

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 169

Short Title: Public Defenders Elected.

(Public)

Sponsors: Representatives Wood; and Flaherty.

Referred to: Courts and Justice.

February 14, 1994

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR ELECTION OF PUBLIC DEFENDERS BY THE PEOPLE OF THE DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-466 is amended by adding a new subsection to read:

"(c1) The current terms of public defenders are extended to expire as follows:

(1) For any terms to expire in 1994, 1995, or 1996, until December 31, 1996; and

(2) For any terms to expire in 1997 or 1998, until December 31, 1998."

Sec. 2. G.S. 7A-466(d) reads as rewritten:

"(d) ~~Except in Defender District 16B, for each new term beginning on or after January 1, 1989, and to fill any vacancy, the public defender for a defender district shall be appointed from a list of not less than two and not more than three names nominated by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to regulations promulgated by the Administrative Office of the Courts. The appointment shall be made by the senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-44.1 which includes the county or counties of the defender district for which the public defender is being appointed. At the general election immediately preceding the expiration of the term, in each district for which there is a public defender, a public defender shall be elected by the people of that district for a four-year term in accordance with Chapter 163 of the General Statutes. In case of a vacancy in such office, the Governor shall appoint a resident of that district to serve the remainder of the unexpired term.~~"

1           Sec. 3. G.S. 7A-466(e) is repealed.

2           Sec. 4. The table in G.S. 163-1 is amended in the table, between the entries  
3 for "Judges of the district courts" and "District Attorney" by adding the following in the  
4 columns entitled "OFFICE", "JURISDICTION", "DATE OF ELECTION", and "TERM  
5 OF OFFICE": "Public Defender", "Defender District", "Tuesday next after the first  
6 Monday of November in the year that the term expires and every four years thereafter",  
7 and "Four years, from first day of January next after election".

8           Sec. 5. G.S. 163-107.1(c) reads as rewritten:

9           "(c) County, Municipal and District Primaries. – If the candidate is seeking one of  
10 the offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this  
11 section, or a municipal or any other office requiring a partisan primary which is not set  
12 forth in G.S. 163-106(c) or (d), he shall file a written petition with the appropriate board  
13 of elections no later than 12:00 noon on Monday preceding the filing deadline before  
14 the primary. The petition shall be signed by ten percent (10%) of the registered voters of  
15 the election area in which the office will be voted for, who are affiliated with the same  
16 political party in whose primary the candidate desires to run, or in the alternative, the  
17 petition shall be signed by no less than 200 registered voters regardless of said voter's  
18 political party affiliation, whichever requirement is greater. The board of elections shall  
19 verify the names on the petition, and if the petition is found to be sufficient, the  
20 candidate's name shall be printed on the appropriate primary ballot. Petitions for  
21 candidates for member of the U.S. House of Representatives, District Attorney, Public  
22 Defender, judge of the District Court and judge of the Superior Court, or members of  
23 the State House of Representatives from multi-county districts or members of the State  
24 Senate from multi-county districts must be presented to the county board of elections  
25 for verification at least 15 days before the petition is due to be filed with the State Board  
26 of Elections, and such petition must be filed with the State Board of Elections no later  
27 than 12:00 noon on Monday preceding the filing deadline. The State Board of Elections  
28 may adopt rules to implement this section and to provide standard petition forms."

29           Sec. 6. G.S. 163-108(b) reads as rewritten:

30           "(b) No later than 10 days after the time for filing notices of candidacy under the  
31 provisions of G.S. 163-106(c) has expired, the chairman of the State Board of Elections  
32 shall certify to the chairman of the county board of elections in each county in the  
33 appropriate district the names of candidates for nomination to the following offices who  
34 have filed the required notice and pledge and paid the required filing fee to the State  
35 Board of Elections, so that their names may be printed on the official county ballots:  
36 Superior court judge, district court judge, public defender, and district attorney."

37           Sec. 7. G.S. 163-109(c) reads as rewritten:

38           "(c) Ballots to Be Furnished by County Board of Elections. – It shall be the duty  
39 of the county board of elections to print official ballots for each political party having  
40 candidates for the following offices to be voted for in the primary:

