

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 971

Judiciary I/Constitution Committee Substitute Adopted 5/9/95

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Select Review Committee On Senate Bill 971 Committee Substitute No. 2 Adopted 6/13/95

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Short Title: Judicial Appt./Voter Retention.

(Public)

Sponsors:

Referred to:

May 3, 1995

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE FOR GUBERNATORIAL NOMINATION OF JUSTICES OF THE SUPREME COURT AND JUDGES OF THE COURT OF APPEALS, LEGISLATIVE CONFIRMATION, AND RETENTION BY VOTE OF THE PEOPLE, TO PROVIDE FOR ELECTION OF SUPERIOR COURT JUDGES WITHIN THEIR DISTRICTS, AND TO IMPROVE THE ADMINISTRATION OF JUSTICE AND PROMOTE JUDICIAL ECONOMY AND EFFICIENCY WITHIN THE SUPERIOR COURT DIVISION OF THE GENERAL COURT OF JUSTICE BY PROVIDING FOR FULL EIGHT-YEAR TERMS OF OFFICE WHEN VACANCIES ARISE AND AN ELECTION IS HELD OTHER THAN AT THE EXPIRATION OF THE PRIOR TERM FOR CERTAIN SUPERIOR COURT JUDGES.

The General Assembly of North Carolina enacts:

1 Section 1. Section 16 of Article IV of the North Carolina Constitution reads as
2 rewritten:

3 ~~"Sec. 16. Terms of office and election of Justices of the Supreme Court, Judges of the~~
4 ~~Court of Appeals, and Judges of the Superior Court. Selection and tenure of Justices of~~
5 ~~the Supreme Court and Judges of the Court of Appeals; election of Judges of the Superior~~
6 ~~Court.~~

7 ~~Justices of the Supreme Court, Judges of the Court of Appeals, and regular (1) Judges~~
8 ~~of the Superior court shall be elected by the qualified voters and shall hold office for~~
9 ~~terms of eight years and until their successors are elected and qualified. Justices of the~~
10 ~~Supreme Court and Judges of the Court of Appeals shall be elected by the qualified~~
11 ~~voters of the State. Regular Judges of the Superior Court may shall be elected by the~~
12 ~~qualified voters of the State or by the voters of their respective districts, as the General~~
13 ~~Assembly may prescribe. districts.~~

14 (2) General principles. Justices and judges of the Appellate Division should be
15 selected for and continue to hold office solely upon the basis of personal and professional
16 fitness to administer right and justice wisely, according to law, and without favor, denial,
17 or delay, to all persons who come into the courts. While their continuation in office
18 should be periodically subject to approval by the people, both their initial selection and
19 continuation in office should be free, so far as may be, from the influences and
20 necessities of partisan political activity.

21 (3) Nomination, confirmation, appointment retention election, and terms of
22 justices and judges. On and after January 1, 1996, when a vacancy occurs in the office of
23 Chief Justice, Associate Justice, or Judge of the Appellate Division, the Governor shall
24 nominate a person to fill the vacancy. Prior to appointment, such nominations by the
25 Governor shall be subject to confirmation of the General Assembly by a majority of the
26 members of each house present and voting prior to appointment. For the purposes of this
27 section, creation of a new judgeship within the Appellate Division creates a vacancy.

28 Each house of the General Assembly shall vote on confirmation within 60 calendar
29 days of the date of nomination, except that no day shall be included within that
30 calculation if it is:

31 (a) Between sine die adjournment of one regular session and convening of
32 the next regular session; or

33 (b) During any period when the General Assembly has adjourned a regular
34 session for more than 30 days jointly as provided under Section 20 of
35 Article II of this Constitution.

36 If a nomination is made during either of the periods listed in subdivision (a) or (b)
37 of this subsection, the Governor may convene the General Assembly in extra session for
38 the purpose of considering confirmation of the nomination. No action of that extra
39 session shall be valid after the second calendar day of that session, and that extra session
40 may not consider any matters other than rules for the extra session, confirmation of the
41 nomination, and adjournment sine die. The nomination may not be confirmed in any
42 extra session other than one called under this subsection.

1 The term of office by appointment as Chief Justice, Associate Justice, or Judge of the
2 Appellate Division extends through June 30 after the next statewide election for members
3 of the General Assembly that is held more than 18 months after the nomination is
4 confirmed. At that election, a person holding by appointment the office of Chief Justice,
5 Associate Justice, or Judge of the Appellate Division who desires to continue in office
6 shall be subject to approval by nonpartisan ballot, by a majority of the votes cast on the
7 issue of the Justice's or Judge's retention. A Chief Justice, Associate Justice, or Judge of
8 the Appellate Division then approved for retention serves a regular term.

9 The regular term of office of the Chief Justice, Associate Justices, and Judges of the
10 Appellate Division is eight years and expires on June 30.

