

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 325

Short Title: Judicial Appointment/Voter Confirmation. (Public)

Sponsors: Representatives Rhyne, M. Alexander, Stam, and Glazier (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Rules, Calendar, and Operations of the House.

March 14, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE FOR GUBERNATORIAL APPOINTMENT OF APPELLATE JUSTICES AND JUDGES AND CONFIRMATION BY VOTE OF THE PEOPLE, TO PROVIDE FOR THE SELECTION OF THE CHIEF JUSTICE OF THE SUPREME COURT FROM AMONG THE JUSTICES, AND TO MAKE STATUTORY CONFORMING CHANGES TO IMPLEMENT THE CONSTITUTIONAL AMENDMENTS.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Candidate filing for the Supreme Court and Court of Appeals for 2012 under G.S. 163-323, 163-324, and 163-325 is suspended pending the referendum under Section 2 of this act on the constitutional amendments proposed by subsections (b) and (c) of this section. If the amendments are approved, filing is cancelled as provided under G.S. 7A-4.2 as enacted by Section 3.1 of this act. If the amendments are not approved, a special filing schedule for any of those offices subject to election in 2012 shall be set by the State Board of Elections to conclude not later than the third Friday in August of 2012. Notwithstanding G.S. 163-329(b1), if the amendments are not approved, the results of the general election in 2012 for those offices shall be determined on a plurality basis generally under the rules provided by G.S. 163-292.

**SECTION 1.(b)** 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 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, confirmation election, and terms of Justices and Judges. On and after June 1, 2012, when a vacancy occurs in the office of Justice or Judge of the Appellate Division or upon the expiration of a term when the incumbent was not confirmed by the voters or when



1 the incumbent did not stand for confirmation by the voters, the Governor shall appoint a person  
2 to fill the office. Creation of a new judgeship within the Appellate Division creates a vacancy.

3 The term of office by appointment as Justice or Judge of the Appellate Division extends  
4 through the last day of February after the next general election for members of the General  
5 Assembly that is held more than 24 months after the appointment. At that election, a person  
6 holding by appointment the office of Justice or Judge of the Appellate Division who desires to  
7 continue in office shall be subject to confirmation by ballot, by a majority of the votes cast on  
8 the issue of whether the Justice or Judge should be confirmed and remain in office. A Justice or  
9 Judge of the Appellate Division confirmed by the voters serves a regular term beginning March  
10 1 after the election.

11 The regular term of office of the Justices and Judges of the Appellate Division is eight years  
12 and expires on the last day of February.

13 A Justice or Judge of the Appellate Division who desires to continue in office after the  
14 conclusion of an eight-year term shall be subject to confirmation by ballot by a majority of the  
15 votes cast on the issue of the Justice's or Judge's confirmation during the general election next  
16 preceding the last day of February of the year that the Justice's or Judge's eight-year term would  
17 expire.

18 If the voters fail to confirm a Justice or Judge of the Appellate Division serving an  
19 appointed or regular term, the office shall become vacant at the end of the term of office, and it  
20 shall be filled by appointment as prescribed in this Section. Any person whom the voters fail to  
21 confirm does not hold over at the expiration of the term and is not eligible to serve as a Justice  
22 or Judge of the Appellate Division during the succeeding eight years after the expiration of the  
23 term.

24 Voting in a confirmation election on Justices and Judges of the Appellate Division shall be  
25 the qualified voters of the whole State.

26 (3) Transition provisions. The term of office of a person who has been elected before  
27 June 1, 2012, to the office of Chief Justice, Associate Justice, or Judge of the Appellate  
28 Division for a term which extends beyond June 1, 2012, and who is in office on June 1, 2012, is  
29 extended through the last day of February of the year following the eighth year after the date  
30 any such Justice or Judge was last elected to the office. If the person so elected continues to  
31 serve for the remainder of the term, that person may stand for confirmation in the office for a  
32 succeeding regular term as provided in this Section, subject to the provisions of general law. If  
33 the person continues to serve for the remainder of the term but does not stand for confirmation,  
34 a vacancy is created in the office upon expiration of the term, and this vacancy shall be filled  
35 by appointment as provided in this Section.