41           Superior court judge,

42           District court judge,

43           District attorney,

44           Public defender,



1  
2 State Senator in a single- | County executive committee  
3 county senatorial district | of political party in which  
4 Member of State House of | vacancy occurs, provided, in  
5 Representatives in a | the case of the State  
6 single-county | Senator or State  
7 representative district | Representative in a  
8 Any elective county office | single-county district where  
9 | not all the county is  
10 | located in that district,  
11 | then in voting, only those  
12 | members of the county  
13 | executive committee who  
14 | reside within the  
15 | district shall vote  
16  
17 Judge of Superior Court in a | County executive committee  
18 single-county superior | of political party in  
19 court district where the | which vacancy occurs;  
20 district is the whole | provided, in the case of  
21 county or part of the | a superior court judge in a  
22 county | single-county district where  
23 | not all the county is  
24 | located in that district,  
25 | then in voting, only those  
26 | members of the county  
27 | executive committee who  
28 | reside within the  
29 | district shall vote  
30  
31 Judge of Superior Court in a | Appropriate district  
32 multi-county superior | executive committee of  
33 court district | political party in which  
34 | vacancy occurs.  
35 The party executive making a nomination in accordance with the provisions of this  
36 section shall certify the name of its nominee to the chairman of the board of elections,  
37 State or county, charged with the duty of printing the ballots on which the name is to  
38 appear. If at the time a nomination is made under this section the general election ballots  
39 have already been printed, the provisions of G.S. 163-139 shall apply. If any person  
40 nominated as a candidate of a political party vacates such nomination and such vacancy  
41 arises from a cause other than death and the vacancy in nomination occurs more than  
42 120 days before the general election, the vacancy in nomination may be filled under this  
43 section only if the appropriate executive committee certifies the name of the nominee in  
44 accordance with this paragraph at least 90 days before the general election.

1 In a county which is partly in a multi-county superior court district, in choosing that  
2 county's member or members of the superior court district executive committee for the  
3 multi-county district, only the county convention delegates or county executive  
4 committee members who reside within the area of the county which is within that multi-  
5 county district may vote.

6 In a county not all of which is located in one congressional district, in choosing the  
7 congressional district executive committee member or members from that area of the  
8 county, only the county convention delegates or county executive committee members  
9 who reside within the area of the county which is within the congressional district may  
10 vote.

11 In a county which is partly in a multi-county senatorial district or which is partly in a  
12 multi-county House of Representatives district, in choosing that county's member or  
13 members of the senatorial district executive committee or House of Representatives  
14 district executive committee for the multi-county district, only the county convention  
15 delegates or county executive committee members who reside within the area of the  
16 county which is within that multi-county district may vote."

17 Sec. 9. G.S. 163-140(b)(5) reads as rewritten:

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

1           The name or names of each political party's candidate or candidates  
2 for each office listed on the ballot shall be printed in the appropriate  
3 office section of the proper party column, and the names of  
4 unaffiliated candidates shall be printed in the appropriate office section  
5 of the column headed 'Unaffiliated Candidates.' At the left of each  
6 name shall be printed a voting square, and in each column all voting  
7 squares shall be arranged in a perpendicular line.

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

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

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

33       Sec. 10. G.S. 163-192 reads as rewritten:

34       "**§ 163-192. State Board of Elections to prepare abstracts and declare results of**  
35       **primaries and elections.**

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

- 38       (1) For Governor and all State officers, justices of the Supreme Court,  
39 judges of the Court of Appeals, judges of the superior court, and  
40 United States Senators.
- 41       (2) For members of the United States House of Representatives for the  
42 several congressional districts in the State.
- 43       (3) For district court judges for the several district court districts in the  
44 State.

- 1 (4) For district attorney in the several prosecutorial districts in the State.  
2 (4a) For public defender in the several public defender districts in the State.  
3 (5) For State Senators in the several senatorial districts in the State  
4 composed of more than one county.  
5 (6) For members of the State House of Representatives in the several  
6 representative districts in the State composed of more than one county.

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

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

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

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

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

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

43 (c) Disposition of Abstracts of Returns. – The State Board of Elections shall file  
44 with the Secretary of State the original abstracts of returns prepared by it under the

1 provisions of subsections (a) and (b) of this section, and also the duplicate county  
2 abstracts transmitted to the State Board of Elections under the provisions of G.S. 163-  
3 177. Upon the request of the Legislative Services Office, the Secretary of State shall  
4 submit a copy of the original abstracts to that Office."

5 Sec. 11. G.S. 163-278.27(b)(2) reads as rewritten:

6 "(2) In the case of a candidate for nomination or election to the office of  
7 Governor, Lieutenant Governor, Secretary of State, State Auditor,  
8 State Treasurer, State Superintendent of Public Instruction, State  
9 Attorney General, State Commissioner of Agriculture, State  
10 Commissioner of Labor, State Commissioner of Insurance, and all  
11 other State elective offices, Justice of the Supreme Court, Judge of the  
12 Court of Appeals, judge of a superior court, judge of a district court,  
13 public defender, and district attorney of the superior court: report to  
14 the district attorney of the prosecutorial district in which Wake County  
15 is located;".

16 Sec. 12. This act is effective upon ratification, but does not affect filling of  
17 vacancies in the office of public defender before the expiration of the current terms of  
18 office as extended by this act.