11 At the last statewide election for members of the General Assembly held before the
12 expiration of a regular term of office, a Chief Justice, Associate Justice, or Judge of the
13 Appellate Division who desires to continue in office shall be subject to approval by
14 nonpartisan ballot, by a majority of the votes cast on the issue of the Justice's or Judge's
15 retention.

16 If the voters fail to approve the retention in office of a Chief Justice, Associate
17 Justice, or Judge of the Appellate Division serving an appointed or regular term, the
18 office shall become vacant at the end of the term of office, and it shall be filled by
19 nomination, confirmation, and appointment as prescribed in this section. In such case,
20 the Governor may only nominate a person of the same political affiliation as the justice or
21 judge who has not been retained in office. For the purpose of this section, the political
22 affiliation of a nominee for justice or judge is determined as of 24 months preceding the
23 date of the vacancy for which the nomination is made.

24 Voting in a retention election on the Chief Justice, Associate Justices, and Judges of
25 the Appellate Division shall be the qualified voters of the whole State.

26 (4) Transition provisions. The term of office of a person who has been elected
27 before January 1, 1996, to the office of Chief Justice, Associate Justice, or Judge of the
28 Appellate Division for a term which extends beyond January 1, 1996, and who is in
29 office on January 1, 1996, is extended through June 30 of the year following the eighth
30 year after the date any such justice or judge was last elected to the office. If the person so
31 elected continues to serve for the remainder of the term, that person may stand for
32 retention in the office for a succeeding regular term as provided in this section. If the
33 person continues to serve for the remainder of the term but does not stand for retention
34 election, a vacancy is created in the office upon expiration of the term, and this vacancy
35 shall be filled by nomination, confirmation, and appointment as provided in this section.

36 The term of office of a person who has been appointed before January 1, 1996, to the
37 office of Chief Justice, Associate Justice, or Judge of the Appellate Division for a term
38 which extends beyond January 1, 1996, and who is in office on January 1, 1996, shall end
39 on June 30, 1999. If the person so appointed continues to serve for the remainder of the
40 term, that person may stand for retention in the office for a regular term as provided by
41 this section at the statewide election for members of the General Assembly held in 1998.

42 Upon the death, resignation, removal, or retirement of any incumbent justice or judge
43 on or after January 1, 1996, and before the expiration of his term of office, the resulting

vacancy shall be filled by nomination, confirmation, and appointment as provided in this section.

Vacancies in judicial offices in the Appellate Division occurring before January 1, 1996, and not filled by that date, shall be filled by nomination, confirmation, and appointment as provided in this section.

From the date any incumbent described in this subsection is continued in office by retention vote for a term next succeeding the term in progress on January 1, 1996, or is succeeded in office by another person, the office is held subject to the provisions of this section.

(5) The General Assembly may implement this section by general law."

Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at a statewide election on November 7, 1995, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The reasonable additional costs of conducting the election shall be reimbursed by the State. The question to be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment to replace the present practice of selecting justices and judges of the Appellate Division by gubernatorial appointment, followed by partisan elections, with a method by which justices and judges of the Appellate Division will be nominated by the Governor, confirmed by the General Assembly, and then serve for limited terms after which the question of the justice's or judge's retention in office is regularly submitted for approval or disapproval by nonpartisan vote of the people at general elections, and to provide for election of superior court judges in their districts."

Sec. 3. If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The amendment becomes effective upon this certification. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.

Sec. 3.1. Chapter 7A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 1A.

**"APPOINTMENT AND CONFIRMATION OF JUSTICES AND JUDGES,
RETENTION ELECTIONS.**

**"§ 7A-4.1. Nomination of justices and judges by Governor and confirmation by
General Assembly.**

(a) The office of Chief Justice and Justice of the Supreme Court and Judge of the Court of Appeals are filled by nomination by the Governor subject to confirmation by the General Assembly in accordance with Section 16 of Article IV of the Constitution.

(b) Nominees are subject to confirmation as provided in this subsection. A nominee is confirmed by passage of a joint resolution of the General Assembly. The Governor may withdraw a nomination at any time.

"§ 7A-4.2. Confirmation procedures.

1 (a) A legislative committee to which the issue of confirmation is referred may
2 conduct an investigation of the nominee. The investigation may include an evaluation of
3 the nominee's ethical conduct, the nominee's knowledge of and application of the law, the
4 nominee's management of the courts over which he has presided, the nominee's work
5 habits, the nominee's health, and the nominee's judicial demeanor. The nominee or judge
6 shall be given an opportunity to present to the committee any information that the
7 nominee determines to be appropriate.

8 (b) The committee shall be allowed to inspect the files of the Judicial Standards
9 Commission by request of the chairman of the committee. Notwithstanding the
10 provisions of G.S. 7A-377, the files of the Judicial Standards Commission shall be made
11 available to the committee. Testimony and other evidence presented to the committee is
12 privileged in any action for defamation.

