

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 683
Second Edition Engrossed 6/13/95

Short Title: Judicial Elections.

(Public)

Sponsors: Senator Ballance.

Referred to: Judiciary II/Election Laws

April 13, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR THE ELECTION OF SUPERIOR COURT JUDGES BY
2 JUDICIAL DISTRICT, AND TO INCREASE THE NUMBER OF DISTRICT
3 COURT DISTRICTS, SO AS TO INCREASE COMPLIANCE WITH SECTIONS 2
4 AND 5 OF THE VOTING RIGHTS ACT OF 1965 AND TO ENABLE
5 SETTLEMENT OF LITIGATION.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. The State of North Carolina has been engaged in extensive
9 litigation concerning election of superior court judges, there is potential litigation
10 concerning election of district court judges, and the State of North Carolina has been
11 unable to receive preclearance under Section 5 of the Voting Rights Act of 1965 for
12 legislation to add additional district court judges. This act is designed to eliminate and
13 avoid these problems, and to settle existing litigation.

14 Sec. 2. Chapter 7A of the General Statutes is amended by adding a new
15 section to read:

16 "**§ 7A-41.2. Nomination and election of regular superior court judges.**

17 Candidates for the office of regular superior court judge shall be both nominated and
18 elected by the qualified voters of the superior court district for which the election is
19 sought."

1 Sec. 3. G.S. 163-1 is amended in the table by deleting the word "State" in the
2 column entitled "Jurisdiction" under the entry for "Judges of the superior courts", and
3 substituting "Superior Court District".

4 Sec. 4. G.S. 163-140(a) reads as rewritten:

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

- 7 (1) Ballot for presidential electors
- 8 (2) Ballot for United States Senator
- 9 (3) Ballot for member of the United States House of Representatives
- 10 (4) State ballot
- 11 (5) County ballot
- 12 (6) Repealed by Session Laws 1973, c. 793, s. 56.
- 13 (7) Ballot for constitutional amendments and other propositions submitted
14 to the people.

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

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

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

32 ~~If the State Board of Elections divides the State ballot into two or more ballots, all~~
33 ~~candidates for superior court shall appear on the same ballot except that the State Board of~~
34 ~~Elections appropriate board of elections may divide the election of superior court judges~~
35 ~~into two ballots either because of length of the ballot or to provide a separate ballot for~~
36 ~~multi-seat races but only superior court judges shall be on those ballots, and all~~
37 ~~candidates for the Appellate Division shall appear on the same ballot."~~

38 Sec. 5. G.S. 163-140(b)(4) reads as rewritten:

39 "(4) State Ballot: Beneath the title and general instructions set out in this
40 subsection, the ballot for single-seat contests for State officers, and for
41 all State officers where mechanical voting machines are used ~~(including~~
42 ~~judges of the superior court)~~ shall be divided into parallel columns
43 separated by distinct black lines. The State Board of Elections shall

1 assign a separate column to each political party having candidates for
2 State offices and one to unaffiliated candidates, if any. At the head of
3 each party column the party's name shall be printed in large type, and at
4 the head of the column for unaffiliated candidates shall be printed in
5 large type the words 'Unaffiliated Candidates.' Below the party name in
6 each column shall be printed a circle, one-half inch in diameter, around
7 which shall be plainly printed the following instruction: 'For a straight
8 ticket, mark within this circle.' With distinct black lines, the State Board
9 of Elections shall divide the columns into horizontal sections and, in the
10 customary order of office, assign a separate section to each office or
11 group of offices to be filled. On a single line at the top of each section
12 shall be printed a direction as to the number of candidates for whom a
13 vote may be cast. If candidates are to be chosen for different terms to
14 the same office, the term in each instance shall be printed as part of the
15 title of the office.

16 The name or names of each political party's candidate or candidates
17 for each office listed on the ballot shall be printed in the appropriate
18 office section of the proper party column, and the names of unaffiliated
19 candidates shall be printed in the appropriate office section of the
20 column headed 'Unaffiliated Candidates.' At the left of each name shall
21 be printed a voting square, and in each column all voting squares shall
22 be arranged in a perpendicular line.