36 The term of office of a person who has been appointed before June 1, 2012, to the office of  
37 Chief Justice, Associate Justice, or Judge of the Appellate Division for a term which extends  
38 beyond June 1, 2012, and who is in office on June 1, 2012, shall end on February 28, 2013. If  
39 the person so appointed continues to serve for the remainder of the term, that person may stand  
40 for confirmation to the office for a regular term as provided by this Section at the general  
41 election for members of the General Assembly held in 2012.

42 Upon the death, resignation, removal, or retirement of any incumbent Justice or Judge in  
43 the Appellate Division on or after June 1, 2012, and before the expiration of the Justice's or  
44 Judge's term of office, the resulting vacancy shall be filled by appointment as provided in this  
45 Section.

46 Vacancies in judicial offices in the Appellate Division occurring before June 1, 2012, and  
47 not filled by that date, shall be filled by appointment as provided in this Section.

48 (4) The General Assembly may implement this Section by general law."

49 **SECTION 1.(c)** Section 6(1) of Article IV of the North Carolina Constitution reads  
50 as rewritten:

"(1) Membership. The Supreme Court shall consist of ~~a Chief Justice and six Associate Justices, seven Justices, one of whom shall be Chief Justice,~~ but the General Assembly may increase the number of ~~Associate~~Justices to not more than ~~eight, nine.~~ In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, ~~of that office,~~ the senior ~~Associate~~Justice available may discharge those duties. The General Assembly shall provide by law which Justice shall concurrently be Chief Justice. The service of a Justice as Chief Justice does not affect continuance as a Justice."

**SECTION 2.** The amendments set out in Sections 1(b) and 1(c) of this act shall be submitted to the qualified voters of the State at the statewide primary election on May 8, 2012, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question on the ballot shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment to reform the process of selecting Justices of the Supreme Court and Judges of the Court of Appeals by providing for (i) appointment by the Governor; (ii) accountability to the public through confirmation elections which will be held during the first general election after the Justice or Judge has served at least two years and every eight years thereafter; and (iii) the choice of the Chief Justice of the Supreme Court from among the Justices."

**SECTION 2.1** If a majority of votes cast on the question are in favor of the amendments set out in Sections 1(b) and 1(c) of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The amendment becomes effective June 1, 2012. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.

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

"Article 1A.

"Appointment of Justices and Judges; Confirmation Elections.

**"§ 7A-4.1. Appointment of Justices and Judges by the Governor.**

When vacancies occur, or at the end of a term if the justice or judge does not stand in a confirmation election or is not confirmed in a confirmation election, the offices of Justice of the Supreme Court and Judge of the Court of Appeals are filled by appointment by the Governor in accordance with Section 16 of Article IV of the North Carolina Constitution.

**"§ 7A-4.2. Governor to issue commissions to Justices and Judges.**

Every person duly appointed by the Governor as justice of the Supreme Court or judge of the Court of Appeals shall procure from the Governor a commission attesting that fact.

When a justice or judge is confirmed 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-4.3. No elections in 2012.**

No election as previously provided by Article 25 of Chapter 163 of the General Statutes for Chief Justice or Associate Justice of the Supreme Court or judge of the Court of Appeals shall be held in 2012 or thereafter. In 2012, confirmation elections shall be held under this Article.

**"§ 7A-4.4. Confirmation elections.**

(a) As provided by Section 16 of Article IV of the North Carolina Constitution, a justice of the Supreme Court or judge of the Court of Appeals desiring to continue in office beyond the end of the term for which that justice or judge has been appointed or confirmed shall be subject to confirmation by nonpartisan ballot, by a majority of votes cast on the issue of whether the justice or judge should be confirmed and remain in office.

