

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1391*
Committee Substitute Favorable 7/15/98

Short Title: Judicial Appt./Voter Retention.

(Public)

Sponsors:

Referred to:

May 21, 1998

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE FOR GUBERNATORIAL NOMINATION OF JUSTICES OF THE SUPREME COURT AND JUDGES OF THE COURT OF APPEALS, LEGISLATIVE CONFIRMATION, AND RETENTION BY VOTE OF THE PEOPLE.

The General Assembly of North Carolina enacts:

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

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

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

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

8 (3) Nomination, confirmation, appointment retention election, and terms of
9 justices and judges. On and after January 1, 1999, when a vacancy occurs in the office of
10 Chief Justice, Associate Justice, or Judge of the Appellate Division, the Governor shall
11 nominate a person to fill the vacancy. Prior to appointment, such nominations by the
12 Governor shall be subject to confirmation of the General Assembly by three-fifths of the
13 members of each house present and voting prior to appointment. For the purposes of this
14 section, creation of a new judgeship within the Appellate Division creates a vacancy.

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

- 18 (a) Between sine die adjournment of one regular session and convening of
19 the next regular session; or
20 (b) During any period when the General Assembly has adjourned a regular
21 session for more than 30 days jointly as provided under Section 20 of
22 Article II of this Constitution.

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

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

38 The regular terms of office of the Chief Justice, Associate Justices, and Judges of the
39 Appellate Division are eight years and expire on June 30.

40 At the last statewide election for members of the General Assembly held before the
41 expiration of a regular term of office, a Chief Justice, Associate Justice, or Judge of the
42 Appellate Division who desires to continue in office shall be subject to approval by

1 nonpartisan ballot, by a majority of the votes cast on the issue of the Justice's or Judge's
2 retention.

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

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

13 (4) Transition provisions. The term of office of a person who has been elected
14 before January 1, 1999, to the office of Chief Justice, Associate Justice, or Judge of the
15 Appellate Division for a term which extends beyond January 1, 1999, and who is in
16 office on January 1, 1999, is extended through June 30 of the year following the eighth
17 year after the date any such justice or judge was last elected to the office. If the person so
18 elected continues to serve for the remainder of the term, that person may stand for
19 retention in the office for a succeeding regular term as provided in this section. If the
20 person continues to serve for the remainder of the term but does not stand for retention
21 election, a vacancy is created in the office upon expiration of the term, and this vacancy
22 shall be filled by nomination, confirmation, and appointment as provided in this section.

23 The term of office of a person who has been appointed before January 1, 1999, to the
24 office of Chief Justice, Associate Justice, or Judge of the Appellate Division for a term
25 which extends beyond January 1, 1999, and who is in office on January 1, 1999, shall end
26 on June 30, 2001. If the person so appointed continues to serve for the remainder of the
27 term, that person may stand for retention in the office for a regular term as provided by
28 this section at the statewide election for members of the General Assembly held in 2000.

29 Upon the death, resignation, removal, or retirement of any incumbent justice or judge
30 on or after January 1, 1999, and before the expiration of his term of office, the resulting
31 vacancy shall be filled by nomination, confirmation, and appointment as provided in this
32 section.

33 Vacancies in judicial offices in the Appellate Division occurring before January 1,
34 1999, and not filled by that date, shall be filled by nomination, confirmation, and
35 appointment as provided in this section.

36 From the date any incumbent described in this subsection is continued in office by
37 retention vote for a term next succeeding the term in progress on January 1, 1999, or is
38 succeeded in office by another person, the office is held subject to the provisions of this
39 section.

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

41 Section 2. The amendment set out in Section 1 of this act shall be submitted to
42 the qualified voters of the State at the general election in November 1998, which election

1 shall be conducted under the laws then governing elections in the State. Ballots, voting
2 systems, or both may be used in accordance with Chapter 163 of the General Statutes.

3 **"[] FOR [] AGAINST**

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

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

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

18 **"ARTICLE 1A.**

19 **"Appointment and Confirmation of Justices and Judges, Retention Elections.**

20 **"§ 7A-4.1. Nomination of justices and judges by Governor and confirmation by**
21 **General Assembly.**

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

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

28 **"§ 7A-4.2. Confirmation procedures.**

29 (a) A legislative committee to which the issue of confirmation is referred shall
30 conduct an investigation of the nominee. The investigation may include an evaluation of
31 the nominee's ethical conduct, the nominee's knowledge of and application of the law, the
32 nominee's management of the courts over which he has presided, the nominee's work
33 habits, the nominee's health, and the nominee's judicial demeanor. The nominee or judge
34 shall be given an opportunity to present to the committee any information that the
35 nominee determines to be appropriate.

