

2016 Ex. Sess. 4

**HOUSE
ELECTIONS**

MINUTES

House Committee on Elections
Thursday, December 15, 2016 at 15 Minutes After Session
Room 643 of the Legislative Office Building

MINUTES

The House Committee on Elections met at 15 Minutes After Session on December 15, 2016 in Room 643 of the Legislative Office Building. Representatives, Brody, R. Brown, Burr, Conrad, Cotham, Davis, Dixon, Ford, Floyd, Faircloth, Gill, Hardister, Harrison, Iler, Jones, Lewis, S. Martin, Michaux, B. Richardson, W. Richardson, Riddell, Saine, Speciale, Stam, Szoka, Torbett, Warren, and Willingham attended.

Representative David R. Lewis, Chair, presided.


The following bills were considered:

SB 4 Bi-Partisan Ethics, Elections & Court Reform. (Senators Rucho, Rabon, Tucker)

Rep. Lewis motioned that the PCS would be properly before the committee. The motion carried. Rep. Lewis proposed Amendment S4-AMC-9 [v. 1]. The committee adopted the amendment.

Rep. Stam motioned for a favorable report to the PCS, unfavorable to the original. The motion carried by a vote of 20-8. See vote attached.

The meeting adjourned at 10:00AM.



Representative David R. Lewis, Chair
Presiding



Greg Gebhardt, Committee Clerk



1B - 6

Y / N

MICHAEL		
SCOTT		X
WARR		
BLUST		
BRYAN		
RIDDLE	X	
WILLIAM		X
BROWN R. Brown	X	
LOTHAM		X
LEWIS	X	
JONES	X	
FORD Ford	X	
FLOYD Floyd		X
FIR Faircloth	X	

GILL		X
HADISTAR	X	
ILBA	X	
MAREN	X	
B. RICHARDSON		X
BILLY RICHARDSON		X
SAINE	X	
SPECIAL	X	
STAM	X	
HARRISON		X
DIXON	X	
DAVIS	X	
WILLAS	X	
BULL	X	
BROWN	X	
WARMEN	X	
STOKA	X	
FORBETT	X	

PCS 20-8

✓ SHAME-9 [v.1]

SBU

8:29

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES**

**ELECTIONS COMMITTEE REPORT
Representative Bert Jones, Co-Chair
Representative David R. Lewis, Co-Chair**

FAVORABLE HOUSE COM SUB, UNFAVORABLE SENATE COM SUB AND RE-REFERRED

SB 4 (CS#1)

Bi-Partisan Ethics, Elections & Court Reform.

Draft Number: S4-PCS45006-STf-2

Serial Referral: FINANCE

Recommended Referral: None

Long Title Amended: No

Floor Manager: Lewis

TOTAL REPORTED: 1



* C M R 1 1 - V - 1 *



GENERAL ASSEMBLY OF NORTH CAROLINA
FOURTH EXTRA SESSION 2016

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D

SENATE BILL 4
Finance Committee Substitute Adopted 12/15/16
Third Edition Engrossed 12/15/16
PROPOSED HOUSE COMMITTEE SUBSTITUTE S4-PCS45006-STf-2

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

(Public)

Sponsors:

Referred to:

December 14, 2016

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

11 The General Assembly of North Carolina enacts:

12
13 **PART I. CREATION OF BIPARTISAN STATE BOARD OF ELECTIONS AND ETHICS**
14 **ENFORCEMENT**

15 **SECTION 1.** Recodification; Technical and Conforming Changes. – The Revisor of
16 Statutes shall recodify Chapter 138A of the General Statutes, Chapter 120C of the General
17 Statutes, as well as Chapter 163 of the General Statutes, as amended by this act, into a new
18 Chapter 138B of the General Statutes to be entitled "Elections and Ethics Enforcement Act," as
19 enacted by Section 2 of this act. The Revisor may also recodify into the new Chapter 138B of the
20 General Statutes other existing statutory laws relating to elections and ethics enforcement that are
21 located elsewhere in the General Statutes as the Revisor deems appropriate. The new Chapter
22 138B of the General Statutes shall have the following structure:

23 **SUBCHAPTER I. GENERAL PROVISIONS**

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

25 **SUBCHAPTER II. ETHICS AND LOBBYING**

26 Article 5. General Provisions.

27 Article 6. Public Disclosure of Economic Interests.

28 Article 7. Ethical Standards for Covered Persons.

29 Article 8. Lobbying.

30 Part 1. Registration

31 Part 2. Prohibitions and Restrictions

32 Part 3. Reporting

33 Part 4. Liaison Personnel

34 Part 5. Exemptions



* S 4 - P C S 4 5 0 0 6 - S T F - 2 *

- 1 Part 6. Miscellaneous
- 2 Article 9. Violation Consequences.
- 3 SUBCHAPTER III. ELECTION AND ELECTION LAWS
- 4 Article 15. Time of Primaries and Elections.
- 5 Part 1. Time of Primaries and Elections
- 6 Part 2. Time of Elections to Fill Vacancies
- 7 Article 16. Election Officers.
- 8 Part 1. State Board Powers and Duties
- 9 Part 2. County Boards of Elections
- 10 Part 3. Political Activities by Board of Elections Members and Employees
- 11 Part 4. Precinct Election Officials
- 12 Article 17. Qualifying to Vote.
- 13 Part 1. Qualifications of Voters
- 14 Part 2. Registration of Voters
- 15 Part 3. Challenges
- 16 Part 4. HAVA Administrative Complaint Procedure
- 17 Article 18. Political Parties.
- 18 Article 19. Nomination of Candidates.
- 19 Part 1. Primary Elections
- 20 Part 2. Nomination by Petition
- 21 Part 3. Challenge to Candidacy
- 22 Article 20. Conduct of Primaries and Elections.
- 23 Part 1. Precincts and Voting Places
- 24 Part 2. Precinct Boundaries
- 25 Part 3. Voting
- 26 Part 4. Counting Official Ballots, Canvassing Votes, Hearing Protests, and
- 27 Certifying Results
- 28 Part 5. Members of United States House of Representatives
- 29 Part 6. Presidential Electors
- 30 Part 7. Presidential Preference Primary Act
- 31 Part 8. Petitions for Elections and Referenda
- 32 Article 21. Absentee Voting.
- 33 Part 1. Absentee Ballot
- 34 Part 2. Uniform Military and Overseas Voters Act
- 35 Article 22. Regulation of Election Campaigns.
- 36 Part 1. Corrupt Practices and Other Offenses Against the Elective Franchise
- 37 Article 23. Regulating Contributions and Expenditures in Political Campaigns.
- 38 Part 1. In General
- 39 Part 2. Disclosure Requirements for Media Advertisements
- 40 Part 3. Municipal Campaign Reporting
- 41 Article 24. The North Carolina Public Campaign Fund.
- 42 Article 25. The Voter-Owned Elections Act.
- 43 Article 26. Legal Expense Funds.
- 44 Article 27. Municipal Elections.
- 45 Part 1. Municipal Election Procedure
- 46 Part 2. Conduct of Municipal Elections
- 47 Article 28. Nomination and Election of Appellate, Superior, and District Court Judges.
- 48 When recodifying, the Revisor is authorized to change all references to the State Ethics
- 49 Commission, to the State Board of Elections, or to the Secretary of State, to instead be references
- 50 to the Bipartisan State Board of Elections and Ethics Enforcement. The Revisor may separate
- 51 subsections of existing statutory sections into new sections and, when necessary to organize

relevant law into its proper place in the above structure, may rearrange sentences that currently appear within subsections. The Revisor may modify statutory citations throughout the General Statutes, as appropriate, and may modify any references to statutory divisions, such as "Chapter," "Subchapter," "Article," "Part," "section," and "subsection," adjust the order of lists of multiple statutes to maintain statutory order, correct terms and conform names and titles changed by this act, eliminate duplicative references to the Bipartisan State Board of Elections and Ethics Enforcement that result from the changes authorized by this section, and make conforming changes to catch lines and references to catch lines. The Revisor may also adjust subject and verb agreement and the placement of conjunctions. The Revisor shall consult with the State Ethics Commission, the State Board of Elections, the Secretary of State, and the new Bipartisan State Board of Elections and Ethics Enforcement on this recodification.