(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

1 noon on the first business day of July in the year of the election, except in 2012 the deadline  
2 shall be the last business day of July. The notice shall be on a form approved by the State Board  
3 of Elections. Notice can be withdrawn at any time prior to the second Monday in August.

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

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

14 **SECTION 3.2.** G.S. 7A-10 reads as rewritten:

15 **"§ 7A-10. Organization; compensation of justices.**

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

25 (a1) The Governor shall choose one of the justices to serve concurrently as Chief Justice.  
26 No justice shall be eligible to be chosen as Chief Justice unless that justice is either serving an  
27 elective term or has been approved in a confirmation election. A justice chosen as Chief Justice  
28 shall hold that office concurrently for six years, but if the Chief Justice ceases for any reason to  
29 be a justice, a new Chief Justice shall be chosen for a period of six years.

30 (a2) A person chosen as Chief Justice may resign that office without resigning as a  
31 justice, in which case a new choice shall be made under subsection (a1) of this section.

32 (a3) If the person chosen as Chief Justice is temporarily incapacitated under  
33 G.S. 7A-39.5, a justice may be temporarily chosen as Chief Justice, to hold that office during  
34 the temporary incapacity, but not beyond the end of the term of office of either justice or  
35 beyond the expiration of the six years.

36 (a4) No emergency or retired justice recalled to the Supreme Court may be chosen as  
37 Chief Justice.

38 (a5) The person chosen as Chief Justice may hold that office in addition to the number of  
39 appointive offices allowed by G.S. 128-1.1(b).

40 (b) The ~~Chief Justice and each of the associate~~ justices shall receive the annual salary  
41 provided in Current Operations Appropriations Act. Each justice is entitled to reimbursement  
42 for travel and subsistence expenses at the rate allowed State employees generally.

43 (b1) In addition to the reimbursement for travel and subsistence expenses authorized by  
44 subsection (b) of this section, and notwithstanding G.S. 138-6, each justice whose permanent  
45 residence is at least 50 miles from the City of Raleigh shall also be reimbursed for the mileage  
46 the justice travels each week to the City of Raleigh from the justice's home for business of the  
47 court. The reimbursement authorized by this subsection shall be calculated for each justice by  
48 multiplying the actual round-trip mileage from that justice's home to the City of Raleigh by a  
49 rate-per-mile established by the Director of the Administrative Office of the Courts, but not to  
50 exceed the business standard mileage rate set by the Internal Revenue Service.

1 (c) In lieu of merit and other increment raises paid to regular State employees, the Chief  
2 Justice ~~and each of the Associate Justices~~ justices shall receive as longevity pay an annual  
3 amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the  
4 Current Operations Appropriations Act payable monthly after five years of service, nine and  
5 six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%)  
6 after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and  
7 twenty-four percent (24%) after 25 years of service. "Service" means service as a justice or  
8 judge of the General Court of Justice or as a member of the Utilities Commission. Service shall  
9 also mean service as a district attorney or as a clerk of superior court."

10 **SECTION 3.3.** G.S. 7A-16 reads as rewritten:

11 **"§ 7A-16. Creation and organization.**

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

18 ~~The Governor on or after July 1, 1967, shall make temporary appointments to the six initial~~  
19 ~~judgeships. The appointees shall serve until January 1, 1989. Their successors shall be elected~~  
20 ~~at the general election for members of the General Assembly in November, 1968, and shall take~~  
21 ~~office on January 1, 1969, to serve for the remainder of the unexpired term which began on~~  
22 ~~January 1, 1967.~~

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

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

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

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

44 ~~On or after December 15, 2000, the Governor shall appoint three additional judges to~~  
45 ~~increase the number of judges to 15.~~

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

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

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

5 **SECTION 3.4.** G.S. 163-1 is amended in the table by deleting the entries for  
6 "Justices and Judges of the Appellate Division."

