges shall
18 constitute a quorum for the transaction of the business of the court when sitting in panels of three
19 judges, and a majority of the then sitting judges on the Court of Appeals shall constitute a quorum
20 for the transaction of the business of the court when sitting en banc.

21 In the event the Chief Judge is unable, on account of absence or temporary incapacity, to
22 perform the duties placed upon him as Chief Judge, the Chief Justice shall appoint an acting Chief
23 Judge from the other judges of the Court, to temporarily discharge the duties of Chief Judge."

24 **SECTION 22.(b)** G.S. 7A-27 reads as rewritten:

25 "**§ 7A-27. Appeals of right from the courts of the trial divisions.**

26 (a) Appeal lies of right directly to the Supreme Court in any of the following cases:

- 27 (1) All cases in which the defendant is convicted of murder in the first degree and
28 the judgment of the superior court includes a sentence of death.
- 29 (2) From any final judgment in a case designated as a mandatory complex business
30 case pursuant to G.S. 7A-45.4 or designated as a discretionary complex
31 business case pursuant to Rule 2.1 of the General Rules of Practice for the
32 Superior and District Courts.
- 33 (3) From any interlocutory order of a Business Court Judge that does any of the
34 following:
 - 35 a. Affects a substantial right.
 - 36 b. In effect determines the action and prevents a judgment from which an
37 appeal might be taken.
 - 38 c. Discontinues the action.
 - 39 d. Grants or refuses a new trial.

40 ~~(a1) Appeal lies of right directly to the Supreme Court from any order or judgment of a~~
41 ~~court, either final or interlocutory, that holds that an act of the General Assembly is facially invalid~~
42 ~~on the basis that the act violates the North Carolina Constitution or federal law. Nothing in this~~
43 ~~subsection shall be deemed to apply to appeals from orders of the trial courts pertaining to~~
44 ~~criminal proceedings, to proceedings under Chapter 15A of the General Statutes, to proceedings~~
45 ~~making a collateral attack on any judgment entered in a criminal proceeding, or to appeals from~~
46 ~~orders of the trial courts pertaining to civil proceedings filed by a taxpayer pursuant to G.S.~~
47 ~~105-241.17.~~

48 (b) Except as provided in subsection (a) ~~or (a1)~~ of this section, appeal lies of right directly
49 to the Court of Appeals in any of the following cases:

- 50 (1) From any final judgment of a superior court, other than one based on a plea of
51 guilty or nolo contendere, including any final judgment entered upon review of

1 a decision of an administrative agency, except for a final judgment entered
2 upon review of a court martial under G.S. 127A-62.

3 (2) From any final judgment of a district court in a civil action.

4 (3) From any interlocutory order or judgment of a superior court or district court in
5 a civil action or proceeding that does any of the following:

6 a. Affects a substantial right.

7 b. In effect determines the action and prevents a judgment from which an
8 appeal might be taken.

9 c. Discontinues the action.

10 d. Grants or refuses a new trial.

11 e. Determines a claim prosecuted under G.S. 50-19.1.

12 f. Grants temporary injunctive relief restraining the State or a political
13 subdivision of the State from enforcing the operation or execution of an
14 act of the General Assembly as applied against a party in a civil
15 action. ~~Assembly. This sub-subdivision only applies where the State or a~~
16 ~~political subdivision of the State is a party in the civil action. This~~
17 ~~sub-subdivision does not apply to facial challenges to an act's validity~~
18 ~~heard by a three-judge panel pursuant to G.S. 1-267.1.~~

19 (4) From any other order or judgment of the superior court from which an appeal is
20 authorized by statute.

21 (c) through (e) Repealed by Session Laws 2013-411, s. 1, effective August 23, 2013."

22 **SECTION 22.(c)** G.S. 7A-30 reads as rewritten:

23 **"§ 7A-30. Appeals of right from certain decisions of the Court of Appeals.**

24 Except as provided in G.S. 7A-28, an appeal lies of right to the Supreme Court from any
25 decision of the Court of Appeals rendered in a case:

26 (1) Which directly involves a substantial question arising under the Constitution of
27 the United States or of this State, or

28 (2) In which there is a ~~dissent~~ dissent when the Court of Appeals is sitting in a
29 panel of three judges. An appeal of right pursuant to this subdivision is not
30 effective until after the Court of Appeals sitting en banc has rendered a decision
31 in the case, if the Court of Appeals hears the case en banc, or until after the time
32 for filing a motion for rehearing of the cause by the Court of Appeals has
33 expired or the Court of Appeals has denied the motion for rehearing."