36 (b) The committee shall inspect the files of the Judicial Standards Commission by
37 request of the chair of the committee. Notwithstanding the provisions of G.S. 7A-377,
38 the files of the Judicial Standards Commission shall be made available to the committee.
39 Testimony and other evidence presented to the committee is privileged in any action for
40 defamation.

41 **"§ 7A-4.3. Governor to issue commissions to justices and judges.**

42 Every person duly nominated by the Governor as Chief Justice of the Supreme Court,
43 Associate Justice of the Supreme Court, or Judge of the Court of Appeals and duly

1 confirmed by the General Assembly shall be appointed by the Governor and shall procure
2 from the Governor a commission attesting that fact, which the Governor shall issue upon
3 receipt of a certification by the Secretary of State of the joint resolution of confirmation.

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

7 **"§ 7A-4.4. No elections in 1999.**

8 No partisan election as previously provided by law for Chief Justice or Associate
9 Justice of the Supreme Court, or Judge of the Court of Appeals, shall be held in 1999 or
10 thereafter.

11 **"§ 7A-4.5. Retention elections.**

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

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

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

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

27 (e) If a person who has filed a notice calling a retention election dies or is removed
28 from office prior to the time that the ballots are printed, the retention election is
29 cancelled. If a person who has filed a notice calling a retention election dies or is
30 removed from office after the ballots are printed, the State Board of Elections may cancel
31 the election if it determines that the ballots can be reprinted without significant expense.
32 If the ballots cannot be reprinted, then the results of the election shall be ineffective."

33 Section 3.2. G.S. 163-140(a) reads as rewritten:

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

- 36 (1) Ballot for presidential electors
- 37 (2) Ballot for United States Senator
- 38 (3) Ballot for member of the United States House of Representatives
- 39 (4) State ballot
- 40 (5) County ballot
- 41 (6) Repealed by Session Laws 1973, c. 793, s. 56
- 42 (7) Ballot for constitutional amendments and other propositions submitted
43 to the people

1 (8) Judicial ballot for superior court.

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

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

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

19 ~~All candidates for the Appellate Division shall appear on the same ballot."~~

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

22 Section 3.4. G.S. 7A-10(a) reads as rewritten:

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

29 Section 3.5. G.S. 7A-16 reads as rewritten:

30 "**§ 7A-16. Creation and organization.**

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

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

42 Upon the appointment of at least five judges, and the designation of a Chief Judge, the
43 court is authorized to convene, organize, and promulgate, subject to the approval of the

1 ~~Supreme Court, such supplementary rules as it deems necessary and appropriate for the~~
2 ~~discharge of the judicial business lawfully assigned to it.~~

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

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

15 The Court of Appeals shall consist of 12 judges, selected as provided in Article 1A of
16 this Chapter. The Chief Justice of the Supreme Court shall designate one of the judges as
17 Chief Judge to serve in such capacity at the pleasure of the Chief Justice. Before entering
18 upon the duties of his office, a judge of the Court of Appeals shall take the oath of office
19 prescribed for a judge of the General Court of Justice.

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

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

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

31 Section 3.6. G.S. 163-106(c) reads as rewritten:

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

36 Governor

37 Lieutenant Governor

38 All State executive officers

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

40 Judges of the district courts

41 United States Senators

42 Members of the House of Representatives of the United States

43 District attorneys

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

5 State Senators

6 Members of the State House of Representatives

7 All county offices."

8 Section 3.7. G.S. 163-106(d) reads as rewritten:

9 "(d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any primary
 10 in which there are ~~two or more vacancies for Chief Justice and associate justices of the~~
 11 ~~Supreme Court, two or more vacancies for judge of the Court of Appeals, or two~~
 12 vacancies for United States Senator from North Carolina or two or more vacancies for the
 13 office of district court judge to be filled by nominations, each candidate shall, at the time
 14 of filing notice of candidacy, file with the State Board of Elections a written statement
 15 designating the vacancy to which he seeks nomination. Votes cast for a candidate shall be
 16 effective only for his nomination to the vacancy for which he has given notice of
 17 candidacy as provided in this subsection.