7 **SECTION 3.5.** G.S. 163-9 reads as rewritten:

8 "**§ 163-9. Filling vacancies in State and district judicial offices.**

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

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

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

21 (1) With only one resident judge; or

22 (2) In which no county is subject to section 5 of the Voting Rights Act of 1965,  
23 shall hold the office until the next election of members of the General  
24 Assembly that is held more than 60 days after the vacancy occurs, at which  
25 time an election shall be held to fill an eight-year term.

26 (c) When the unexpired term of the office of superior court judge or district court judge  
27 in which the vacancy has occurred expires on the first day of January succeeding the next  
28 election for members of the General Assembly, the Governor shall appoint to fill that vacancy  
29 for the unexpired term of the office.

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

33 **SECTION 3.6.** The title of Subchapter X of Chapter 163 of the General Statutes  
34 reads as rewritten:

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

37 **SECTION 3.7.** The title of Article 25 of Chapter 163 of the General Statutes reads  
38 as rewritten:

39 "Article 25.

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

41 **SECTION 3.8.** G.S. 163-321 reads as rewritten:

42 "**§ 163-321. Applicability.**

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

46 **SECTION 3.9.** G.S. 163-323 reads as rewritten:

47 "**§ 163-323. Notice of candidacy.**

48 (a) Form of Notice. – Each person offering to be a candidate for election shall do so by  
49 filing a notice of candidacy with the State Board of Elections in the following form, inserting  
50 the words in parentheses when appropriate:

51

Date: \_\_\_\_\_

I hereby file notice that I am a candidate for election to the office of \_\_\_\_\_ in the regular election to be held \_\_\_\_\_, \_\_\_\_.

Signed: \_\_\_\_\_  
(Name of Candidate)

Witness: \_\_\_\_\_

The notice of candidacy shall be either signed in the presence of the chairman or secretary of the State Board of Elections, or signed and acknowledged before an officer authorized to take acknowledgments who shall certify the notice under seal. An acknowledged and certified notice may be mailed to the State Board of Elections. In signing a notice of candidacy, the candidate shall use only the candidate's legal name and, in his discretion, any nickname by which commonly known. A candidate may also, in lieu of that candidate's first name and legal middle initial or middle name, if any, sign that candidate's nickname, provided the candidate appends to the notice of candidacy an affidavit that the candidate has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way the candidate's name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

A notice of candidacy signed by an agent or any person other than the candidate himself shall be invalid.

(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.

(c) Withdrawal of Notice of Candidacy. – Any person who has filed a notice of candidacy for an office shall have the right to withdraw it at any time prior to the date on which the right to file for that office expires under the terms of subsection (b) of this section.

(d) Certificate That Candidate Is Registered Voter. – Candidates shall file along with their notice a certificate signed by the chairman of the board of elections or the supervisor of elections of the county in which they are registered to vote, stating that the person is registered to vote in that county, and if the candidacy is for superior court judge and the county contains more than one superior court district, stating the superior court district of which the person is a resident. In issuing such certificate, the chairman or supervisor shall check the registration records of the county to verify such information. During the period commencing 36 hours immediately preceding the filing deadline, the State Board of Elections shall accept, on a conditional basis, the notice of candidacy of a candidate who has failed to secure the verification ordered herein subject to receipt of verification no later than three days following the filing deadline. The State Board of Elections shall prescribe the form for such certificate, and distribute it to each county board of elections no later than the last Monday in December of each odd-numbered year.

(e) Candidacy for More Than One Office Prohibited. – No person may file a notice of candidacy for more than one office or group of offices described in subsection (b) of this section, or for an office or group of offices described in subsection (b) of this section and an office described in G.S. 163-106(c), for any one election. If a person has filed a notice of

1 candidacy with a board of elections under this section or under G.S. 163-106(c) for one office  
2 or group of offices, then a notice of candidacy may not later be filed for any other office or  
3 group of offices under this section when the election is on the same date unless the notice of  
4 candidacy for the first office is withdrawn under subsection (c) of this section.