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

"Chapter 138B.

"Elections and Ethics Enforcement Act."

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

"SUBCHAPTER I. GENERAL PROVISIONS."

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

"Article 1.

"Bipartisan State Board of Elections and Ethics Enforcement.

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

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

"§ 138B-2. Membership.

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

- (1)** Four members shall be appointed by the Governor, two of whom shall be of the political party with the highest number of registered affiliates and two of whom shall be of the political party with the second highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board. The Governor shall appoint two members each from a list of three nominees submitted by the State party chairs of the two political parties with the highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board.
- (2)** Two members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121. One member shall be of the political party with the highest number of registered affiliates and one member shall be of the political party with the second highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board. All appointments shall be from a list of three nominees submitted to the Speaker of the House of Representatives by the majority leader of the House of Representatives and a list of three nominees submitted to the Speaker of the House of Representatives by the minority leader of the House of Representatives.
- (3)** Two members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121. One member shall be of the political party with the highest number of registered affiliates and one member shall be of the political party with the second highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board. All appointments shall be

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3.(b) G.S. 138A-7 is repealed.

SECTION 3.(c) G.S. 138A-8 is repealed.

SECTION 3.(d) G.S. 138A-9 is repealed.

SECTION 3.(e) G.S. 138A-13 reads as rewritten:

"§ 138A-13. Request for advice.

...

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

(1) Investigation by the ~~Commission~~ State Board, except for an inquiry under G.S. 138A-12(b)(3).

(2) Any adverse action by the employing entity.

(3) ~~Investigation by the Secretary of State.~~

...

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

(1) Investigation by the Committee or ~~Commission~~ State Board, except for an inquiry under G.S. 138A-12(b)(3).

(2) Any adverse action by the house of which the legislator is a member.

(3) ~~Investigation by the Secretary of State.~~

...."

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

"...

"§ 120C-101. Rules and forms.

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

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

(c) In adopting rules under this Chapter, the ~~Commission~~ State Board is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes, except that the ~~Commission~~

1 State Board shall comply with G.S. 150B-21.2(d). At least 30 business days prior to adopting a
2 rule, the ~~Commission~~State Board shall:

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

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

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

33 **"§ 120C-102. Request for advice.**

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

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

- 44 (1) Investigation by the ~~Commission~~State Board.
- 45 (2) Any adverse action by the employing entity.
- 46 (3) ~~Investigation by the Secretary of State.~~

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

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

(d) Except as provided under subsections (c) and (d1) of this section, a request for advice, any advice provided by ~~Commission~~State Board staff, any formal advisory opinions, any supporting documents submitted or caused to be submitted to the ~~Commission~~State Board or ~~Commission~~State Board staff, and any documents prepared or collected by the ~~Commission~~State Board or the ~~Commission~~State Board staff in connection with a request for advice are confidential. The identity of the individual, State agency, or governmental unit making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual, State agency, or governmental unit who requests advice or receives advice, including a formal advisory opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

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

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

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

...

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

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

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

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

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

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

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

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

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

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

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

...."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

At the first meeting in July annually, the county boards shall organize by electing one of its members chair and one of its members vice-chair, each to serve a one-year term as such. In the

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

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

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

13 **"§ 163-31. Meetings of county boards of elections; quorum; majority; minutes.**

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

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

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

32 **"§ 163-182.13. New elections.**

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

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

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

49 (c) Eligibility to Vote in New Election. – Eligibility to vote in the new election shall be
50 determined by the voter's eligibility at the time of the new election, except that in a primary, no
51 person who voted in the initial primary of one party shall vote in the new election in the primary

1 of another party. The State Board of Elections shall ~~promulgate~~ adopt rules to effect the provisions
2 of this subsection.

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

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

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

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

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

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

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

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

32 **"§ 120-70.141. Purpose and powers of Committee.**

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 12. The authority, powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, of the State Ethics Commission are transferred to the

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

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

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

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

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

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

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

43 **SECTION 19.** Notwithstanding the recodification in Section 1 of this Part, the
44 Bipartisan State Board of Elections and Ethics Enforcement shall not administer or enforce Part 1,
45 Part 3, or Part 6 of Article 8 of Chapter 138B of the General Statutes, and the Secretary of State
46 shall maintain the authority to administer and enforce Articles 2, 4, and 8 of Chapter 120C of the
47 General Statutes, as those Articles existed on January 1, 2017, until October 1, 2017. Section 17 of
48 this Part becomes effective October 1, 2017. G.S. 163-30, as amended by Section 5(h) of this Part
49 and G.S. 163-31, as amended by Section 5(i) of this Part, becomes effective July 1, 2017.
50 G.S. 163-278.22(7), as amended by Section 5(k) of this Part, becomes effective January 1, 2017,

and applies to investigations initiated on or after that date. Except as otherwise provided, this Part becomes effective January 1, 2017.

PART II. CLARIFY LEGISLATIVE AUTHORITY TO APPORTION DISTRICTS

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

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

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

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

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

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

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

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

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

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

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

"§ 163-27.1. Emergency powers.

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

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

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

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

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

1	Governor	One percent (1%) of the annual salary of the
2		office sought
3	Lieutenant Governor	One percent (1%) of the annual salary of the
4		office sought
5	All State executive offices	One percent (1%) of the annual salary of the
6		office sought
7	<u>All Justices of the Supreme Court,</u>	
8	<u>Judges of the Court of Appeals, and</u>	One percent (1%) of the annual salary of
9	District Attorneys of the General	the office sought
10	Court of Justice	
11	United States Senator	One percent (1%) of the annual salary of the
12		office sought
13	Members of the United States House	One percent (1%) of the annual salary of
14	of Representatives	the office sought
15	State Senator	One percent (1%) of the annual salary of the
16		office sought
17	Member of the State House of	One percent (1%) of the annual salary of
18	Representatives	the office sought
19	All county offices not compensated by fees	One percent (1%) of the annual salary of the
20		office sought
21	All county offices compensated partly	One percent (1%) of the first annual
22	by salary and partly by fees	salary to be received (exclusive of fees)

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

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

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

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

43 "(1) A candidate who is apparently entitled to demand a second primary, according
 44 to the unofficial results, for one of the offices listed below, and desiring to do
 45 so, shall file a request for a second primary in writing with the Executive
 46 Director of the State Board of Elections no later than 12:00 noon on the ninth
 47 day (including Saturdays and Sundays) following the date on which the primary
 48 was conducted, and such request shall be subject to the certification of the
 49 official results by the State Board of Elections. If the vote certification by the
 50 State Board of Elections determines that a candidate who was not originally
 51 thought to be eligible to call for a second primary is in fact eligible to call for a

second primary, the Executive Director of the State Board of Elections shall immediately notify such candidate and permit ~~him~~ the candidate to exercise any options available to ~~him~~ the candidate within a 48-hour period following the notification:

Governor,
Lieutenant Governor,
All State executive officers,
Justices of the Supreme Court, Judges of the Court of Appeals, 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."

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

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

"Article 25.

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

"§ 163-321. Applicability.

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

...

"§ 163-323. Notice of candidacy.

...

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

~~Justices of the Supreme Court.~~

~~Judges of the Court of Appeals.~~

Judges of the superior courts.

Judges of the district courts.

...

(f) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any election in which there are two or more vacancies for the office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ district court judge to be filled by nominations, 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 the candidate seeks election. Votes cast for a candidate shall be effective only for election to the vacancy for which the candidate has given notice of candidacy as provided in this subsection.

A person seeking election 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 the person seeks nomination.

...

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

...