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

- 26 'a. To vote for all candidates of one party (a straight ticket), make a
27 cross (X) mark in the circle of the party for whose candidates you
28 wish to vote.
- 29 b. You may vote a split ticket by not marking a cross (X) mark in
30 the party circle, but by making a cross (X) mark in the square
31 opposite the name of each candidate for whom you wish to vote.
- 32 c. You may also vote a split ticket by marking a cross (X) mark in
33 the party circle and then making a cross (X) mark in the square
34 opposite the name of any candidate you choose of a different
35 party. In any multi-seat race where a party circle is marked and
36 you vote for candidates of another party, you must also make a
37 cross (X) mark opposite the name of any candidate you choose of
38 the party for which you marked the party circle to assure your
39 vote will count.
- 40 d. If you tear or deface or wrongly mark this ballot, return it and get
41 another.'

42 On the bottom of the ballot shall be printed an identified facsimile of
43 the signature of the Chairman of the State Board of Elections. If the

1 State ballot contains no multi-seat race, then the second sentence of
2 instruction b. shall not appear on the ballot."

3 Sec. 6. G.S. 163-140(b)(5) reads as rewritten:

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

30 The name or names of each political party's candidate or candidates
31 for each office listed on the ballot shall be printed in the appropriate
32 office section of the proper party column, and the names of unaffiliated
33 candidates shall be printed in the appropriate office section of the
34 column headed 'Unaffiliated Candidates.' At the left of each name shall
35 be printed a voting square, and in each column all voting squares shall
36 be arranged in a perpendicular line.

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

40 'a. To vote for all candidates of one party (a straight ticket), make a
41 cross (X) mark in the circle of the party for whose candidates you
42 wish to vote.

- 1 b. You may vote a split ticket by not marking a cross (X) mark in
2 the party circle, but by making a cross (X) mark in the square
3 opposite the name of each candidate for whom you wish to vote.
4 c. You may also vote a split ticket by marking a cross (X) mark in
5 the party circle and then making a cross (X) mark in the square
6 opposite the name of any candidate you choose of a different
7 party. In any multi-seat race where a party circle is marked and
8 you vote for candidates of another party, you must also make a
9 cross (X) mark opposite the name of any candidate you choose of
10 the party for which you marked the party circle to assure your
11 vote will count.
12 d. If you tear or deface or wrongly mark this ballot, return it and get
13 another.'

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

18 Sec. 7. G.S. 163-192 reads as rewritten:

19 **"§ 163-192. State Board of Elections to prepare abstracts and declare results of**
20 **primaries and elections.**

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

- 23 (1) For Governor and all State officers, justices of the Supreme Court,
24 judges of the Court of Appeals, ~~judges of the superior court,~~ and United
25 States Senators.
26 (2) For members of the United States House of Representatives for the
27 several congressional districts in the State.
28 (3) For district court judges for the several district court districts in the
29 State.
30 (3a) For superior court judges for the several superior court districts in the
31 State.
32 (4) For district attorney in the several prosecutorial districts in the State.
33 (5) For State Senators in the several senatorial districts in the State
34 composed of more than one county.
35 (6) For members of the State House of Representatives in the several
36 representative districts in the State composed of more than one county.

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

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

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

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

8 (2) For Governor and all State officers, justices of the Supreme Court,
9 judges of the Court of Appeals, ~~judges of the superior court,~~ and United
10 States Senators.

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

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

15 (4a) For superior court judges for the several superior court districts in the
16 State.

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

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

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

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

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

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

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

39 Sec. 8. Article 18 of Chapter 7A of the General Statutes is amended by adding
40 a new section to read:

41 **"§ 7A-200. District and set of districts defined; senior chief district court judges and**
42 **their authority.**

43 (a) In this section:

- 1 (1) 'District' means any district court district established by G.S. 7A-133
- 2 which consists exclusively of one or more entire counties;
- 3 (2) 'Set of districts' means any set of two or more district court districts
- 4 established under G.S. 7A-133, none of which consists exclusively of
- 5 one or more entire counties, but both or all of which include territory
- 6 from the same county or counties and together comprise all of the
- 7 territory of that county or those counties; and
- 8 (3) 'Chief district court judge' means in the case of a set of districts, the
- 9 senior chief district court judge for those districts, designated by the
- 10 chief justice from among the chief district court judges for the districts
- 11 in the set of districts.

12 (b) Whenever by law a duty is imposed upon the chief district court judge, it
 13 means for a set of districts the senior chief district court judge designated under
 14 subsection (a)(3) of this section."