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

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

15 (g) No person may file a notice of candidacy for superior court judge unless that person  
16 is at the time of filing the notice of candidacy a resident of the judicial district as it will exist at  
17 the time the person would take office if elected. No person may be nominated as a superior  
18 court judge under G.S. 163-114 unless that person is at the time of nomination a resident of the  
19 judicial district as it will exist at the time the person would take office if elected. This  
20 subsection implements Article IV, Section 9(1) of the North Carolina Constitution which  
21 requires regular Superior Court Judges to reside in the district for which elected."

22 **SECTION 3.10.** G.S. 163-325 reads as rewritten:

23 **"§ 163-325. Petition in lieu of payment of filing fee.**

24 (a) General. – Any qualified voter who seeks election under this Article may, in lieu of  
25 payment of any filing fee required for the office he seeks, file a written petition requesting him  
26 to be a candidate for a specified office with the State Board of Elections.

27 (b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking the  
28 office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ superior or district  
29 court judge, that individual shall file a written petition with the State Board of Elections no  
30 later than 12:00 noon on Monday preceding the filing deadline before the primary. ~~If the office~~  
31 ~~is justice of the Supreme Court or judge of the Court of Appeals, the petition shall be signed by~~  
32 ~~10,000 registered voters in the State.~~ If the office is superior court or district court judge, the  
33 petition shall be signed by ten percent (10%) of the registered voters of the election area in  
34 which the office will be voted for. The board of elections shall verify the names on the petition,  
35 and if the petition and notice of candidacy are found to be sufficient, the candidate's name shall  
36 be printed on the appropriate ballot. Petitions must be presented to the county board of  
37 elections for verification at least 15 days before the petition is due to be filed with the State  
38 Board of Elections. The State Board of Elections may adopt rules to implement this section and  
39 to provide standard petition forms."

40 **SECTION 3.11.** G.S. 163-326(b) reads as rewritten:

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

50 **SECTION 3.12.** G.S. 163-329 reads as rewritten:

51 **"§ 163-329. Elections to fill vacancy in office created after primary filing period opens.**



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

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

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

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

26 (2) When the vacancy described in this section occurs less than 64 days before  
27 the date of the second primary, a general election for all the candidates shall  
28 be held on the same day as the general election for members of the General  
29 Assembly and the "instant runoff voting" method shall be used to determine  
30 the winner. Under "instant runoff voting," voters rank up to three of the  
31 candidates by order of preference, first, second, or third. If the candidate  
32 with the greatest number of first-choice votes receives more than fifty  
33 percent (50%) of the first-choice votes, that candidate wins. If no candidate  
34 receives that minimum number, the two candidates with the greatest number  
35 of first-choice votes advance to a second round of counting. In this round,  
36 each ballot counts as a vote for whichever of the two final candidates is  
37 ranked highest by the voter. The candidate with the most votes in the second  
38 round wins the election. If more than one seat is to be filled in the same race,  
39 the voter votes the same way as if one seat were to be filled. The counting is  
40 the same as when one seat is to be filled, with one or two rounds as needed,  
41 except that counting is done separately for each seat to be filled. The first  
42 count results in the first winner. Then the second count proceeds without the  
43 name of the first winner. This process results in the second winner. For each  
44 additional seat to be filled, an additional count is done without the names of  
45 the candidates who have already won. In multi-seat contests, the State Board  
46 of Elections may give the voter more than three choices.

47 (3) If two or more candidates receiving the highest number of votes each receive  
48 the same number of votes, the board of elections shall resolve the tie in  
49 accordance with G.S. 163-182.8.