(b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking the office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ superior or district court judge,

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

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

...

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

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

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

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

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

- (1) When the vacancy described in this section occurs more than 63 days before the date of the second primary for members of the General Assembly, a special primary shall be held on the same day as the second primary. The two candidates with the most votes in the special primary shall have their names placed on the ballot for the general election held on the same day as the general election for members of the General Assembly.
- (2) When the vacancy described in this section occurs less than 64 days before the date of the second primary, a general election for all the candidates shall be held on the same day as the general election for members of the General

1 Assembly and the results shall be determined on a plurality basis as provided by
2 G.S. 163-292.

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

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

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

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

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

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

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

21 ...

22 **"§ 163-332. Ballots.**

23 ...

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

27 ~~Justice of the Supreme Court.~~

28 ~~Judge of the Court of Appeals.~~

29 Superior court judge.

30 District court judge.

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

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

37"

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

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

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

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

44

45 **PART IV. MODIFY APPELLATE REVIEW OF CERTAIN CASES**

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

47 **"§ 7A-16. Creation and organization.**

48 The Court of Appeals is created effective January 1, 1967. It shall consist initially of six
49 judges, elected by the qualified voters of the State for terms of eight years. The Chief Justice of the
50 Supreme Court shall designate one of the judges as Chief Judge, to serve in such capacity at the

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

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

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

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

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

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

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

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

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

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

39 **"§ 7A-27. Appeals of right from the courts of the trial divisions.**

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

- 41 (1) All cases in which the defendant is convicted of murder in the first degree and
42 the judgment of the superior court includes a sentence of death.
- 43 (2) From any final judgment in a case designated as a mandatory complex business
44 case pursuant to G.S. 7A-45.4 or designated as a discretionary complex
45 business case pursuant to Rule 2.1 of the General Rules of Practice for the
46 Superior and District Courts.
- 47 (3) From any interlocutory order of a Business Court Judge that does any of the
48 following:
 - 49 a. Affects a substantial right.
 - 50 b. In effect determines the action and prevents a judgment from which an
51 appeal might be taken.

- c. Discontinues the action.
- d. Grants or refuses a new trial.

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

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

- (1) From any final judgment of a superior court, other than one based on a plea of guilty or nolo contendere, including any final judgment entered upon review of a decision of an administrative agency, except for a final judgment entered upon review of a court martial under G.S. 127A-62.
- (2) From any final judgment of a district court in a civil action.
- (3) From any interlocutory order or judgment of a superior court or district court in a civil action or proceeding that does any of the following:
 - a. Affects a substantial right.
 - b. In effect determines the action and prevents a judgment from which an appeal might be taken.
 - c. Discontinues the action.
 - d. Grants or refuses a new trial.
 - e. Determines a claim prosecuted under G.S. 50-19.1.
 - f. Grants temporary injunctive relief restraining the State or a political subdivision of the State from enforcing the operation or execution of an act of the General Assembly ~~as applied against a party in a civil action.~~ Assembly. This sub-subdivision only applies where the State or a political subdivision of the State is a party in the civil action. ~~This sub-subdivision does not apply to facial challenges to an act's validity heard by a three-judge panel pursuant to G.S. 1-267.1.~~
- (4) From any other order or judgment of the superior court from which an appeal is authorized by statute.

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

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

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

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

- (1) Which directly involves a substantial question arising under the Constitution of the United States or of this State, or
- (2) In which there is a dissent when the Court of Appeals is sitting in a panel of three judges. An appeal of right pursuant to this subdivision is not effective until after the Court of Appeals sitting en banc has rendered a decision in the case, if the Court of Appeals hears the case en banc, or until after the time for filing a motion for rehearing of the cause by the Court of Appeals has expired or the Court of Appeals has denied the motion for rehearing."

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

"(a) In any cause in which appeal is taken to the Court of Appeals, ~~Appeals~~, including any cause heard while the Court of Appeals was sitting en banc, except a cause appealed from the North Carolina Industrial Commission, the North Carolina State Bar pursuant to G.S. 84-28, the

Property Tax Commission pursuant to G.S. 105-345, the Board of State Contract Appeals pursuant to G.S. 143-135.9, the Commissioner of Insurance pursuant to ~~G.S. 58-2-80~~, G.S. 58-2-80 or G.S. 58-65-131(c), a court-martial pursuant to G.S. 127A-62, a motion for appropriate relief, or valuation of exempt property pursuant to G.S. 7A-28, the Supreme Court may, in its discretion, on motion of any party to the cause or on its own motion, certify the cause for review by the Supreme Court, either before or after it has been determined by the Court of Appeals. A cause appealed to the Court of Appeals from any of the administrative bodies listed in the preceding sentence may be certified in similar fashion, but only after determination of the cause in the Court of Appeals. The effect of such certification is to transfer the cause from the Court of Appeals to the Supreme Court for review by the Supreme Court. If the cause is certified for transfer to the Supreme Court before its determination in the Court of Appeals, review is not had in the Court of Appeals but the cause is forthwith transferred for review in the first instance by the Supreme Court. If the cause is certified for transfer to the Supreme Court after its determination by the Court of Appeals, the Supreme Court reviews the decision of the Court of Appeals.

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

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

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

...

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

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

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

"Rule 42. Consolidation; separate trials.

...

(b) Separate trials. –

...

(4) Pursuant to G.S. 1-267.1, any facial challenge to the validity of an act of the General Assembly, other than a challenge to plans apportioning or redistricting State legislative or congressional districts, shall be heard by a three-judge panel in the Superior Court of Wake County if a claimant raises such a challenge in the claimant's complaint or amended complaint in any court in this State, or if such a challenge is raised by the defendant in the defendant's answer, responsive pleading, or within 30 days of filing the defendant's answer or responsive pleading. In that event, the court shall, on its own motion, transfer that portion of the action challenging the validity of the act of the General Assembly to the Superior Court of Wake County for resolution by a three-judge panel if, after all other matters in the action have been resolved, a determination

as to the facial validity of an act of the General Assembly must be made in order to completely resolve any matters in the case. The court in which the action originated shall maintain jurisdiction over all matters other than the challenge to the act's facial ~~validity and validity~~. For a motion filed under Rule 11 or Rule 12(b)(1) through (7), the original court shall rule on the motion, however, it may decline to rule on a motion that is based solely upon Rule 12(b)(6). If the original court declines to rule on a Rule 12(b)(6) motion, the motion shall be decided by the three-judge panel. The original court shall stay all matters that are contingent upon the outcome of the challenge to the act's facial validity pending a ruling on that challenge and until all appeal rights are exhausted. Once the three-judge panel has ruled and all appeal rights have been exhausted, the matter shall be transferred or remanded to the three-judge panel or the trial court in which the action originated for resolution of any outstanding matters, as appropriate."

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

PART V. MODIFY THE TERM FOR INDUSTRIAL COMMISSIONERS

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

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

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

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

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

adjournment of the Regular Session for more than 10 days, and (iii) after sine die adjournment of the Regular Session.

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

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

The chairman shall be the chief judicial officer and the chief executive officer of the Industrial Commission; such authority shall be exercised pursuant to the provisions of Chapter 126 of the General Statutes and the rules and policies of the State Human Resources Commission. Notwithstanding the provisions of this Chapter, the chairman shall have such authority as is necessary to direct and oversee the Commission. The chairman may delegate any duties and responsibilities as may be necessary to ensure the proper management of the Industrial Commission. Notwithstanding the provisions of this Chapter, Chapter 143A, and Chapter 143B of the General Statutes, the chairman may hire or fire personnel and transfer personnel within the Industrial Commission.

