

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 787*

Short Title: Judicial App./ Voter Retention.

(Public)

Sponsors: Senator Odom.

Referred to: Judiciary II.

April 3, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO
PROVIDE FOR GUBERNATORIAL APPOINTMENT OF JUSTICES OF THE
SUPREME COURT AND JUDGES OF THE COURT OF APPEALS SUBJECT
TO CONFIRMATION BY THE GENERAL ASSEMBLY AND TO PROVIDE
FOR 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.**

(1) Election of judges of the Superior Court. Justices of the Supreme Court,
Judges of the Court of Appeals, and regular 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 shall be elected by the qualified voters of the State or by the
voters of their respective districts, as the General Assembly may prescribe. districts.

(2) Appointment, retention election, and terms of justices and judges of the
Appellate Division. On and after January 1, 2003, when a vacancy occurs in the office
of Chief Justice, Associate Justice, or Judge of the Appellate Division, the Governor
shall appoint a person to fill the vacancy. For the purposes of this section, creation of a
new judgeship within the Appellate Division creates a vacancy. Prior to appointment,
such nominations by the Governor shall be subject to confirmation of the General
Assembly by a simple majority of the members of each house present and voting. Each
house of the General Assembly shall vote on confirmation within 60 calendar days of

1 the date of nomination, except that no day shall be included within that calculation if it
2 is:

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

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

15 The term of office by appointment as Chief Justice, Associate Justice, or Judge of
16 the Appellate Division extends through December 31 after the next statewide election
17 for members of the General Assembly that is held more than 60 months after the
18 appointment. At that election, a person holding by appointment the office of Chief
19 Justice, Associate Justice, or Judge of the Appellate Division who desires to continue in
20 office shall be subject to approval by nonpartisan ballot, by a majority of the votes cast
21 on the issue of the Justice's or Judge's retention. A Chief Justice, Associate Justice, or
22 Judge of the Appellate Division then approved for retention serves a regular term.

23 The regular term of office of the Chief Justice, Associate Justices, and Judges of the
24 Appellate Division is eight years and expires on December 31.

25 A Chief Justice, Associate Justice, or Judge of the Appellate Division who desires to
26 continue in office shall be subject to approval by nonpartisan ballot, by a majority of the
27 votes cast on the issue of the Justice's or Judge's retention during the next general
28 election preceding December 31 of the year that the Justice's or Judge's eight-year term
29 would expire.

30 If the voters fail to approve the retention in office of a Chief Justice, Associate
31 Justice, or Judge of the Appellate Division serving an appointed or regular term, the
32 office shall become vacant at the end of the term of office, and it shall be filled by
33 appointment as prescribed in this section.

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

36 (3) *Transition provisions.* A person elected before January 1, 2003, to the office
37 of Chief Justice, Associate Justice, or Judge of the Appellate Division for a term which
38 extends beyond January 1, 2003, and who is in office on January 1, 2003, may continue
39 to serve for the remainder of the term. That person may stand for retention in the office
40 for a succeeding regular term as provided in this section, subject to the provisions of
41 G.S. 7A-4.20. If the person continues to serve for the remainder of the term but does not
42 stand for retention election, a vacancy is created in the office upon expiration of the
43 term, and this vacancy shall be filled by appointment as provided in this section.

1 The term of office of a person who has been appointed before January 1, 2003, to the
2 office of Chief Justice, Associate Justice, or Judge of the Appellate Division for a term
3 which extends beyond January 1, 2003, and who is in office on January 1, 2003, shall
4 end on December 31, 2004. If the person so appointed wishes to continue to serve an
5 additional term, that person shall provide written notice to the Governor, the President
6 of the Senate, and the Speaker of the House of Representatives no later than 5:00 p.m.
7 on April 30, 2004, and shall be reappointed subject to confirmation by the General
8 Assembly as provided herein. The term of office by reappointment of the person, if so
9 confirmed, shall be the same as the term of office when the Governor makes an
10 appointment and the appointment is confirmed by the General Assembly, as provided
11 herein. The term of office for the person will begin January 1, 2005.