13 **"§ 7A-4.3. Governor to issue commissions to justices and judges.**

14 Every person duly nominated by the Governor as Chief Justice of the Supreme Court,
15 Associate Justice of the Supreme Court, or Judge of the Court of Appeals and duly
16 confirmed by the General Assembly shall be appointed by the Governor and shall procure
17 from the Governor a commission attesting that fact, which the Governor shall issue upon
18 receipt of a certification by the Secretary of State of the joint resolution of confirmation.

19 When a judge is retained in office by vote of the people, the Governor shall issue a
20 commission attesting that fact, which the Governor shall issue upon receipt of a
21 certification by the Secretary of State of the results of the election.

22 **"§ 7A-4.4. No elections in 1996.**

23 No partisan election as previously provided by law for Chief Justice or Associate
24 Justice of the Supreme Court, or Judge of the Court of Appeals, shall be held in 1996 or
25 thereafter.

26 **"§ 7A-4.5. Retention elections.**

27 (a) As provided by Section 16 of Article IV of the Constitution of North Carolina,
28 a Chief Justice or Associate Justice of the Supreme Court or Judge of the Court of
29 Appeals desiring to continue in office shall be subject to approval by nonpartisan ballot,
30 by a majority of votes cast on the issue of the justice's or judge's retention.

31 (b) A person subject to subsection (a) of this section shall indicate the desire to
32 continue in office by filing a notice to that effect with the State Board of Elections no
33 later than 12:00 noon on the first business day of July in the year of the election. The
34 notice shall be on a form approved by the State Board of Elections. Notice can be
35 withdrawn at any time prior to the deadline for filing notice under this subsection.

36 (c) Retention elections shall be conducted and canvassed in accordance with rules
37 of the State Board of Elections in the same general manner as general elections under
38 Chapter 163 of the General Statutes, except that the retention election is nonpartisan. The
39 form of the ballot shall be determined by the State Board of Elections.

40 (d) Retention elections shall be placed at the top of the ballot above all other
41 elections or matters for decision, whether partisan, nonpartisan, or otherwise.

42 (e) If a person who has filed a notice calling a retention election dies or is removed
43 from office prior to the time that the ballots are printed, the retention election is

1 cancelled. If a person who has filed a notice calling a retention election dies or is
2 removed from office after the ballots are printed, the State Board of Elections may cancel
3 the election if it determines that the ballots can be reprinted without significant expense.
4 If the ballots cannot be reprinted, then the results of the election shall be ineffective."

5 Sec. 3.2. (a) Chapter 7A of the General Statutes is amended by adding a new
6 section to read:

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

8 Candidates for the office of regular superior court judge shall be both nominated and
9 elected by the qualified voters of the superior court district for which the election is
10 sought."

11 (b) G.S. 163-1 is amended in the table by deleting the word "State" in the column
12 entitled "Jurisdiction" under the entry for "Judges of the superior courts", and substituting
13 "Superior Court District".

14 (c) G.S. 163-140(a) reads as rewritten:

15 "(a) Kinds of General Election Ballots; Right to Combine. – For purposes of
16 general elections, there shall be seven kinds of official ballots entitled:

- 17 (1) Ballot for presidential electors
- 18 (2) Ballot for United States Senator
- 19 (3) Ballot for member of the United States House of Representatives
- 20 (4) State ballot
- 21 (5) County ballot
- 22 (6) Repealed by Session Laws 1973, c. 793, s. 56.
- 23 (7) Ballot for constitutional amendments and other propositions submitted
24 to the people.

25 Use of official ballots shall be limited to the purposes indicated by their titles. The
26 printing on all ballots shall be plain and legible but, unless large type is specified by this
27 section, type larger than 10-point shall not be used in printing ballots. All general election
28 ballots shall be prepared in such a way as to leave sufficient blank space beneath each
29 name printed thereon in which a voter may conveniently write the name of any person for
30 whom he may desire to vote.

31 Unless prohibited by this section, the board of elections, State or county, charged by
32 law with printing ballots may, in its discretion, combine any two or more official ballots.
33 Whenever two or more ballots are combined, the voting instructions for the State ballot
34 set out in subsection (b)(4) of this section shall be used, except that if the two ballots
35 being combined do not contain a multi-seat race, then the second sentence of instruction
36 b. shall not appear on the ballot.

37 Contests in the general election for seats in the State House of Representatives and
38 State Senate shall be on ballots that are separate from ballots containing non-legislative
39 contests, except where the voting system used makes separation of ballots impractical.
40 State House and State Senate contests shall be on the same ballot, unless one is a single-
41 seat contest and the other a multi-seat contest.

42 ~~If the State Board of Elections divides the State ballot into two or more ballots, all~~
43 All candidates for superior court shall appear on the same ballot except that the ~~State~~

1 ~~Board of Elections~~ appropriate board of elections may divide the election of superior
2 court judges into two ballots ~~either because of length of the ballot or to provide a separate~~
3 ballot for multi-seat races but only superior court judges shall be on those ballots, and all
4 candidates for the Appellate Division shall appear on the same ballot ballots."