34 **SECTION 22.(d)** G.S. 7A-31(a) reads as rewritten:

35 "(a) In any cause in which appeal is taken to the Court of ~~Appeals~~ Appeals, including any
36 cause heard while the Court of Appeals was sitting en banc, except a cause appealed from the
37 North Carolina Industrial Commission, the North Carolina State Bar pursuant to G.S. 84-28, the
38 Property Tax Commission pursuant to G.S. 105-345, the Board of State Contract Appeals pursuant
39 to G.S. 143-135.9, the Commissioner of Insurance pursuant to ~~G.S. 58-2-80~~, G.S. 58-2-80 or
40 G.S. 58-65-131(c), a court-martial pursuant to G.S. 127A-62, a motion for appropriate relief, or
41 valuation of exempt property pursuant to G.S. 7A-28, the Supreme Court may, in its discretion, on
42 motion of any party to the cause or on its own motion, certify the cause for review by the Supreme
43 Court, either before or after it has been determined by the Court of Appeals. A cause appealed to
44 the Court of Appeals from any of the administrative bodies listed in the preceding sentence may be
45 certified in similar fashion, but only after determination of the cause in the Court of Appeals. The
46 effect of such certification is to transfer the cause from the Court of Appeals to the Supreme Court
47 for review by the Supreme Court. If the cause is certified for transfer to the Supreme Court before
48 its determination in the Court of Appeals, review is not had in the Court of Appeals but the cause
49 is forthwith transferred for review in the first instance by the Supreme Court. If the cause is
50 certified for transfer to the Supreme Court after its determination by the Court of Appeals, the
51 Supreme Court reviews the decision of the Court of Appeals.

1 Except in courts-martial and motions within the purview of G.S. 7A-28, the State may move
2 for certification for review of any criminal cause, but only after determination of the cause by the
3 Court of Appeals."

4 **SECTION 22.(e)** G.S. 58-65-131(c) reads as rewritten:

5 "(c) Compliance Required in Certain Events. – A corporation governed by this Article shall
6 comply with the provisions of this section, G.S. 58-65-132, and G.S. 58-65-133 before it may do
7 any of the following:

8 ...

9 In determining whether the corporation must comply with the provisions of this section,
10 G.S. 58-65-132, and G.S. 58-65-133, the Commissioner may review and consolidate actions of the
11 corporation, its subsidiaries, and other legal entities in which the corporation directly or indirectly
12 owns an interest, and treat the consolidated actions as requiring a conversion. An appeal of the
13 Commissioner's order that consolidated actions require a conversion shall lie directly to the North
14 Carolina Court of Appeals, ~~provided that any party may petition the North Carolina Supreme~~
15 ~~Court, pursuant to G.S. 7A-31(b), to certify the case for discretionary review by the Supreme~~
16 ~~Court prior to determination by the Court of Appeals.~~ Appeals under this subsection must be filed
17 within 30 days of the Commissioner's order and shall be considered in the most expeditious
18 manner practical. The corporation must file a plan of conversion within 12 months of the later of
19 the issuance of the Commissioner's order or a final decision on appeal."

20 **SECTION 22.(f)** G.S. 120-2.5 is repealed.

21 **SECTION 23.(a)** G.S. 1A-1, Rule 42(b)(4) of the Rules of Civil Procedure, reads as
22 rewritten:

23 **"Rule 42. Consolidation; separate trials.**

24 ...

25 (b) Separate trials. –

26 ...