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

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

- 4 (1) If after the first-choice candidate is eliminated, a ballot does not indicate one  
5 of the uneliminated candidates as an alternative choice, the ballot is  
6 exhausted and shall not be counted after the initial round.  
7 (2) The fact that the voter does not designate a second or third choice does not  
8 invalidate the voter's higher choice or choices.  
9 (3) The fact that the voter gives more than one ranking to the same candidate  
10 shall not invalidate the vote. The highest ranking given a particular candidate  
11 shall count as long as the candidate is not eliminated.  
12 (4) In case of a tie between candidates such that two or more candidates have an  
13 equal number of first choices and more than two candidates qualify for the  
14 second round, instant runoff voting shall be used to determine which two  
15 candidates shall advance to the second round."

16 **SECTION 3.13.** G.S. 163-332(b) reads as rewritten:

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

20 ~~Justice of the Supreme Court.~~  
21 ~~Judge of the Court of Appeals.~~  
22 Superior court judge.  
23 District court judge.

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

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

30 **SECTION 3.14.(a)** All provisions of Article 22D of Chapter 163 of the General  
31 Statutes are repealed except for G.S. 163-278.69. The caption of Article 22D is rewritten to be  
32 "Judicial Voter Guide." Any remaining funds in the North Carolina Public Campaign Financing  
33 Fund shall be allocated to the State Board of Elections to prepare, print, and distribute the  
34 Judicial Voter Guide provided by G.S. 163-278.69. Those funds shall not revert and are  
35 available until expended.

36 **SECTION 3.14.(b)** G.S. 163-278.69 reads as rewritten:

37 **"§ 163-278.69. Voter education.**

38 (a) Judicial Voter Guide. – The Board shall publish a Judicial Voter Guide that explains  
39 the functions of the ~~appellate courts and courts~~, the laws concerning the ~~election appointment~~  
40 ~~and confirmation~~ of appellate judges, ~~the purpose and function of the Public Campaign Fund,~~  
41 and the laws concerning voter registration. The Board shall distribute the Guide to as many  
42 voting-age individuals in the State as practical, through a mailing to all residences or other  
43 means it deems effective. The distribution shall occur no more than 28 days nor fewer than  
44 seven days before the one-stop voting period provided in G.S. 163-227.2 for the primary and no  
45 more than 28 days nor fewer than seven days before the one-stop voting period provided in  
46 G.S. 163-227.2 for the general election.

47 (b) Candidate Information. – The Judicial Voter Guide shall include information  
48 concerning all candidates for confirmation to the Supreme Court and the Court of Appeals, as  
49 provided by those candidates according to a format provided to the candidates by the Board.  
50 The Judicial Voter Guide shall also include information on any negative disciplinary actions  
51 recommended by the Judicial Standards Commission or imposed by the Supreme Court as to

1 conduct by that candidate, including types of negative disciplinary actions such as  
2 admonishment that might not otherwise have been disclosed by the Commission, except if the  
3 Supreme Court has rejected the recommendations. The Board shall request information for the  
4 Guide from each candidate according to the following format:

- 5 (1) Place of residence.
- 6 (2) Education.
- 7 (3) Occupation.
- 8 (4) ~~Employer.~~
- 9 (5) Date admitted to the bar.
- 10 (6) Legal/judicial experience.
- 11 (7) Candidate statement. Concerning that statement, the Board shall send to the  
12 candidates instructions as follows: "Your statement may include information  
13 such as your qualifications, your endorsements, your ratings, why you are  
14 seeking judicial office, why you would make a good judge, ~~what~~  
15 ~~distinguishes you from your opponent(s), your acceptance of spending and~~  
16 ~~fund-raising limits to qualify to receive funds from the Public Campaign~~  
17 ~~Fund,~~ and any other information relevant to your candidacy. The State Board  
18 of Elections will reject any portion of any statement which it determines  
19 contains obscene, profane, or defamatory language. The candidate shall have  
20 three days to resubmit the candidate statement if the Board rejects a portion  
21 of the statement.

22 The entire entry for a candidate shall be limited to 250 words.

23 (c) Disclaimer. – The Judicial Voter Guide shall contain the following statement:  
24 "Statements by candidates do not express or reflect the opinions of the State Board of  
25 Elections."