5 (d) G.S. 163-140(b)(4) reads as rewritten:

6 "(4) State Ballot: Beneath the title and general instructions set out in this
7 subsection, the ballot for single-seat contests for State officers, and for
8 all State officers where mechanical voting machines are used (~~including~~
9 ~~judges of the superior court~~) shall be divided into parallel columns
10 separated by distinct black lines. The State Board of Elections shall
11 assign a separate column to each political party having candidates for
12 State offices and one to unaffiliated candidates, if any. At the head of
13 each party column the party's name shall be printed in large type, and at
14 the head of the column for unaffiliated candidates shall be printed in
15 large type the words 'Unaffiliated Candidates.' Below the party name in
16 each column shall be printed a circle, one-half inch in diameter, around
17 which shall be plainly printed the following instruction: 'For a straight
18 ticket, mark within this circle.' With distinct black lines, the State
19 Board of Elections shall divide the columns into horizontal sections and,
20 in the customary order of office, assign a separate section to each office
21 or group of offices to be filled. On a single line at the top of each
22 section shall be printed a direction as to the number of candidates for
23 whom a vote may be cast. If candidates are to be chosen for different
24 terms to the same office, the term in each instance shall be printed as
25 part of the title of the office.

26 The name or names of each political party's candidate or candidates
27 for each office listed on the ballot shall be printed in the appropriate
28 office section of the proper party column, and the names of unaffiliated
29 candidates shall be printed in the appropriate office section of the
30 column headed 'Unaffiliated Candidates.' At the left of each name shall
31 be printed a voting square, and in each column all voting squares shall
32 be arranged in a perpendicular line.

33 On the face of the ballot, above the party and unaffiliated column
34 division, the following instructions shall be printed in heavy black type,
35 and the words 'you must also' in instruction c. shall be underlined:

- 36 'a. To vote for all candidates of one party (a straight ticket), make a
37 cross (X) mark in the circle of the party for whose candidates you
38 wish to vote.
- 39 b. You may vote a split ticket by not marking a cross (X) mark in
40 the party circle, but by making a cross (X) mark in the square
41 opposite the name of each candidate for whom you wish to vote.
- 42 c. You may also vote a split ticket by marking a cross (X) mark in
43 the party circle and then making a cross (X) mark in the square

1 opposite the name of any candidate you choose of a different
2 party. In any multi-seat race where a party circle is marked and
3 you vote for candidates of another party, you must also make a
4 cross (X) mark opposite the name of any candidate you choose of
5 the party for which you marked the party circle to assure your
6 vote will count.

7 d. If you tear or deface or wrongly mark this ballot, return it and get
8 another.'

9 On the bottom of the ballot shall be printed an identified facsimile of
10 the signature of the Chairman of the State Board of Elections. If the
11 State ballot contains no multi-seat race, then the second sentence of
12 instruction b. shall not appear on the ballot."

13 (e) G.S. 163-140(b)(5) reads as rewritten:

14 "(5) County Ballot: Beneath the title and general instructions set out in this
15 subsection, the ballot for single-seat contests for county officers
16 (including district attorney for the prosecutorial district in which the
17 county is situated, district judge for the district court district in which
18 the county is situated, regular resident superior court judge for the
19 superior court district in which the county or part thereof is situated, and
20 members of the General Assembly in the senatorial and representative
21 districts in which the county is situated), and for all county offices
22 where mechanical voting machines are used, shall be divided into
23 parallel columns separated by distinct black lines. The county board of
24 elections shall assign a separate column to each political party having
25 candidates for the offices on the ballot and one to unaffiliated
26 candidates, if any. At the head of each party column the party's name
27 shall be printed in large type and at the head of the column for
28 unaffiliated candidates shall be printed in large type the words
29 'Unaffiliated Candidates.' Below the party name in each column shall be
30 printed a circle, one-half inch in diameter, around which shall be plainly
31 printed the following instruction: 'For a straight ticket, mark within this
32 circle.' With distinct black lines, the county board of elections shall
33 divide the columns into horizontal sections and, in the customary order
34 of office, assign a separate section to each office or group of offices to
35 be filled. On a single line at the top of each section shall be printed the
36 title of the office, and directly below the title shall be printed a direction
37 as to the number of candidates for whom a vote may be cast. If
38 candidates are to be chosen for different terms to the same office, the
39 term in each instance shall be printed as part of the title of the office.

40 The name or names of each political party's candidate or candidates
41 for each office listed on the ballot shall be printed in the appropriate
42 office section of the proper party column, and the names of unaffiliated
43 candidates shall be printed in the appropriate office section of the

column headed 'Unaffiliated Candidates.' At the left of each name shall be printed a voting square, and in each column all voting squares shall be arranged in a perpendicular line.