~~The Governor may designate one vice-chairman from the remaining commissioners. On December 30, 2016, and every four years thereafter, one member shall be designated by the Governor to act as vice-chairman for a term of four years. In case of death, incapacity, resignation, or any other vacancy of the vice-chairman, the Governor shall designate a new vice-chairman from the remaining commissioners for the remainder of the four-year term. The vice-chairman shall assume the powers of the chairman upon request of the chairman or when the chairman is absent for 24 hours or more. The authority delegated to the vice-chairman shall be relinquished immediately upon the return of the chairman or at the request of the chairman."~~

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

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

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

1 adjournment of the Regular Session for more than 10 days, and (iii) after sine die adjournment of
2 the Regular Session.

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

6 **SECTION 24.(c)** Subsection (a) of this section is effective when it becomes law and
7 applies to the first appointment made to fill a vacancy existing as of that date. Subsection (b) of
8 this section becomes effective on the earlier of December 31, 2016, or upon the filling of a
9 vacancy pursuant to subsection (a) of this section.

10
11 **PART VI. EFFECTIVE DATE**

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

16 **SECTION 26.** Except as otherwise provided, this act is effective when it becomes
17 law.

GENERAL ASSEMBLY OF NORTH CAROLINA
FOURTH EXTRA SESSION 2016

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4

SENATE BILL 4
Finance Committee Substitute Adopted 12/15/16
Third Edition Engrossed 12/15/16
House Committee Substitute Favorable 12/15/16

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 1. 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



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- 1 Part 6. Miscellaneous
- 2 Article 9. Violation Consequences.
- 3 SUBCHAPTER III. ELECTION AND ELECTION LAWS
- 4 Article 15. Time of Primaries and Elections.
- 5 Part 1. Time of Primaries and Elections
- 6 Part 2. Time of Elections to Fill Vacancies
- 7 Article 16. Election Officers.
- 8 Part 1. State Board Powers and Duties
- 9 Part 2. County Boards of Elections
- 10 Part 3. Political Activities by Board of Elections Members and Employees
- 11 Part 4. Precinct Election Officials
- 12 Article 17. Qualifying to Vote.
- 13 Part 1. Qualifications of Voters
- 14 Part 2. Registration of Voters
- 15 Part 3. Challenges
- 16 Part 4. HAVA Administrative Complaint Procedure
- 17 Article 18. Political Parties.
- 18 Article 19. Nomination of Candidates.
- 19 Part 1. Primary Elections
- 20 Part 2. Nomination by Petition
- 21 Part 3. Challenge to Candidacy
- 22 Article 20. Conduct of Primaries and Elections.
- 23 Part 1. Precincts and Voting Places
- 24 Part 2. Precinct Boundaries
- 25 Part 3. Voting
- 26 Part 4. Counting Official Ballots, Canvassing Votes, Hearing Protests, and
- 27 Certifying Results
- 28 Part 5. Members of United States House of Representatives
- 29 Part 6. Presidential Electors
- 30 Part 7. Presidential Preference Primary Act
- 31 Part 8. Petitions for Elections and Referenda
- 32 Article 21. Absentee Voting.
- 33 Part 1. Absentee Ballot
- 34 Part 2. Uniform Military and Overseas Voters Act
- 35 Article 22. Regulation of Election Campaigns.
- 36 Part 1. Corrupt Practices and Other Offenses Against the Elective Franchise
- 37 Article 23. Regulating Contributions and Expenditures in Political Campaigns.
- 38 Part 1. In General
- 39 Part 2. Disclosure Requirements for Media Advertisements
- 40 Part 3. Municipal Campaign Reporting
- 41 Article 24. The North Carolina Public Campaign Fund.
- 42 Article 25. The Voter-Owned Elections Act.
- 43 Article 26. Legal Expense Funds.
- 44 Article 27. Municipal Elections.
- 45 Part 1. Municipal Election Procedure
- 46 Part 2. Conduct of Municipal Elections
- 47 Article 28. Nomination and Election of Appellate, Superior, and District Court Judges.
- 48 When recodifying, the Revisor is authorized to change all references to the State Ethics
- 49 Commission, to the State Board of Elections, or to the Secretary of State, to instead be references
- 50 to the Bipartisan State Board of Elections and Ethics Enforcement. The Revisor may separate
- 51 subsections of existing statutory sections into new sections and, when necessary to organize

relevant law into its proper place in the above structure, may rearrange sentences that currently appear within subsections. The Revisor may modify statutory citations throughout the General Statutes, as appropriate, and may modify any references to statutory divisions, such as "Chapter," "Subchapter," "Article," "Part," "section," and "subsection," adjust the order of lists of multiple statutes to maintain statutory order, correct terms and conform names and titles changed by this act, eliminate duplicative references to the Bipartisan State Board of Elections and Ethics Enforcement that result from the changes authorized by this section, and make conforming changes to catch lines and references to catch lines. The Revisor may also adjust subject and verb agreement and the placement of conjunctions. The Revisor shall consult with the State Ethics Commission, the State Board of Elections, the Secretary of State, and the new Bipartisan State Board of Elections and Ethics Enforcement on this recodification.

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

"Chapter 138B.

"Elections and Ethics Enforcement Act."

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

"SUBCHAPTER I. GENERAL PROVISIONS."

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

"Article 1.

"Bipartisan State Board of Elections and Ethics Enforcement.

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

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

"§ 138B-2. Membership.

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

- (1)** Four members shall be appointed by the Governor, two of whom shall be of the political party with the highest number of registered affiliates and two of whom shall be of the political party with the second highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board. The Governor shall appoint two members each from a list of three nominees submitted by the State party chairs of the two political parties with the highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board.
- (2)** Two members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121. One member shall be of the political party with the highest number of registered affiliates and one member shall be of the political party with the second highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board. All appointments shall be from a list of three nominees submitted to the Speaker of the House of Representatives by the majority leader of the House of Representatives and a list of three nominees submitted to the Speaker of the House of Representatives by the minority leader of the House of Representatives.
- (3)** Two members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121. One member shall be of the political party with the highest number of registered affiliates and one member shall be of the political party with the second highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board. All appointments shall be

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3.(b) G.S. 138A-7 is repealed.

SECTION 3.(c) G.S. 138A-8 is repealed.

SECTION 3.(d) G.S. 138A-9 is repealed.

SECTION 3.(e) G.S. 138A-13 reads as rewritten:

"§ 138A-13. Request for advice.

...

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

(1) Investigation by the ~~Commission~~ State Board, except for an inquiry under G.S. 138A-12(b)(3).

(2) Any adverse action by the employing entity.

(3) ~~Investigation by the Secretary of State.~~

...

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

(1) Investigation by the Committee or ~~Commission~~ State Board, except for an inquiry under G.S. 138A-12(b)(3).

(2) Any adverse action by the house of which the legislator is a member.

(3) ~~Investigation by the Secretary of State.~~

...."

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

"...

"§ 120C-101. Rules and forms.

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

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

(c) In adopting rules under this Chapter, the ~~Commission~~ State Board is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes, except that the ~~Commission~~

1 State Board shall comply with G.S. 150B-21.2(d). At least 30 business days prior to adopting a
2 rule, the ~~Commission~~State Board shall:

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

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

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

33 **"§ 120C-102. Request for advice.**

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

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

- 44 (1) Investigation by the ~~Commission~~State Board.
- 45 (2) Any adverse action by the employing entity.
- 46 (3) ~~Investigation by the Secretary of State.~~

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

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

(d) Except as provided under subsections (c) and (d1) of this section, a request for advice, any advice provided by ~~Commission~~State Board staff, any formal advisory opinions, any supporting documents submitted or caused to be submitted to the ~~Commission~~State Board or ~~Commission~~State Board staff, and any documents prepared or collected by the ~~Commission~~State Board or the ~~Commission~~State Board staff in connection with a request for advice are confidential. The identity of the individual, State agency, or governmental unit making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual, State agency, or governmental unit who requests advice or receives advice, including a formal advisory opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

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

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

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

...

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

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

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

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

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

"§ 120C-602. Punishment for violation.