27 (4) Pursuant to G.S. 1-267.1, any facial challenge to the validity of an act of the
28 General Assembly, other than a challenge to plans apportioning or redistricting
29 State legislative or congressional districts, shall be heard by a three-judge panel
30 in the Superior Court of Wake County if a claimant raises such a challenge in
31 the claimant's complaint or amended complaint in any court in this State, or if
32 such a challenge is raised by the defendant in the defendant's answer,
33 responsive pleading, or within 30 days of filing the defendant's answer or
34 responsive pleading. In that event, the court shall, on its own motion, transfer
35 that portion of the action challenging the validity of the act of the General
36 Assembly to the Superior Court of Wake County for resolution by a three-judge
37 panel if, after all other matters in the action have been resolved, a determination
38 as to the facial validity of an act of the General Assembly must be made in
39 order to completely resolve any matters in the case. The court in which the
40 action originated shall maintain jurisdiction over all matters other than the
41 challenge to the act's facial ~~validity and validity~~. For a motion filed under Rule
42 11 or Rule 12(b)(1) through (7), the original court shall rule on the motion,
43 however, it may decline to rule on a motion that is based solely upon Rule
44 12(b)(6). If the original court declines to rule on a Rule 12(b)(6) motion, the
45 motion shall be decided by the three-judge panel. The original court shall stay
46 all matters that are contingent upon the outcome of the challenge to the act's
47 facial validity pending a ruling on that challenge and until all appeal rights are
48 exhausted. Once the three-judge panel has ruled and all appeal rights have been
49 exhausted, the matter shall be transferred or remanded to the three-judge panel
50 or the trial court in which the action originated for resolution of any outstanding
51 matters, as appropriate."

1 **SECTION 23.(b)** This section becomes effective February 1, 2017, and applies to
2 motions filed on or after that date.

3
4 **PART V. MODIFY THE TERM FOR INDUSTRIAL COMMISSIONERS**

5 **SECTION 24.(a)** G.S. 97-77 reads as rewritten:

6 "**§ 97-77. North Carolina Industrial Commission created; members appointed by Governor;**
7 **terms of office; chairman.**

8 (a) There is hereby created a commission to be known as the North Carolina Industrial
9 Commission, consisting of six commissioners who shall devote their entire time to the duties of
10 the Commission. The Governor shall appoint the members of the Commission for terms of six
11 years. Three commissioners shall be persons who, on account of their previous vocations,
12 employment or affiliations, can be classed as representatives of employers. Three commissioners
13 shall be persons who, on account of their previous vocations, employment or affiliations, can be
14 classed as representatives of employees. No person may serve more than two terms on the
15 Commission, including any term served prior to the effective date of this section. In calculating
16 the number of terms served, a partial term that is less than three years in length shall not be
17 included.

18 (a1) Appointments of commissioners are subject to confirmation by the General Assembly
19 by joint resolution. The names of commissioners to be appointed by the Governor shall be
20 submitted by the Governor to the General Assembly for confirmation by the General Assembly on
21 or before March 1 of the year of expiration of the term. If the Governor fails to timely submit
22 nominations, the General Assembly shall appoint to fill the succeeding term upon the joint
23 recommendation of the President Pro Tempore of the Senate and the Speaker of the House of
24 Representatives in accordance with G.S. 120-121 not inconsistent with this section.

25 In case of death, incapacity, resignation, or any other vacancy in the office of any
26 commissioner prior to the expiration of the term of office, a nomination to fill the vacancy ~~for the~~
27 ~~remainder of the unexpired term~~ shall be submitted by the Governor within four weeks after the
28 vacancy arises to the General Assembly for confirmation by the General Assembly. Appointments
29 to fill a vacancy shall have a term of six years plus the remainder of the unexpired term. If the
30 Governor fails to timely nominate a person to fill the vacancy, the General Assembly shall appoint
31 a person to fill the remainder of the unexpired term upon the joint recommendation of the
32 President Pro Tempore of the Senate and the Speaker of the House of Representatives in
33 accordance with G.S. 120-121 not inconsistent with this section. If a vacancy arises or exists
34 pursuant to this subsection when the General Assembly is not in session, and the appointment is
35 deemed urgent by the Governor, the commissioner may be appointed and serve on an interim basis
36 pending confirmation by the General Assembly. For the purpose of this subsection, the General
37 Assembly is not in session only (i) prior to convening of the Regular Session, (ii) during any
38 adjournment of the Regular Session for more than 10 days, and (iii) after sine die adjournment of
39 the Regular Session.

40 No person while in office as a commissioner may be nominated or appointed on an interim
41 basis to fill the remainder of an unexpired term, or to a full term that commences prior to the
42 expiration of the term that the commissioner is serving.