12 Upon the death, resignation, removal, or retirement of any incumbent Justice or
13 Judge on or after January 1, 2003, and before the expiration of the Justice's or Judge's
14 term of office, the resulting vacancy shall be filled by appointment as provided in this
15 section.

16 Vacancies in judicial offices in the Appellate Division occurring before January 1,
17 2003, and not filled by that date shall be filled by appointment as provided in this
18 section.

19 From the date any incumbent described in this subsection is continued in office by
20 retention vote for a term next succeeding the term in progress on January 1, 2003, or is
21 succeeded in office by another person, the office is held subject to the provisions of this
22 section.

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

24 **SECTION 2.** The amendment set out in Section 1 of this act shall be
25 submitted to the qualified voters of the State at the general election in November 2002,
26 which election shall be conducted under the laws then governing elections in the State.
27 Ballots, voting systems, or both may be used in accordance with Chapter 163 of the
28 General Statutes.

29 "[] FOR [] AGAINST

30 Constitutional amendment to replace the present practice of partisan election
31 of justices and judges of the Appellate Division with a method by which justices and
32 judges of the Appellate Division will be appointed by the Governor, confirmed by the
33 General Assembly, and then serve for limited terms after which the question of the
34 justice's or judge's retention in office is regularly submitted for approval or disapproval
35 by nonpartisan vote of the people at general elections."

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

41 **SECTION 3.1.** Chapter 7A of the General Statutes is amended by adding a
42 new Article to read:

43 "Article 1A.

44 "Appointment of Justices and Judges;

Retention Elections.**"§ 7A-4.1. Appointment of justices and judges by Governor.**

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

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

"§ 7A-4.2. Confirmation procedures.

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

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

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

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

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

"§ 7A-4.4. No elections in 2003.

No partisan election as previously provided by law for Chief Justice or Associate Justice of the Supreme Court, or Judge of the Court of Appeals shall be held in 2003 or thereafter.

"§ 7A-4.5. Retention elections.

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

(b) A person subject to subsection (a) of this section shall indicate the desire to continue in office by filing a notice to that effect with the State Board of Elections no later than 12:00 noon on the first business day of July in the year of the election. The

1 notice shall be on a form approved by the State Board of Elections. Notice can be
2 withdrawn at any time prior to the deadline for filing notice under this subsection.

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

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

9 (e) If a person who has filed a notice calling a retention election dies or is
10 removed from office prior to the time that the ballots are printed, the retention election
11 is cancelled. If a person who has filed a notice calling a retention election dies or is
12 removed from office after the ballots are printed, the State Board of Elections may
13 cancel the election if it determines that the ballots can be reprinted without significant
14 expense. If the ballots cannot be reprinted, then the results of the election shall be
15 ineffective.

16 **"§ 7A-4.6. Filing fees; refunds.**

17 A person filing a notice to continue in office shall pay to the State Board of
18 Elections at the time of filing a filing fee in the amount of one percent (1%) of the
19 annual salary of the office sought. If any person who has filed a notice under this
20 section and paid the filing fee withdraws his or her notice prior to the date on which the
21 right to file for that office expires, he or she shall be entitled to have the fee refunded.
22 The chairman of the State Board of Elections shall cause a warrant to be drawn on the
23 State Treasurer for the refund payment. If any person who has filed a notice under this
24 section and paid the filing fee dies prior to the date of the election, the personal
25 representative of the estate shall be entitled to have the fee refunded if application is
26 made to the State Board of Elections no later than one year after the date of death, and
27 refund shall be made in the same manner as in withdrawal of candidacy."

28 **SECTION 3.2.** G.S. 163-140(a) reads as rewritten:

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

- 31 (1) Ballot for presidential electors
- 32 (2) Ballot for United States Senator
- 33 (3) Ballot for member of the United States House of Representatives
- 34 (4) State ballot
- 35 (5) County ballot
- 36 (6) Repealed by Session Laws 1973, c. 793, s. 56
- 37 (7) Ballot for constitutional amendments and other propositions submitted
38 to the people
- 39 (8) Judicial ballot for superior court.