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

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

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

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

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

...."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 **"§ 163-30. County boards of elections; appointments; terms of office; qualifications;**
3 **vacancies; oath of office; instructional meetings.**

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

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

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

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

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

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

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

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

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

50 At the first meeting in July annually, the county boards shall organize by electing one of its
51 members chair and one of its members vice-chair, each to serve a one-year term as such. In the

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

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

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

13 **"§ 163-31. Meetings of county boards of elections; quorum; majority; minutes.**

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

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

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

32 **"§ 163-182.13. New elections.**

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

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

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

49 (c) Eligibility to Vote in New Election. – Eligibility to vote in the new election shall be
50 determined by the voter's eligibility at the time of the new election, except that in a primary, no
51 person who voted in the initial primary of one party shall vote in the new election in the primary

1 of another party. The State Board of Elections shall ~~promulgate~~ adopt rules to effect the provisions
2 of this subsection.

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

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

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

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

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

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

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

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

32 **"§ 120-70.141. Purpose and powers of Committee.**

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 12. The authority, powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, of the State Ethics Commission are transferred to the

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

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

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

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

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

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

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

43 **SECTION 19.** Notwithstanding the recodification in Section 1 of this Part, the
44 Bipartisan State Board of Elections and Ethics Enforcement shall not administer or enforce Part I,
45 Part 3, or Part 6 of Article 8 of Chapter 138B of the General Statutes, and the Secretary of State
46 shall maintain the authority to administer and enforce Articles 2, 4, and 8 of Chapter 120C of the
47 General Statutes, as those Articles existed on January 1, 2017, until October 1, 2017. Section 17 of
48 this Part becomes effective October 1, 2017. G.S. 163-30, as amended by Section 5(h) of this Part
49 and G.S. 163-31, as amended by Section 5(i) of this Part, becomes effective July 1, 2017.
50 G.S. 163-278.22(7), as amended by Section 5(k) of this Part, becomes effective January 1, 2017,

and applies to investigations initiated on or after that date. Except as otherwise provided, this Part becomes effective January 1, 2017.

PART II. CLARIFY LEGISLATIVE AUTHORITY TO APPORTION DISTRICTS

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

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

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

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

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

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

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

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

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

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

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

"§ 163-27.1. Emergency powers.

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

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

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

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

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

1	Governor	One percent (1%) of the annual salary of the
2		office sought
3	Lieutenant Governor	One percent (1%) of the annual salary of the
4		office sought
5	All State executive offices	One percent (1%) of the annual salary of the
6		office sought
7	All Justices of the Supreme Court,	
8	Judges of the Court of Appeals, and	One percent (1%) of the annual salary of
9	District Attorneys of the General	the office sought
10	Court of Justice	
11	United States Senator	One percent (1%) of the annual salary of the
12		office sought
13	Members of the United States House	One percent (1%) of the annual salary of
14	of Representatives	the office sought
15	State Senator	One percent (1%) of the annual salary of the
16		office sought
17	Member of the State House of	One percent (1%) of the annual salary of
18	Representatives	the office sought
19	All county offices not compensated by fees	One percent (1%) of the annual salary of the
20		office sought
21	All county offices compensated partly	One percent (1%) of the first annual
22	by salary and partly by fees	salary to be received (exclusive of fees)

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

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

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

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

43 "(1) A candidate who is apparently entitled to demand a second primary, according
 44 to the unofficial results, for one of the offices listed below, and desiring to do
 45 so, shall file a request for a second primary in writing with the Executive
 46 Director of the State Board of Elections no later than 12:00 noon on the ninth
 47 day (including Saturdays and Sundays) following the date on which the primary
 48 was conducted, and such request shall be subject to the certification of the
 49 official results by the State Board of Elections. If the vote certification by the
 50 State Board of Elections determines that a candidate who was not originally
 51 thought to be eligible to call for a second primary is in fact eligible to call for a

second primary, the Executive Director of the State Board of Elections shall immediately notify such candidate and permit ~~him~~ the candidate to exercise any options available to ~~him~~ the candidate within a 48-hour period following the notification:

Governor,
Lieutenant Governor,
All State executive officers,
Justices of the Supreme Court, Judges of the Court of Appeals, 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."

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

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

"Article 25.

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

"§ 163-321. Applicability.

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

...

"§ 163-323. Notice of candidacy.

...

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

~~Justices of the Supreme Court.~~

~~Judges of the Court of Appeals.~~

Judges of the superior courts.

Judges of the district courts.

...

(f) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any election in which there are two or more vacancies for the office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ district court judge to be filled by nominations, 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 the candidate seeks election. Votes cast for a candidate shall be effective only for election to the vacancy for which the candidate has given notice of candidacy as provided in this subsection.

A person seeking election 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 the person seeks nomination.

...

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

...

(b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking the office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ superior or district court judge,

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

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

...

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

...

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

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

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

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

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

(2) When the vacancy described in this section occurs less than 64 days before the date of the second primary, a general election for all the candidates shall be held on the same day as the general election for members of the General

Assembly and the results shall be determined on a plurality basis as provided by G.S. 163-292.

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

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

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

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

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

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

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

...

"§ 163-332. Ballots.

...

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

~~Justice of the Supreme Court.~~

~~Judge of the Court of Appeals.~~

Superior court judge.

District court judge.

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

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

...."

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

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

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

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

PART IV. MODIFY APPELLATE REVIEW OF CERTAIN CASES

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

"§ 7A-16. Creation and organization.

The Court of Appeals is created effective January 1, 1967. It shall consist initially of six judges, elected by the qualified voters of the State for terms of eight years. The Chief Justice of the Supreme Court shall designate one of the judges as Chief Judge, to serve in such capacity at the

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

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

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

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

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

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

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

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

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

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

39 **"§ 7A-27. Appeals of right from the courts of the trial divisions.**

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

- 41 (1) All cases in which the defendant is convicted of murder in the first degree and
42 the judgment of the superior court includes a sentence of death.
- 43 (2) From any final judgment in a case designated as a mandatory complex business
44 case pursuant to G.S. 7A-45.4 or designated as a discretionary complex
45 business case pursuant to Rule 2.1 of the General Rules of Practice for the
46 Superior and District Courts.
- 47 (3) From any interlocutory order of a Business Court Judge that does any of the
48 following:
 - 49 a. Affects a substantial right.
 - 50 b. In effect determines the action and prevents a judgment from which an
51 appeal might be taken.

- c. Discontinues the action.
- d. Grants or refuses a new trial.

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

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

- (1) From any final judgment of a superior court, other than one based on a plea of guilty or nolo contendere, including any final judgment entered upon review of a decision of an administrative agency, except for a final judgment entered upon review of a court martial under G.S. 127A-62.
- (2) From any final judgment of a district court in a civil action.
- (3) From any interlocutory order or judgment of a superior court or district court in a civil action or proceeding that does any of the following:
 - a. Affects a substantial right.
 - b. In effect determines the action and prevents a judgment from which an appeal might be taken.
 - c. Discontinues the action.
 - d. Grants or refuses a new trial.
 - e. Determines a claim prosecuted under G.S. 50-19.1.
 - f. Grants temporary injunctive relief restraining the State or a political subdivision of the State from enforcing the operation or execution of an act of the General Assembly ~~as applied against a party in a civil action.~~ Assembly. This sub-subdivision only applies where the State or a political subdivision of the State is a party in the civil action. ~~This sub-subdivision does not apply to facial challenges to an act's validity heard by a three-judge panel pursuant to G.S. 1-267.1.~~
- (4) From any other order or judgment of the superior court from which an appeal is authorized by statute.

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

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

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

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

- (1) Which directly involves a substantial question arising under the Constitution of the United States or of this State, or
- (2) In which there is a dissent when the Court of Appeals is sitting in a panel of three judges. An appeal of right pursuant to this subdivision is not effective until after the Court of Appeals sitting en banc has rendered a decision in the case, if the Court of Appeals hears the case en banc, or until after the time for filing a motion for rehearing of the cause by the Court of Appeals has expired or the Court of Appeals has denied the motion for rehearing."