43 ~~(b) One member, to be designated by the Governor, shall act as chairman. On December~~
44 ~~30, 2016, and every four years thereafter, one member shall be designated by the Governor to act~~
45 ~~as chairman for a term of four years. In case of death, incapacity, resignation, or any other vacancy~~
46 ~~of the chairman, the Governor shall designate a new chairman from the remaining commissioners~~
47 ~~for the remainder of the four-year term. No member who has served less than one year on the~~
48 ~~Commission may be designated to act as chairman.~~

49 The chairman shall be the chief judicial officer and the chief executive officer of the Industrial
50 Commission; such authority shall be exercised pursuant to the provisions of Chapter 126 of the
51 General Statutes and the rules and policies of the State Human Resources Commission.

1 Notwithstanding the provisions of this Chapter, the chairman shall have such authority as is
2 necessary to direct and oversee the Commission. The chairman may delegate any duties and
3 responsibilities as may be necessary to ensure the proper management of the Industrial
4 Commission. Notwithstanding the provisions of this Chapter, Chapter 143A, and Chapter 143B of
5 the General Statutes, the chairman may hire or fire personnel and transfer personnel within the
6 Industrial Commission.

7 The Governor may designate one vice-chairman from the remaining commissioners. The
8 vice-chairman shall assume the powers of the chairman upon request of the chairman or when the
9 chairman is absent for 24 hours or more. The authority delegated to the vice-chairman shall be
10 relinquished immediately upon the return of the chairman or at the request of the chairman."

11 **SECTION 24.(b)** G.S. 97-77(a1), as amended by subsection (a) of this section, reads
12 as rewritten:

13 "(a1) Appointments of commissioners are subject to confirmation by the General Assembly
14 by joint resolution. The names of commissioners to be appointed by the Governor shall be
15 submitted by the Governor to the General Assembly for confirmation by the General Assembly on
16 or before March 1 of the year of expiration of the term. If the Governor fails to timely submit
17 nominations, the General Assembly shall appoint to fill the succeeding term upon the joint
18 recommendation of the President Pro Tempore of the Senate and the Speaker of the House of
19 Representatives in accordance with G.S. 120-121 not inconsistent with this section.

20 In case of death, incapacity, resignation, or any other vacancy in the office of any
21 commissioner prior to the expiration of the term of office, a nomination to fill the vacancy for the
22 remainder of the unexpired term shall be submitted by the Governor within four weeks after the
23 vacancy arises to the General Assembly for confirmation by the General Assembly. ~~Appointments~~
24 ~~to fill a vacancy shall have a term of six years plus the remainder of the unexpired term.~~ If the
25 Governor fails to timely nominate a person to fill the vacancy, the General Assembly shall appoint
26 a person to fill the remainder of the unexpired term upon the joint recommendation of the
27 President Pro Tempore of the Senate and the Speaker of the House of Representatives in
28 accordance with G.S. 120-121 not inconsistent with this section. If a vacancy arises or exists
29 pursuant to this subsection when the General Assembly is not in session, and the appointment is
30 deemed urgent by the Governor, the commissioner may be appointed and serve on an interim basis
31 pending confirmation by the General Assembly. For the purpose of this subsection, the General
32 Assembly is not in session only (i) prior to convening of the Regular Session, (ii) during any
33 adjournment of the Regular Session for more than 10 days, and (iii) after sine die adjournment of
34 the Regular Session.

35 No person while in office as a commissioner may be nominated or appointed on an interim
36 basis to fill the remainder of an unexpired term, or to a full term that commences prior to the
37 expiration of the term that the commissioner is serving."

38 **SECTION 24.(c)** Subsection (a) of this section is effective when it becomes law and
39 applies to appointments made on or after that date. Subsection (b) of this section becomes
40 effective December 31, 2016, and applies to appointments made on or after that date.

41 **PART VI. EFFECTIVE DATE**

42 **SECTION 25.** If any provision of this act or its application is held invalid, the
43 invalidity does not affect other provisions or applications of this act that can be given effect
44 without the invalid provisions or application, and to this end, the provisions of this act are
45 severable.

46 **SECTION 26.** Except as otherwise provided, this act is effective when it becomes
47 law.
48