On the face of the ballot, above the party and unaffiliated column division, the following instructions shall be printed in heavy black type, and the words 'you must also' in instruction c. shall be underlined:

- a. To vote for all candidates of one party (a straight ticket), make a cross (X) mark in the circle of the party for whose candidates you wish to vote.
- b. You may vote a split ticket by not marking a cross (X) mark in the party circle, but by making a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote.
- c. You may also vote a split ticket by marking a cross (X) mark in the party circle and then making a cross (X) mark in the square opposite the name of any candidate you choose of a different party. In any multi-seat race where a party circle is marked and you vote for candidates of another party, you must also make a cross (X) mark opposite the name of any candidate you choose of the party for which you marked the party circle to assure your vote will count.
- d. If you tear or deface or wrongly mark this ballot, return it and get another.'

On the bottom of the ballot shall be printed an identified facsimile of the signature of the chairman of the county board of elections. If the county ballot contains no multi-seat race, then the second sentence of instruction b. shall not appear on the ballot."

(f) G.S. 163-192 reads as rewritten:

"§ 163-192. State Board of Elections to prepare abstracts and declare results of primaries and elections.

(a) After Primary. – At the conclusion of its canvass of the primary election, the State Board of Elections shall prepare separate abstracts of the votes cast:

- (1) For Governor and all State officers, justices of the Supreme Court, judges of the Court of Appeals, ~~judges of the superior court~~, and United States Senators.
- (2) For members of the United States House of Representatives for the several congressional districts in the State.
- (3) For district court judges for the several district court districts in the State.
- (3a) For superior court judges for the several superior court districts in the State.
- (4) For district attorney in the several prosecutorial districts in the State.
- (5) For State Senators in the several senatorial districts in the State composed of more than one county.

- 1 (6) For members of the State House of Representatives in the several
2 representative districts in the State composed of more than one county.

3 Abstracts prepared by the State Board of Elections under this subsection shall state
4 the total number of votes cast for each candidate of each political party for each of the
5 various offices canvassed by the State Board of Elections. They shall also state the name
6 or names of the person or persons whom the State Board of Elections shall ascertain and
7 judicially determine by the count to be nominated for each office.

8 Abstracts prepared under this subsection shall be signed by the members of the State
9 Board of Elections in their official capacity and shall have the great seal of the State
10 affixed thereto.

11 (b) After General Election. – At the conclusion of its canvass of the general
12 election, the State Board of Elections shall prepare abstracts of the votes cast:

- 13 (1) For President and Vice-President of the United States, when an election
14 is held for those offices.

- 15 (2) For Governor and all State officers, justices of the Supreme Court,
16 judges of the Court of Appeals, ~~judges of the superior court,~~ and United
17 States Senators.

- 18 (3) For members of the United States House of Representatives for the
19 several congressional districts in the State.

- 20 (4) For district court judges for the several district court districts as defined
21 in G.S. 7A-133 in the State.

- 22 (4a) For superior court judges for the several superior court districts in the
23 State.

- 24 (5) For district attorney in the several prosecutorial districts in the State.

- 25 (6) For State Senators in the several senatorial districts in the State
26 composed of more than one county.

- 27 (7) For members of the State House of Representatives in the several
28 representative districts in the State composed of more than one county.

- 29 (8) For and against any constitutional amendments or propositions
30 submitted to the people.

31 Abstracts prepared by the State Board of Elections under this subsection shall state
32 the names of all persons voted for, the office for which each received votes, and the
33 number of legal ballots cast for each candidate for each office canvassed by the State
34 Board of Elections. They shall also state the name or names of the person or persons
35 whom the State Board of Elections shall ascertain and judicially determine by the count
36 to be elected to each office.

37 Abstracts prepared under this subsection shall be signed by the members of the State
38 Board of Elections in their official capacity and shall have the great seal of the State
39 affixed thereto.

40 (c) Disposition of Abstracts of Returns. – The State Board of Elections shall file
41 with the Secretary of State the original abstracts of returns prepared by it under the
42 provisions of subsections (a) and (b) of this section, and also the duplicate county
43 abstracts transmitted to the State Board of Elections under the provisions of G.S. 163-

1 177. Upon the request of the Legislative Services Office, the Secretary of State shall
2 submit a copy of the original abstracts to that Office."

3 Sec. 3.3. For the purpose of Section 1 of this act, terms of justices and judges
4 covered by Section 2 of Chapter 98 of the 1995 Session Laws are as provided by that act.

5 Sec. 3.4. G.S. 7A-10(a) reads as rewritten:

6 "(a) The Supreme Court shall consist of a Chief Justice and six associate justices,
7 ~~elected by the qualified voters of the State for terms of eight years~~selected as provided by
8 Article 1A of this Chapter. Before entering upon the duties of his office, each justice shall
9 take an oath of office. Four justices shall constitute a quorum for the transaction of the
10 business of the court. Sessions of the court shall be held in the city of Raleigh, and
11 scheduled by rule of court so as to discharge expeditiously the court's business."