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

"(a) In any cause in which appeal is taken to the Court of Appeals, ~~Appeals~~, including any cause heard while the Court of Appeals was sitting en banc, except a cause appealed from the North Carolina Industrial Commission, the North Carolina State Bar pursuant to G.S. 84-28, the

Property Tax Commission pursuant to G.S. 105-345, the Board of State Contract Appeals pursuant to G.S. 143-135.9, the Commissioner of Insurance pursuant to ~~G.S. 58-2-80, G.S. 58-2-80 or G.S. 58-65-131(c)~~, a court-martial pursuant to G.S. 127A-62, a motion for appropriate relief, or valuation of exempt property pursuant to G.S. 7A-28, the Supreme Court may, in its discretion, on motion of any party to the cause or on its own motion, certify the cause for review by the Supreme Court, either before or after it has been determined by the Court of Appeals. A cause appealed to the Court of Appeals from any of the administrative bodies listed in the preceding sentence may be certified in similar fashion, but only after determination of the cause in the Court of Appeals. The effect of such certification is to transfer the cause from the Court of Appeals to the Supreme Court for review by the Supreme Court. If the cause is certified for transfer to the Supreme Court before its determination in the Court of Appeals, review is not had in the Court of Appeals but the cause is forthwith transferred for review in the first instance by the Supreme Court. If the cause is certified for transfer to the Supreme Court after its determination by the Court of Appeals, the Supreme Court reviews the decision of the Court of Appeals.

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

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

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

...

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

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

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

"Rule 42. Consolidation; separate trials.

...

(b) Separate trials. –

...

(4) Pursuant to G.S. 1-267.1, any facial challenge to the validity of an act of the General Assembly, other than a challenge to plans apportioning or redistricting State legislative or congressional districts, shall be heard by a three-judge panel in the Superior Court of Wake County if a claimant raises such a challenge in the claimant's complaint or amended complaint in any court in this State, or if such a challenge is raised by the defendant in the defendant's answer, responsive pleading, or within 30 days of filing the defendant's answer or responsive pleading. In that event, the court shall, on its own motion, transfer that portion of the action challenging the validity of the act of the General Assembly to the Superior Court of Wake County for resolution by a three-judge panel if, after all other matters in the action have been resolved, a determination

as to the facial validity of an act of the General Assembly must be made in order to completely resolve any matters in the case. The court in which the action originated shall maintain jurisdiction over all matters other than the challenge to the act's facial ~~validity and validity~~. For a motion filed under Rule 11 or Rule 12(b)(1) through (7), the original court shall rule on the motion, however, it may decline to rule on a motion that is based solely upon Rule 12(b)(6). If the original court declines to rule on a Rule 12(b)(6) motion, the motion shall be decided by the three-judge panel. The original court shall stay all matters that are contingent upon the outcome of the challenge to the act's facial validity pending a ruling on that challenge and until all appeal rights are exhausted. Once the three-judge panel has ruled and all appeal rights have been exhausted, the matter shall be transferred or remanded to the three-judge panel or the trial court in which the action originated for resolution of any outstanding matters, as appropriate."

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

PART V. MODIFY THE TERM FOR INDUSTRIAL COMMISSIONERS

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

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

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

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

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

adjournment of the Regular Session for more than 10 days, and (iii) after sine die adjournment of the Regular Session.

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

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

The chairman shall be the chief judicial officer and the chief executive officer of the Industrial Commission; such authority shall be exercised pursuant to the provisions of Chapter 126 of the General Statutes and the rules and policies of the State Human Resources Commission. Notwithstanding the provisions of this Chapter, the chairman shall have such authority as is necessary to direct and oversee the Commission. The chairman may delegate any duties and responsibilities as may be necessary to ensure the proper management of the Industrial Commission. Notwithstanding the provisions of this Chapter, Chapter 143A, and Chapter 143B of the General Statutes, the chairman may hire or fire personnel and transfer personnel within the Industrial Commission.

~~The Governor may designate one vice-chairman from the remaining commissioners. On December 30, 2016, and every four years thereafter, one member shall be designated by the Governor to act as vice-chairman for a term of four years. In case of death, incapacity, resignation, or any other vacancy of the vice-chairman, the Governor shall designate a new vice-chairman from the remaining commissioners for the remainder of the four-year term. The vice-chairman shall assume the powers of the chairman upon request of the chairman or when the chairman is absent for 24 hours or more. The authority delegated to the vice-chairman shall be relinquished immediately upon the return of the chairman or at the request of the chairman."~~

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

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

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

1 adjournment of the Regular Session for more than 10 days, and (iii) after sine die adjournment of
2 the Regular Session.

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

6 **SECTION 24.(c)** Subsection (a) of this section is effective when it becomes law and
7 applies to the first appointment made to fill a vacancy existing as of that date. Subsection (b) of
8 this section becomes effective on the earlier of December 31, 2016, or upon the filling of a
9 vacancy pursuant to subsection (a) of this section.

10
11 **PART VI. EFFECTIVE DATE**

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

16 **SECTION 26.** Except as otherwise provided, this act is effective when it becomes
17 law.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 4

S4-AMC-9 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

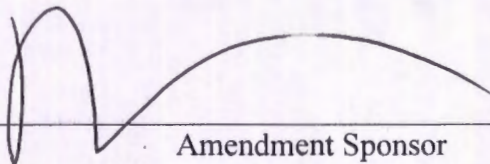
Amends Title [NO]
Third Edition

Date _____, 2016

Representative Lewis

- 1 moves to amend the bill on page 25, line 21, by rewriting the line to read:
2 "The Governor may designate one vice-chairman from the remaining commissioners. On
3 December 30, 2016, and every four years thereafter, one member shall be designated by the
4 Governor to act as vice-chairman for a term of four years. In case of death, incapacity, resignation,
5 or any other vacancy of the vice-chairman, the Governor shall designate a new vice-chairman
6 from the remaining commissioners for the remainder of the four-year term. The".

SIGNED


Amendment Sponsor

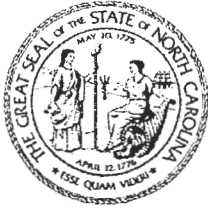
SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* S 4 - A M C - 9 - V - 1 *



SENATE BILL 4: Bi-Partisan Ethics, Elections & Court Reform.

2015-2016 General Assembly

Committee: House Elections
Introduced by: Sens. Rucho, Rabon, Tucker
Analysis of: PCS to Third Edition
S4-CSSTf-2

Date: December 15, 2016
Prepared by: Denise Adams
Susan Barham
Erika Churchill
Dan Ettefagh
Brad Krehely
Bill Patterson
Legislative Staff

OVERVIEW: *Senate Bill 4 would (i) combine the functions of the State Ethics Commission, the lobbying section of the Office of the Secretary of State, and the State Board of Elections under a new State agency: the Bipartisan State Board of Elections and Ethics Enforcement; (ii) clarify the General Assembly's authority in apportionment and redistricting matters; (iii) restore partisan elections for the North Carolina Supreme Court and Court of Appeals; (iv) modify appellate review of certain cases; and (v) modify the term of Industrial Commissioners appointed to fill a vacancy.*

BILL ANALYSIS: PART I

CURRENT LAW: The State Ethics Commission (SEC) administers the State Government Ethics Act, including providing ethics guidance to public servants and ethics education to covered persons and legislative employees. The advisory authority of the SEC includes advising all persons affected by the lobbying laws, Chapter 120C of the General Statutes. The SEC consists of eight members (four appointed by the Governor and four appointed by the General Assembly, two of whom are recommended by the Speaker of the House and two of whom are recommended by the President Pro Tempore of the Senate), with a bi-partisan make up. The Governor appoints the chair of the SEC. Members of the SEC serve four year terms and may be reappointed. Members may not: (i) hold or be a candidate for any office of the United States, North Carolina, or political subdivision of the State, (ii) hold office in any political party above the precinct level; (iii) participate in or contribute to political campaigns of covered persons; or (iv) be employed by the State, community college, school system, or serve as a member of any other State board.