40 Use of official ballots shall be limited to the purposes indicated by their titles. The
41 printing on all ballots shall be plain and legible but, unless large type is specified by this
42 section, type larger than 10-point shall not be used in printing ballots. All general
43 election ballots shall be prepared in such a way as to leave sufficient blank space

1 beneath each name printed thereon in which a voter may conveniently write the name of
2 any person for whom he may desire to vote.

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

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

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

16 **SECTION 3.3.** For the purpose of Section 1 of this act, terms of justices and
17 judges covered by Section 2 of Chapter 98 of the 1995 Session Laws are as provided by
18 that act.

19 **SECTION 3.4.** G.S. 7A-10(a) reads as rewritten:

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

30 **SECTION 3.5.** G.S. 7A-16 reads as rewritten:

31 **"§ 7A-16. Creation and organization.**

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

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

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

1 the Supreme Court, such supplementary rules as it deems necessary and appropriate for
2 the 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~~
10 ~~Governor, on or after July 1, 1977, shall make temporary appointments to the additional~~
11 ~~judgeships thus created. The appointees shall serve until January 1, 1979. Their~~
12 ~~successors shall be elected at the general election for members of the General Assembly~~
13 ~~in November, 1978, and shall take office on January 1, 1979, to serve the remainder of~~
14 ~~the unexpired term which began on January 1, 1977.~~

15 ~~On or after December 15, 2000, the Governor shall appoint three additional judges~~
16 ~~to increase the number of judges to 15. Each judgeship shall not become effective until~~
17 ~~the temporary appointment is made, and each appointee shall serve from the date of~~
18 ~~qualification until January 1, 2005. Those judges' successors shall be elected in the 2004~~
19 ~~general election and shall take office on January 1, 2005, to serve terms expiring~~
20 ~~December 31, 2012.~~

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

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

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

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

37 **SECTION 3.6.** G.S. 163-106(c) reads as rewritten:

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

42 Governor

43 Lieutenant Governor

44 All State executive officers

1 Justices of the Supreme Court, Judges of the Court of Appeals
 2 Judges of the district courts
 3 United States Senators
 4 Members of the House of Representatives of the United States
 5 District attorneys

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

10 State Senators
 11 Members of the State House of Representatives
 12 All county offices."

13 **SECTION 3.7.** G.S. 163-106(d) reads as rewritten:

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

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

27 **SECTION 3.8.** G.S. 163-107(a) reads as rewritten:

28 "(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate
 29 shall pay to the board of elections with which he files under the provisions of G.S.
 30 163-106 a filing fee for the office he seeks in the amount specified in the following
 31 tabulation:

32 Office Sought	Amount of Filing Fee
33 Governor	One percent (1%) of the annual 34 salary of the office sought
35 Lieutenant Governor	One percent (1%) of the annual 36 salary of the office sought
37 All State executive offices	One percent (1%) of the annual 38 salary of the office sought
39 All Justices, Judges, and 40 <u>District Court Judges and</u> 41 District Attorneys of the 42 General Court of Justice	One percent (1%) of the annual salary of the office sought
43 United States Senator	One percent (1%) of the annual 44 salary of the office sought

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

33 **SECTION 3.9.** G.S. 163-107.1(b) reads as rewritten:

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

1 deadline before the primary in which he seeks to run. The names on the petition shall be
2 verified by the board of elections of the county where the signer is registered, and the
3 petition must be presented to the county board of elections at least 15 days before the
4 petition is due to be filed with the State Board of Elections. When a proper petition has
5 been filed, the 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
10 writing or by telegram with the Executive Secretary-Director of the
11 State Board of Elections no later than 12:00 noon on the seventh day
12 (including Saturdays and Sundays) following the date on which the
13 primary was conducted, and such request shall be subject to the
14 certification of the official results by the State Board of Elections. If
15 the vote certification by the State Board of Elections determines that a
16 candidate who was not originally thought to be eligible to call for a
17 second primary is in fact eligible to call for a second primary, the
18 Executive Secretary-Director of the State Board of Elections shall
19 immediately notify such candidate and permit him to exercise any
20 options available to him within a 48-hour period following the
21 notification:

22 Governor,

23 Lieutenant Governor,

24 All State executive officers,

25 ~~Justices, Judges, or District Court Judges~~ or District Attorneys of the
26 General Court of Justice, other than superior court judge,

27 United States Senators,

28 Members of the United States House of

29 Representatives,

30 State Senators in ~~multi-county~~ multicounty senatorial districts, and

31 Members of the State House of Representatives in

32 ~~multi-county~~ multicounty representative districts."