12 Sec. 3.5. G.S. 7A-16 reads as rewritten:

13 **"§ 7A-16. Creation and organization.**

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

20 ~~The Governor on or after July 1, 1967, shall make temporary appointments to the six~~
21 ~~initial judgeships. The appointees shall serve until January 1, 1969. Their successors shall~~
22 ~~be elected at the general election for members of the General Assembly in November,~~
23 ~~1968, and shall take office on January 1, 1969, to serve for the remainder of the~~
24 ~~unexpired term which began on January 1, 1967.~~

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

29 ~~Effective January 1, 1969, the number of judges is increased to nine, and the~~
30 ~~Governor, on or after March 1, 1969, shall make temporary appointments to the~~
31 ~~additional judgeships thus created. The appointees shall serve until January 1, 1971.~~
32 ~~Their successors shall be elected at the general election for members of the General~~
33 ~~Assembly in November, 1970, and shall take office on January 1, 1971, to serve for the~~
34 ~~remainder of the unexpired term which began on January 1, 1969.~~

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

41 The Court of Appeals shall consist of 12 judges, selected as provided in Article 1A of
42 this Chapter. The Chief Justice of the Supreme Court shall designate one of the judges as
43 Chief Judge to serve in such capacity at the pleasure of the Chief Justice. Before entering

1 upon the duties of his office, a judge of the Court of Appeals shall take the oath of office
2 prescribed for a judge of the General Court of Justice.

3 The Court of Appeals shall sit in panels of three judges each. The Chief Judge insofar
4 as practicable shall assign the members to panels in such fashion that each member sits a
5 substantially equal number of times with each other member. He shall preside over the
6 panel of which he is a member, and shall designate the presiding judge of the other panel
7 or panels.

8 Three judges shall constitute a quorum for the transaction of the business of the court,
9 except as may be provided in G.S. 7A-32.

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

14 Sec. 3.6. G.S. 163-106(c) reads as rewritten:

15 "(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary
16 nominations for the following offices shall file their notice of candidacy with the State
17 Board of Elections no earlier than 12:00 noon on the first Monday in January and no later
18 than 12:00 noon on the first Monday in February preceding the primary:

19 Governor

20 Lieutenant Governor

21 All State executive officers

22 ~~Justices of the Supreme Court, Judges of the Court of Appeals~~

23 Judges of the superior courts

24 Judges of the district courts

25 United States Senators

26 Members of the House of Representatives of the United States

27 District attorneys

28 Candidates seeking party primary nominations for the following offices shall file their
29 notice of candidacy with the county board of elections no earlier than 12:00 noon on the
30 first Monday in January and no later than 12:00 noon on the first Monday in February
31 preceding the primary:

32 State Senators

33 Members of the State House of Representatives

34 All county offices."

35 Sec. 3.7. G.S. 163-106(d) reads as rewritten:

36 "(d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any primary
37 in which there are ~~two or more vacancies for Chief Justice and associate justices of the~~
38 ~~Supreme Court, two or more vacancies for judge of the Court of Appeals, or two~~
39 ~~vacancies for United States Senator from North Carolina or two or more vacancies for the~~
40 ~~office of district court judge to be filled by nominations, each candidate shall, at the time~~
41 ~~of filing notice of candidacy, file with the State Board of Elections a written statement~~
42 ~~designating the vacancy to which he seeks nomination. Votes cast for a candidate shall be~~

effective only for his nomination to the vacancy for which he has given notice of candidacy as provided in this subsection.

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

Sec. 3.8. 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 files under the provisions of G.S. 163-106 a filing fee for the office he seeks 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 Justices, Judges, and <u>Superior Court Judges,</u> <u>District Court Judges,</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
State Senator	One percent (1%) of the annual salary of the office sought
Member of the State House of Representatives	One percent (1%) of the annual salary of the office sought
All county offices not compensated by fees	One percent (1%) of the annual salary of the office sought
County commissioners, if compensated entirely by fees	Ten dollars (\$10.00)
Members of county board of education, if compensated entirely by fees	Five dollars (\$5.00)
Sheriff, if compensated entirely by fees	Forty dollars(\$40.00), plus one percent (1%) of the income of the office above four thousand dollars (\$4,000)
Clerk of superior court, if	Forty dollars (\$40.00), plus one