The Department of the Secretary of State registers and regulates lobbying in North Carolina.

The State Board of Elections (SBE) administers elections and campaign finance and provides guidance, advice, and training for elections and campaign finance to the county boards of elections. The SBE consists of five members, all of whom are appointed by the Governor from a list of nominees submitted to the Governor by the State party chairman of each of the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the SBE. No more than three members can be of the same political party. The SBE organizes itself by electing one of its members chairman and another secretary. Members may not: (i) hold or be a candidate for any office under the government of the United States, North Carolina, or political subdivision of the State; (ii) hold

Sharon Cochrane-Brown
Director



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any office in a political party or organization; or (iii) be a campaign manager or treasurer of any candidate in a primary or election.

County boards of elections consist of three registered voters of each county. No more than two members of the county board of elections may belong to the same political party.

Section 1 would direct the Revisor of Statutes to recodify Chapter 138A of the General Statutes (State Government Ethics Act), Chapter 120C of the General Statutes (Lobbying), and Chapter 163 of the General Statutes (Elections and Election Laws) into a new Chapter 138B of the General Statutes to be entitled "Elections and Ethics Enforcement Act." Within the recodification process, the Revisor would be authorized to make other technical and conforming changes as the Revisor deems appropriate.

Section 2 would establish the new Bipartisan State Board of Elections and Ethics Enforcement ("Board").

Membership of the Board:

- The Board would consist of eight individuals registered to vote in North Carolina. Members would be appointed as follows:
 - Governor would appoint four members. The State party chairs of the two parties with the highest voter registration would each submit a list of three names, and the Governor would select two each from the respective party's list.
 - Speaker of the House would recommend two members to be appointed by the General Assembly. Both the majority and minority leader of the House would submit a list of three names to the Speaker, who must recommend one member from the party with the highest voter registration, and one member from the party with the second highest voter registration from those lists.
 - President Pro Tempore would recommend two members to be appointed by the General Assembly. Both the majority and minority leader of the Senate would submit a list of three names to the President Pro Tempore, who must recommend one member from the party with the highest voter registration, and one member from the party with the second highest voter registration from those lists.
- Members would serve four-year terms, beginning May 1 immediately following the election of the Governor.
- Members could be removed from the Board only for misfeasance, malfeasance, or nonfeasance by the member's appointing authority. Vacancies on the Board would be filled by an individual affiliated with the same political party as the vacating member.
- At the first meeting held after new appointments are made, and annually in May thereafter, members would organize themselves by electing one member as chair and one member as vice-chair, each to serve a year term. In an odd-numbered year, the chair would be a member of the political party with the highest number of registered affiliates and the vice-chair would be a member of the political party with the second highest number of registered affiliates. In an even-numbered year, the chair would be a member of the political party with the second highest number of registered affiliates and the vice-chair would be a member of the political party with the highest number of registered affiliates. The Board would also elect one member as secretary, to serve a four-year term.

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Membership eligibility:

- Members of the Board would be prohibited from:
 - Holding elective or appointive office under the federal government, State government, or any political subdivision of the State.
 - Holding office in a political party or organization.
 - Being a candidate for any office.
 - Serving as a campaign manager or treasurer of any candidate for office.
 - Making reportable contributions to candidates over which the Board would have jurisdiction.
 - Registering as a lobbyist.
 - Making written or oral statements for general distribution supporting or opposing clearly identified candidates for office or clearly identified referendum or ballot issue proposals.
 - Soliciting contributions for a candidate, political committee, or referendum committee.

Meetings and voting:

- The Board would be required to meet at least monthly.
- Six members of the Board would constitute a quorum.
- Except where required by law to act unanimously, a majority vote for action by the Board would require six of the eight members.

Powers of chair:

- The chair would have the power to administer oaths, issue subpoenas, summon witnesses, and compel evidence. In the absence of or refusal of the chair to act, any six members could exercise such powers, and any member may administer an oath.

Executive Director:

- The Board would appoint an Executive Director for a term of four years, beginning May 15 after the first meeting held after new appointments to the Board are made. The Executive Director would be the chief State elections official.

Sections 3 and 4 would make various technical and conforming changes.

Section 5 would make a variety of substantive, conforming, and technical changes, including:

- County boards of elections would increase from three to four members. Two members would be of the political party with the highest number of registered affiliates and two from the political party with the second highest number of registered affiliates. Three members would constitute a quorum, and unless required by law to act unanimously, a majority vote for action of the board would require three of the four members.
- The Board would have to conclude all campaign finance investigations no later than one year from the date of the start of the investigation, unless the Board has reported an apparent violation to the proper district attorney and additional investigation of the apparent violation is deemed necessary by the Board.

Section 6 would direct the Joint Legislative Elections Oversight Committee to study the budgets, programs, and policies of the State Board and county boards of elections.

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Sections 7-18 outline the transfer of authority, powers, duties and functions, records, personnel, property, and unexpended balances of appropriations from the SEC, SBE, and the lobbying registration and lobbying enforcement functions of the Secretary of State to the new Board. The bill requires the Board to report initially by April 1, 2018, and again by March 1, 2019, to the Joint Legislative Commission on Government Operations, the Joint Legislative Elections Oversight Committee, and the Legislative Ethics Committee on any recommendations for statutory changes needed for implementation of this consolidation.

The members of the SEC serving on December 31, 2016, would constitute and serve as members of the new Board until June 30, 2017. The new members of the Board would take office July 1, 2017. Until such time as the Board appointed in 2017 appoints an Executive Director, the Executive Director of the SBE will serve as the Executive Director of the Board.

EFFECTIVE DATE: Notwithstanding the recodification in Section 1 of this Part, the Bipartisan State Board of Elections and Ethics Enforcement must not administer or enforce Part 1, Part 3, or Part 6 of Article 8 of Chapter 138B of the General Statutes, and the Secretary of State shall maintain the authority to administer and enforce Articles 2, 4, and 8 of Chapter 120C of the General Statutes, as those Articles existed on January 1, 2017, until October 1, 2017.

Section 17 of this act (transferring the appropriations and resources of the lobbying, registration, and lobbying enforcement functions of the Secretary of State) becomes effective October 1, 2017. G.S. 163-30, as amended by Section 5(h) of this Part and G.S. 163-31, as amended by Section 5(i) of this Part, (county boards of elections changes) become effective July 1, 2017. G.S. 163-278.22(7), as amended by Section 5(k) of this Part (campaign finance investigations- one-year completion time), becomes effective January 1, 2017, and applies to investigations initiated on or after that date. Except as otherwise provided, this Part becomes effective January 1, 2017.

BILL ANALYSIS: PART II

Section 20 would provide that the State Board of Elections and the county boards of elections do not have any authority to alter, amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or congressional districts, even in emergency situations.

EFFECTIVE DATE: Section 20 of Senate Bill 4 would become effective when the bill becomes law.

BILL ANALYSIS: PART III

CURRENT LAW: Prior to 1996, elections of judges in North Carolina were conducted in a partisan manner. In 1996, the law governing the elections of superior court judges was amended to make those elections nonpartisan. In 2001, the law governing the elections of district court judges was amended to make those elections nonpartisan. In 2002, the law governing the elections of appellate court judges was amended to make those elections nonpartisan, beginning with the 2004 elections. As a result, currently, all elections of appellate court, superior court, and district court judges in North Carolina are conducted in a nonpartisan manner.

Appellate Court justices are elected statewide, and serve eight year terms. In 2015, the General Assembly changed the law to require candidates running in non-partisan races for Court of Appeals judge to have the candidate's party affiliation printed on the ballot (S.L. 2015-292).