26 **SECTION 3.14.(c)** G.S. 163-278.5 reads as rewritten:

27 **"§ 163-278.5. Scope of Article; severability.**

28 The provisions of this Article apply to primaries and elections for North Carolina offices  
29 and to North Carolina referenda and do not apply to primaries and elections for federal offices  
30 or offices in other States or to non-North Carolina referenda. Any provision in this Article that  
31 regulates a non-North Carolina entity does so only to the extent that the entity's actions affect  
32 elections for North Carolina offices or North Carolina referenda.

33 The provisions of this Article are severable. If any provision is held invalid by a court of  
34 competent jurisdiction, the invalidity does not affect other provisions of the Article that can be  
35 given effect without the invalid provision.

36 This section applies to Articles 22B, ~~22D~~, 22E, 22F, 22G, 22H, 22J, and 22M of the  
37 General Statutes to the same extent that it applies to this Article. "

38 **SECTION 3.14.(d)** G.S. 163-278.13(e2) is repealed.

39 **SECTION 3.14.(e)** G.S. 163-278.23 reads as rewritten:

40 **"§ 163-278.23. Duties of Executive Director of Board.**

41 The Executive Director of the Board shall inspect or cause to be inspected each statement  
42 filed with the Board under this Article within 30 days after the date it is filed. The Executive  
43 Director shall advise, or cause to be advised, no more than 30 days and at least five days before  
44 each report is due, each candidate or treasurer whose organizational report has been filed, of the  
45 specific date each report is due. He shall immediately notify any individual, candidate,  
46 treasurer, political committee, referendum committee, media, or other entity that may be  
47 required to file a statement under this Article if:

- 48 (1) It appears that the individual, candidate, treasurer, political committee,  
49 referendum committee, media, or other entity has failed to file a statement as  
50 required by law or that a statement filed does not conform to this Article; or

- 1           (2) A written complaint is filed under oath with the Board by any registered  
2 voter of this State alleging that a statement filed with the Board does not  
3 conform to this Article or to the truth or that an individual, candidate,  
4 treasurer, political committee, referendum committee, media, or other entity  
5 has failed to file a statement required by this Article.

6           The entity that is the subject of the complaint will be given an opportunity to respond to the  
7 complaint before any action is taken requiring compliance.

8           The Executive Director of the Board of Elections shall issue written opinions to candidates,  
9 the communications media, political committees, referendum committees, or other entities  
10 upon request, regarding filing procedures and compliance with this Article. Any such opinion  
11 so issued shall specifically refer to this paragraph. If the candidate, communications media,  
12 political committees, referendum committees, or other entities rely on and comply with the  
13 opinion of the Executive Director of the Board of Elections, then prosecution or civil action on  
14 account of the procedure followed pursuant thereto and prosecution for failure to comply with  
15 the statute inconsistent with the written ruling of the Executive Director of the Board of  
16 Elections issued to the candidate or committee involved shall be barred. Nothing in this  
17 paragraph shall be construed to prohibit or delay the regular and timely filing of reports. The  
18 Executive Director shall file all opinions issued pursuant to this section with the Codifier of  
19 Rules to be published unedited in the North Carolina Register and the North Carolina  
20 Administrative Code.

21           This section applies to Articles 22B, ~~22D~~, 22E, 22F, 22G, 22H, and 22M of the General  
22 Statutes to the same extent that it applies to this Article."

23           **SECTION 3.14.(f)** G.S. 105-159.2 is repealed.

24           **SECTION 3.15.** Sections 3.1 through 3.14 of this act are effective only if the  
25 constitutional amendments proposed by Sections 1(b) and (c) of this act are approved by the  
26 qualified voters in accordance with Section 2 of this act.

27           **SECTION 4.** Except as otherwise provided for within this act, this act is effective  
28 when it becomes law.