1	compensated entirely by fees	percent (1%) of the income of the
2		office above four thousand
3		dollars (\$4,000)
4	Register of deeds, if	Forty dollars (\$40.00), plus one
5	compensated entirely by fees	percent (1%) of the income of the
6		office above four thousand
7		dollars(\$4,000)
8	Any other county office, if	Twenty dollars (\$20.00), plus one
9	compensated entirely by fees	percent (1%) of the income of the
10		office above two thousand dollars
11		(\$2,000)
12	All county offices compensated	One percent (1%) of the first
13	partly by salary and partly	annual salary to be received
14	by fees (exclusive of fees)." Sec. 3.9. G.S. 163-107.1(b) reads as rewritten:	

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

31 Sec. 3.10. G.S. 163-111(c)(1) reads as rewritten:

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

and permit him to exercise any options available to him within a 48-hour period following the notification:

Governor,
Lieutenant Governor,
All State executive officers,
~~Justices, Judges, or Superior Court Judges, District Court Judges~~
~~or~~ District Attorneys of the General Court of Justice,
United States Senators,
Members of the United States House of Representatives,
State Senators in multi-county senatorial districts, and
Members of the State House of Representatives in multi-county representative districts."

Sec. 3.11. G.S. 163-177 reads as rewritten:

"§ 163-177. Disposition of duplicate abstracts.

Within six hours after the returns of a primary or election have been canvassed and the results judicially determined, the chairman of the county board of elections shall mail, or otherwise deliver, to the State Board of Elections the duplicate-original abstracts prepared in accordance with G.S. 163-176 for all offices and referenda for which the State Board of Elections is required to canvass the votes and declare the results including:

President and Vice-President of the United States

Governor, Lieutenant Governor, and all other State executive officers

United States Senators

Members of the House of Representatives of the United States Congress

~~Justices, Judges, and Superior Court Judges, District Court Judges and District~~
Attorneys of the General Court of Justice

State Senators in multi-county senatorial districts

Members of the State House of Representatives in multi-county representative districts

Constitutional amendments and propositions submitted to the voters of the State.

One duplicate abstract prepared in accordance with G.S. 163-176 for all offices and referenda for which the county board of elections is required to canvass the votes and declare the results (and which are listed below) shall be retained by the county board, which shall forthwith publish and declare the results; the second duplicate abstract shall be mailed to the chairman of the State Board of Elections, to the end that there be one set of all primary and election returns available at the seat of government.

All county offices

State Senators in single-county senatorial districts

Members of the State House of Representatives in single-county representative districts

Propositions submitted to the voters of one county.

If the chairman of the county board of elections fails or neglects to transmit duplicate abstracts to the chairman of the State Board of Elections within the time prescribed in this section, he shall be guilty of a misdemeanor. Provided, that the penalty shall not apply if

1 the chairman was prevented from performing the prescribed duty because of sickness or
2 other unavoidable delay, but the burden of proof shall be on the chairman to show that his
3 failure to perform was due to sickness or unavoidable delay."

4 Sec. 3.12. G.S. 163-192 reads as rewritten:

5 **"§ 163-192. State Board of Elections to prepare abstracts and declare results of**
6 **primaries and elections.**

7 (a) After Primary. – At the conclusion of its canvass of the primary election,
8 the State Board of Elections shall prepare separate abstracts of the votes cast:

- 9 (1) For Governor and all State officers, ~~justices of the Supreme Court,~~
10 ~~judges of the Court of Appeals,~~ judges of the superior court, and United
11 States Senators.
12 (2) For members of the United States House of Representatives for the
13 several congressional districts in the State.
14 (3) For district court judges for the several district court districts in the
15 State.
16 (4) For district attorney in the several prosecutorial districts in the State.
17 (5) For State Senators in the several senatorial districts in the State
18 composed of more than one county.
19 (6) For members of the State House of Representatives in the several
20 representative districts in the State composed of more than one county.

21 Abstracts prepared by the State Board of Elections under this subsection shall state
22 the total number of votes cast for each candidate of each political party for each of the
23 various offices canvassed by the State Board of Elections. They shall also state the name
24 or names of the person or persons whom the State Board of Elections shall ascertain and
25 judicially determine by the count to be nominated for each office.

26 Abstracts prepared under this subsection shall be signed by the members of the State
27 Board of Elections in their official capacity and shall have the great seal of the State
28 affixed thereto.

29 (b) After General Election. – At the conclusion of its canvass of the general
30 election, the State Board of Elections shall prepare abstracts of the votes cast:

- 31 (1) For President and Vice-President of the United States, when an election
32 is held for those offices.
33 (2) For Governor and all State officers, ~~justices of the Supreme Court,~~
34 ~~judges of the Court of Appeals,~~ judges of the superior court, and United
35 States Senators.
36 (3) For members of the United States House of Representatives for the
37 several congressional districts in the State.
38 (4) For district court judges for the several district court districts as defined
39 in G.S. 7A-133 in the State.
40 (5) For district attorney in the several prosecutorial districts in the State.
41 (6) For State Senators in the several senatorial districts in the State
42 composed of more than one county.

(7) For members of the State House of Representatives in the several representative districts in the State composed of more than one county.