In 2015, the General Assembly also established a process for the initial contested election, and potential subsequent retention election, of justices of the North Carolina Supreme Court (S.L. 2015-66). The law would have allowed incumbent justices seeking reelection to run for reappointment in a retention

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election with no challengers. Only if voters did not support keeping the justice in office for another eight-year term would other candidates be allowed to run for the seat. The law was challenged, and a three-judge panel overturned the law on the basis that this change could not be made without a statewide vote on whether to change the North Carolina Constitution. In *Faires v. State Board of Elections*, (filed May 6, 2016), the North Carolina Supreme Court was equally divided with three justices voting to affirm and three justices voting to reverse the three-judge panel. Accordingly, the ruling of the three-judge panel was left undisturbed and without precedential value.

The Superior and District Court Divisions of the General Court of Justice consist of various district courts organized in territorial districts, with at least one district judge in each district. The General Assembly determines the number of judges for each district. Each judge must be a resident of the district to which he or she is elected. Superior Court judges serve eight-year terms; district court judges serve four-year terms. Vacancies in the offices are filled for the unexpired term by appointment of the Governor from nominations submitted by the district bar. If elected from a district, nominees must be residents of the district who are licensed to practice law in the district and who are members of the same political party as the vacating judge.

The provisions for nonpartisan judicial races are set out in Article 25 of Chapter 163 of the General Statutes. Candidates run in nonpartisan primaries, held on the same day in May as the party primaries. The primaries reduce the field to twice the number to be elected, eliminating additional candidates. Then, the reduced field runs in the November general election. The system is patterned after the nonpartisan primary and elections used by some cities to elect their mayors and city councils. The nonpartisan primaries and elections are by district for superior and district court judges.

Section 21 would make various changes in the General Statutes to restore partisan elections for the North Carolina Supreme Court and the North Carolina Court of Appeals.

EFFECTIVE DATE: Part III of Senate Bill 4 would become effective January 1, 2018, and would apply to primaries and elections on or after that date.

BILL ANALYSIS: PART IV

Section 22.(a)

Current law: G.S. 7A-16 provides that the Court of Appeals has 15 judges, that the court is authorized to sit in panels of three judges each, and that three judges constitute a quorum for the transaction of the court's business (except for issuance of certain writs).

Section 22.(a) of the bill would amend G.S. 7A-16 to permit the Court of Appeals to sit *en banc* to hear or rehear any appeal upon the vote of a majority of the judges on the court, and would revise the quorum requirement to provide that for the purpose of transacting business sitting *en banc*, a majority of the judges of the court constitute a quorum.

Section 22.(b)

Current law: G.S. 7A-27(a1) grants a right of direct appeal to the Supreme Court from any trial court order holding an act of the General Assembly to be invalid on its face because it violates the North Carolina Constitution or federal law.

Section 22.(b) of the bill would repeal G.S. 7A-27(a1), thereby eliminating the right to appeal directly to the Supreme Court from a trial court order holding an act to be facially invalid because it violates the North Carolina Constitution or federal law, and would make conforming changes to G.S. 7A-27(b).

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Section 22.(c)

Current Law: G.S. 7A-30(2) provides a right of appeal to the Supreme Court from a decision of the Court of Appeals rendered in a case in which there is a dissent.

Section 23.(c) of the bill would amend G.S. 7A-30(2) to provide that:

- There is an appeal of right to the Supreme Court from a decision of the Court of Appeals sitting as a panel of three in which there is a dissent.
- This right of appeal does not arise until after:
 - The Court of Appeals sitting en banc has rendered a decision in the case, if the case was heard en banc, or
 - The time for filing a motion for rehearing of the cause by the Court of Appeals has expired or the Court of Appeals has denied the motion for rehearing.

Section 22.(d)

Current law: G.S. 7A-31(a) permits the Supreme Court, in its discretion, to certify for its review any appeal taken to the Court of Appeals, upon motion of any party or on its own motion, either before or after it has been determined by the Court of Appeals, except for appeals from specified agencies to which this provision expressly does not apply. G.S. 7A-31(b) sets forth the criteria that must be met in order for the appeal to be certified for review by the Supreme Court before its determination in the Court of Appeals; G.S. 7A-31(c) sets forth the criteria that must be met in order for an appeal to be certified for Supreme Court review after its determination in the Court of Appeals.

Section 22.(d) of the bill amends G.S. 7A-31(a):

- By adding a reference to appeals heard by the Court of Appeals sitting en banc, to conform to the changes made in Section 22.(a) of the bill.
- By making appeals from the Commissioner of Insurance under G.S. 58-65-131(c) not authorized to be certified for discretionary review before a determination by the Court of Appeals, to conform to the changes made in Section 22.(e) of the bill.

Section 22.(e)

Current law: G.S. 58-65-131(c) provides that any party to an appeal to the Court of Appeals from certain orders of the Commissioner of Insurance may petition the Supreme Court to certify the case for discretionary review prior to determination by the Court of Appeals.

Section 22.(e) of the bill would amend G.S. 58-65-131(c) to eliminate the right to seek discretionary Supreme Court review of these orders of the Commissioner prior to the appeal's determination by the Court of Appeals.

Section 22.(f)

Current Law: G.S. 120-2.5 provides an appeal of right directly to the Supreme Court from any final order or judgment of a court declaring unconstitutional or otherwise invalid an act apportioning or redistricting State legislative or congressional districts.

Section 22.(f) of the bill would repeal G.S. 120-2.5 in its entirety.

EFFECTIVE DATE: Section 22 of Senate Bill 4 would become effective when the bill becomes law.

Section 23.(a)

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Current law: G.S. 1A-1, Rule 42(b)(4) of the Rules of Civil Procedure, provides that, in an action making a facial challenge to an act of the General Assembly required to be transferred for hearing to a three-judge panel in Wake County Superior Court, the court in which the action originated retains jurisdiction over all matters other than the challenge to the act's facial validity.

Section 23.(a) of the bill would amend Rule 42(b)(4) to provide that the original court shall rule on a motion filed under Rule 11 or a motion to dismiss filed under Rule 12(b)(1) through (7), except that it may decline to rule on a motion to dismiss under Rule 12(b) (6) based on a failure to state a claim upon which relief can be granted, in which case that motion shall be decided by the three-judge panel.

EFFECTIVE DATE: Section 23 of Senate Bill 4 would become effective February 1, 2017, and applies to motions filed on or after that date.

BILL ANALYSIS: PART V

Section 24

Current law: Vacancies on the Industrial Commission are currently filled only for the remainder of the unexpired term. Additionally, the Governor designates the chair of the Commission.

Section 24.(a) of the bill would provide that appointments to fill vacancies on the Industrial Commission would be for a term of six years plus the remainder of the unexpired term. Additionally, the Governor would designate the chair of the Commission every four years on December 30th for a term of four years and would fill vacancies of the chair for the remainder of the term.

Section 24.(b) reverts the term of member filling a vacancy to the remainder of the unexpired term.

EFFECTIVE DATE: Section 24.(a) would become effective when the act becomes law and apply to appointments made on or after that date. Section 24.(b) would become effective at the earlier of December 31, 2016, or when the first vacancy is filled pursuant to Section 24.(a).



VISITOR REGISTRATION SHEET

ELECTIONS COMMITTEE

(Committee Name)

12-15-2016

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Justin Cloutan	Gov - Elect Cooper
Barbara Richardson	
Sue Ann Forrest	NLMS
Tom Hobst	NICU
Harry Zyscki	NH
Penny Buehler	SOG
Tim Mink	NCHBA
Steven Webb	NCHBA
Sarah Hardin	NCEL
Emily Sewell	SCSI
Deti (Cheryl - Taylor)	ECTD
Kara Weishaar	SA
Natalie Herr	ENC
Phyllis Jernigan	Stronger NC
Trey NR	Gov Elect Cooper
John Wagner	Pittsboro NC
CO Dowell	The Insider





(Committee Name)

SPEAKERS: PLEASE SIGN IN BELOW[illegible]