33 **SECTION 3.11.** G.S. 163-177 reads as rewritten:

34 **"§ 163-177. Disposition of duplicate abstracts.**

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

41 President and Vice-President of the United States

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

43 United States Senators

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

1 ~~Justices, Judges, and Superior Court Judges, District Court Judges, and~~
2 ~~District Attorneys of the General Court of Justice~~
3 State Senators in ~~multi-county~~multicounty senatorial districts
4 Members of the State House of Representatives in ~~multi-county~~multicounty
5 representative districts
6 Constitutional amendments and propositions submitted to the voters of the
7 State.

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

14 All county offices

15 State Senators in single-county senatorial districts

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

18 Propositions submitted to the voters of one county.

19 If the chairman of the county board of elections fails or neglects to transmit
20 duplicate abstracts to the chairman of the State Board of Elections within the time
21 prescribed in this section, he shall be guilty of a Class 2 misdemeanor. Provided, that
22 the penalty shall not apply if the chairman was prevented from performing the
23 prescribed duty because of sickness or other unavoidable delay, but the burden of proof
24 shall be on the chairman to show that his failure to perform was due to sickness or
25 unavoidable delay."

26 **SECTION 3.12.** G.S. 163-192 reads as rewritten:

27 **"§ 163-192. State Board of Elections to prepare abstracts and declare results of**
28 **primaries and elections.**

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

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

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

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

37 (3a) For superior court judges for the several superior court districts in the
38 State.

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

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

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

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

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

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

- 11 (1) For President and Vice-President of the United States, when an
12 election is held for those offices.
- 13 (2) For Governor and all State ~~officers, justices of the Supreme Court,~~
14 ~~judges of the Court of Appeals, officers~~ and United States Senators.
- 15 (3) For members of the United States House of Representatives for the
16 several congressional districts in the State.
- 17 (4) For district court judges for the several district court districts as
18 defined in G.S. 7A-133 in the State.
- 19 (4a) For superior court judges for the several superior court districts in the
20 State.
- 21 (5) For district attorney in the several prosecutorial districts in the State.
- 22 (6) For State Senators in the several senatorial districts in the State
23 composed of more than one county.
- 24 (7) For members of the State House of Representatives in the several
25 representative districts in the State composed of more than one county.
- 26 (8) For and against any constitutional amendments or propositions
27 submitted to the people.

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

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

37 (c) Disposition of Abstracts of Returns. – The State Board of Elections shall file
38 with the Secretary of State the original abstracts of returns prepared by it under the
39 provisions of subsections (a) and (b) of this section, and also the duplicate county
40 abstracts transmitted to the State Board of Elections under the provisions of G.S.
41 163-177. Upon the request of the Legislative Services Office, the Secretary of State
42 shall submit a copy of the original abstracts to that Office."

43 **SECTION 3.13.** G.S. 163-194 reads as rewritten:

44 **"§ 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.
3 163-193, shall procure from the Governor a commission attesting his election to the
4 specified office, which the Governor shall issue upon production of the Secretary of
5 State's 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
10 for "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~~
14 ~~the Court of Appeals, and office of~~ judge of the superior court for causes other than
15 expiration of term shall be filled by appointment of the Governor. An appointee to the
16 office of Justice of the Supreme Court or judge of the Court of Appeals shall hold office
17 until January 1 next following the election for members of the General Assembly that is
18 held more than 60 days after the vacancy occurs, at which time an election shall be held
19 for an 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
35 term of the office.

36 (d) Vacancies in the office of district judge which occur before the expiration of
37 a term shall not be filled by election. Vacancies in the office of district judge shall be
38 filled 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.