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

22 Section 3.8. G.S. 163-107(a) reads as rewritten:

23 "(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate
 24 shall pay to the board of elections with which he files under the provisions of G.S. 163-
 25 106 a filing fee for the office he seeks in the amount specified in the following tabulation:

27 Office Sought	Amount of Filing Fee
29 Governor	One percent (1%) of the annual salary of the office sought
31 Lieutenant Governor	One percent (1%) of the annual salary of the office sought
33 All State executive offices	One percent (1%) of the annual salary of the office sought
35 All Justices, Judges, and 36 <u>Superior Court Judges,</u> 37 <u>District Court Judges,</u> 38 District Attorneys of the 39 General Court of Justice	One percent (1%) of the annual salary of the office sought
41 United States Senator	One percent (1%) of the annual salary of the office sought
43 Members of the United States	One percent (1%) of the annual

1	House of Representatives	salary of the office sought
2	State Senator	One percent (1%) of the annual
3		salary of the office sought
4	Member of the State House of	One percent (1%) of the annual
5	Representatives	salary of the office sought
6	All county offices not	One percent (1%) of the annual
7	compensated by fees	salary of the office sought
8	County commissioners, if	Ten dollars (\$10.00)
9	compensated entirely by fees	
10	Members of county board of	Five dollars (\$5.00)
11	education, if compensated	
12	entirely by fees	
13	Sheriff, if compensated	Forty dollars (\$40.00), plus one
14	entirely by fees	percent (1%) of the income of the
15		office above four thousand
16		dollars (\$4,000)
17	Clerk of superior court, if	Forty dollars (\$40.00), plus one
18	compensated entirely by fees	percent (1%) of the income of the
19		office above four thousand
20		dollars (\$4,000)
21	Register of deeds, if	Forty dollars (\$40.00), plus one
22	compensated entirely by fees	percent (1%) of the income of the
23		office above four thousand
24		dollars (\$4,000)
25	Any other county office, if	Twenty dollars (\$20.00), plus one
26	compensated entirely by fees	percent (1%) of the income of the
27		office above two thousand dollars
28		(\$2,000)
29	All county offices compensated	One percent (1%) of the first
30	partly by salary and partly	annual salary to be received
31	by fees	(exclusive of fees)."

32 Section 3.9. G.S. 163-107.1(b) reads as rewritten:

33 "(b) If the candidate is seeking the office of United States Senator, Governor,
 34 Lieutenant Governor, or any State executive officer, ~~Justice of the Supreme Court or Judge~~
 35 ~~of the Court of Appeals,~~ the petition must be signed by 10,000 registered voters who are
 36 members of the political party in whose primary the candidate desires to run, except that
 37 in the case of a political party as defined by G.S. 163-96(a)(2) which will be making
 38 nominations by primary election, the petition must be signed by ten percent (10%) of the
 39 registered voters of the State who are affiliated with the same political party in whose
 40 primary the candidate desires to run, or in the alternative, the petition shall be signed by
 41 no less than 10,000 registered voters regardless of the voter's political party affiliation,
 42 whichever requirement is greater. The petition must be filed with the State Board of
 43 Elections not later than 12:00 noon on Monday preceding the filing deadline before the

1 primary in which he seeks to run. The names on the petition shall be verified by the board
2 of elections of the county where the signer is registered, and the petition must be
3 presented to the county board of elections at least 15 days before the petition is due to be
4 filed with the State Board of Elections. When a proper petition has been filed, the
5 candidate's name shall be printed on the primary ballot."