(8) For and against any constitutional amendments or propositions submitted to the people.

Abstracts prepared by the State Board of Elections under this subsection shall state the names of all persons voted for, the office for which each received votes, and the number of legal ballots cast for each candidate for each office canvassed by the State Board of Elections. They shall also state the name or names of the person or persons whom the State Board of Elections shall ascertain and judicially determine by the count to be elected to each office.

Abstracts prepared under this subsection shall be signed by the members of the State Board of Elections in their official capacity and shall have the great seal of the State affixed thereto.

(c) Disposition of Abstracts of Returns. – The State Board of Elections shall file with the Secretary of State the original abstracts of returns prepared by it under the provisions of subsections (a) and (b) of this section, and also the duplicate county abstracts transmitted to the State Board of Elections under the provisions of G.S. 163-177. Upon the request of the Legislative Services Office, the Secretary of State shall submit a copy of the original abstracts to that Office."

Sec. 3.13. G.S. 163-194 reads as rewritten:

"§ 163-194. Governor to issue commissions to certain elected officials.

Every person duly elected to one of the offices listed below, upon obtaining a certificate of his election from the Secretary of State under the provisions of G.S. 163-193, shall procure from the Governor a commission attesting his election to the specified office, which the Governor shall issue upon production of the Secretary of State's certificate:

Members of the United States House of Representatives,

~~Justices, Judges, and Superior Court Judges, District Court Judges and District Attorneys of the General Court of Justice."~~

Sec. 3.14. G.S. 163-1 is amended in the table by deleting the entries for "Justices and Judges of the Appellate Division".

Sec. 3.15. G.S. 163-9 reads as rewritten:

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

Vacancies occurring in the ~~offices of Justice of the Supreme Court, judge of the Court of Appeals, and office of~~ judge of the superior court for causes other than expiration of term shall be filled by appointment of the Governor. An appointee shall hold his place until the next election for members of the General Assembly that is held more than 60 days after the vacancy occurs, at which time an election shall be held to fill the unexpired term of the office: Provided, that when the unexpired term of the office in which the vacancy has occurred expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office.

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

4 Sec. 3.16. Sections 3.1 through 3.15 of this act are effective only if the
5 constitutional amendment proposed by Section 1 of this act is approved by the qualified
6 voters in accordance with Section 2 of this act.

7 Sec. 3.17. G.S. 163-9 as rewritten by Chapter 98 of the 1995 Session Laws
8 reads as rewritten:

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

10 (a) Vacancies occurring in the offices of Justice of the Supreme Court, judge of
11 the Court of Appeals, and judge of the superior court for causes other than expiration of
12 term shall be filled by appointment of the Governor. An appointee to the office of Justice
13 of the Supreme Court or judge of the Court of Appeals shall hold office until January 1
14 next following the election for members of the General Assembly that is held more than
15 60 days after the vacancy occurs, at which time an election shall be held for an eight-year
16 term and until a successor is elected and qualified. Except for judges specified in
17 subsection (b) of this section, an An-appointee to the office of judge of superior court
18 shall hold ~~his place the office~~ until the next election for members of the General
19 Assembly that is held more than 60 days after the vacancy occurs, at which time an
20 election shall be held to fill the unexpired term of the office. When the unexpired term of
21 the office in which the vacancy has occurred expires on the first day of January
22 succeeding the next election for members of the General Assembly, the Governor shall
23 appoint to fill that vacancy for the unexpired term of the office.

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

27 (b) Appointees for judges of the superior court from any district:

28 (1) With only one resident judge; or

29 (2) In which no county is subject to section 5 of the Voting Rights Act of
30 1965,

31 shall hold the office until the next election of members of the General Assembly that is
32 held more than 60 days after the vacancy occurs, at which time an election shall be held
33 to fill an eight-year term."

34 Sec. 3.18. If any provision of this act is held invalid by a court of competent
35 jurisdiction, or is unenforceable under section 5 of the Voting Rights Act of 1965, the
36 invalidity does not affect other provisions of this act that can be given effect without the
37 invalid provision.

38 Sec. 4. Notwithstanding G.S. 163-107(c), in 1996 only, if at the time filing of
39 notices for candidacy for the offices of Chief Justice of the Supreme Court, Justice of the
40 Supreme Court, or Judge of the Court of Appeals, is to open under G.S. 163-106(c), the
41 provisions of this act that provide that those offices are no longer elective have not been
42 approved under section 5 of the Voting Rights Act of 1965, then notices of candidacy for

1 that office shall not be filed with the State Board of Elections earlier than the third
2 Monday in January.

3 Sec. 4.1. The General Assembly shall appropriate from the General Fund to
4 the State Board of Elections for fiscal year 1995-96 sufficient funds to reimburse the
5 counties for the reasonable additional costs of conducting the election provided by
6 Section 2 of this act.

7 Sec. 5. This act is effective upon ratification.