6 Section 3.10. G.S. 163-111(c)(1) reads as rewritten:

7 "(1) A candidate who is apparently entitled to demand a second primary,
8 according to the unofficial results, for one of the offices listed below,
9 and desiring to do so, shall file a request for a second primary in writing
10 or by telegram with the Executive Secretary-Director of the State Board
11 of Elections no later than 12:00 noon on the seventh day (including
12 Saturdays and Sundays) following the date on which the primary was
13 conducted, and such request shall be subject to the certification of the
14 official results by the State Board of Elections. If the vote certification
15 by the State Board of Elections determines that a candidate who was not
16 originally thought to be eligible to call for a second primary is in fact
17 eligible to call for a second primary, the Executive Secretary-Director of
18 the State Board of Elections shall immediately notify such candidate
19 and permit him to exercise any options available to him within a 48-
20 hour period following the notification:

21 Governor,

22 Lieutenant Governor,

23 All State executive officers,

24 Justices, Judges, or Superior Court Judges, District Court Judges,

25 or District Attorneys of the General Court of Justice, other

26 than superior court judge,

27 United States Senators,

28 Members of the United States House of Representatives,

29 State Senators in multi-county senatorial districts, and

30 Members of the State House of Representatives in multi-county
31 representative districts."

32 Section 3.11. G.S. 163-177 reads as rewritten:

33 **"§ 163-177. Disposition of duplicate abstracts.**

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

39 President and Vice-President of the United States

40 Governor, Lieutenant Governor, and all other State executive officers

41 United States Senators

42 Members of the House of Representatives of the United States Congress

1 ~~Justices, Judges, and Superior Court Judges, District Court Judges and District~~
2 ~~Attorneys of the General Court of Justice~~
3 ~~State Senators in multi-county senatorial districts~~
4 ~~Members of the State House of Representatives in multi-county representative~~
5 ~~districts~~

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

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

13 All county offices

14 State Senators in single-county senatorial districts

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

17 Propositions submitted to the voters of one county.

18 If the chairman of the county board of elections fails or neglects to transmit duplicate
19 abstracts to the chairman of the State Board of Elections within the time prescribed in this
20 section, he shall be guilty of a misdemeanor. Provided, that the penalty shall not apply if
21 the chairman was prevented from performing the prescribed duty because of sickness or
22 other unavoidable delay, but the burden of proof shall be on the chairman to show that his
23 failure to perform was due to sickness or unavoidable delay."

24 Section 3.12. G.S. 163-192 reads as rewritten:

25 **"§ 163-192. State Board of Elections to prepare abstracts and declare results of**
26 **primaries and elections.**

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

29 (1) For Governor and all State ~~officers, justices of the Supreme Court,~~
30 ~~judges of the Court of Appeals, officers~~ and United States Senators.

31 (2) For members of the United States House of Representatives for the
32 several congressional districts in the State.

33 (3) For district court judges for the several district court districts in the
34 State.

35 (3a) For superior court judges for the several superior court districts in the
36 State.

37 (4) For district attorney in the several prosecutorial districts in the State.

38 (5) For State Senators in the several senatorial districts in the State
39 composed of more than one county.

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

42 Abstracts prepared by the State Board of Elections under this subsection shall state
43 the total number of votes cast for each candidate of each political party for each of the

1 various offices canvassed by the State Board of Elections. They shall also state the name
2 or names of the person or persons whom the State Board of Elections shall ascertain and
3 judicially determine by the count to be nominated for each office.

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

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

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

11 (2) For Governor and all State ~~officers, justices of the Supreme Court,~~
12 ~~judges of the Court of Appeals, officers~~ and United States Senators.

13 (3) For members of the United States House of Representatives for the
14 several congressional districts in the State.

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

17 (4a) For superior court judges for the several superior court districts in the
18 State.

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

20 (6) For State Senators in the several senatorial districts in the State
21 composed of more than one county.

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

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

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

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

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

41 Section 3.13. G.S. 163-194 reads as rewritten:

42 "**§ 163-194. Governor to issue commissions to certain elected officials.**

1 Every person duly elected to one of the offices listed below, upon obtaining a
2 certificate of his election from the Secretary of State under the provisions of G.S. 163-
3 193, shall procure from the Governor a commission attesting his election to the specified
4 office, which the Governor shall issue upon production of the Secretary of State's
5 certificate:

6 Members of the United States House of Representatives,
7 ~~Justices, Judges, and Superior Court Judges, District Court Judges and District~~
8 ~~Attorneys of the General Court of Justice."~~

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

11 Section 3.15. G.S. 163-9 reads as rewritten:

12 **"§ 163-9. Filling vacancies in State and district judicial offices.**

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

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

25 Appointees for judges of the superior court from any district:

26 (1) With only one resident judge; or

27 (2) In which no county is subject to section 5 of the Voting Rights Act of
28 1965,

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

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

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

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

42 Section 4. This act is effective when it becomes law.