15 Sec. 9. Article 14 of Chapter 7A of the General Statutes is amended by adding
 16 a new section to read:

17 **"§ 7A-149. Jurisdiction; sessions.**

18 (a) Notwithstanding any other provision of law, district court judge of a district
 19 court district which is in a set of districts as defined by G.S. 7A-200 has jurisdiction in
 20 the entire county or counties in which the district is located to the same extent as if the
 21 district encompassed the entire county, and has jurisdiction in the entire set of districts to
 22 the same extent as if the district encompassed the entire set of districts.

23 (b) All sessions of district court shall be for an entire county, whether that county
 24 comprises or is located in a district or in a set of districts as defined in G.S. 7A-200, and
 25 at each session all matters and proceedings arising anywhere in the county may be heard.

26 (c) All clerks of court for a county have jurisdiction over the entire county,
 27 notwithstanding that the county may be part of a set of districts."

28 Sec. 10. G.S. 7A-133 reads as rewritten:

29 **"§ 7A-133. Numbers of judges by districts; numbers of magistrates and additional**
 30 **seats of court, by counties.**

31 (a) Each district court district shall have the numbers of judges and each county
 32 within the district shall have the numbers of magistrates and additional seats of court, as set
 33 forth in the following table:

Additional			Magistrates		Seats of
District	Judges	County	Min.	Max.	Court
1	3	Camden	1	2	
		Chowan	2	3	
		Currituck	1	2	
		Dare	3	8	
		Gates	2	3	
		Pasquotank	3	4	

1				Perquimans	2	3	
2	2	3	Martin	5	8		
3				Beaufort	4	8	
4				Tyrrell	1	3	
5				Hyde	2	4	
6				Washington	3	4	
7	3A	3	Pitt	10	12	Farmville	
8							Ayden
9	3B	4	Craven	7	10	Havelock	
10				Pamlico	2	3	
11				Carteret	5	8	
12	4	6	Sampson	6	8		
13				Duplin	9	11	
14				Jones	2	3	
15				Onslow	8	14	
16	5	6	New Hanover	6	11		
17				Pender	4	6	
18	6A	2	Halifax	9	14	Roanoke	
19							Rapids,
20							Scotland Neck
21	6B	3	Northampton	5	6		
22				Bertie	4	5	
23				Hertford	5	6	
24	7	6	Nash	7	10	Rocky Mount	
25				Edgecombe	4	6	Rocky Mount
26				Wilson	4	6	
27	8	5	Wayne	5	11	Mount Olive	
28				Greene	2	4	
29				Lenoir	4	10	La Grange
30	9	4	Granville	3	7		
31				(part of Vance	3	5	
32				see subsection (b))			
33				Warren	3	4	
34				Franklin	3	6	
35	9A	2	Person	3	4		
36				Caswell	2	5	
37	9B	1	Warren				
38				(part of Vance			
39				see subsection (b))			
40	10	12	Wake	12	20	Apex,	
41							Wendell,
42							Fuquay-
43							Varina,

1									Wake Forest
2	11	6	Harnett	7	11	Dunn			
3					Johnston		10	12	Benson,
4									Clayton
5									and Selma
6					Lee		4	6	
7	12	7	Cumberland	10	17				
8	13	4	Bladen	4	6				
9					Brunswick		4	7	
10					Columbus		6	8	Tabor City
11	14	5			Durham		8	12	
12	15A	3	Alamance	7	10	Burlington			
13	15B	3	Orange	4	11	Chapel Hill			
14					Chatham		3	8	Siler City
15	16A	2	Scotland	3	5				
16					Hoke		4	5	
17	16B	5	Robeson	8	16	Fairmont,			
18									Maxton,
19									Pembroke,
20									Red Springs,
21									Rowland,
22									St. Pauls
23	17A	2			Rockingham		4	9	Reidsville,
24									Eden,
25									Madison
26	17B	3	Stokes	5					
27					Surry		5	8	Mt. Airy
28	18	11	Guilford	20	26	High Point			
29	19A	3	Cabarrus	5	9	Kannapolis			
30	19B	3	Montgomery	2	4				
31					Randolph		5	8	Liberty
32	19C	3	Rowan	5	10				
33	20	6	Stanly	5	6				
34					Union		4	6	
35					Anson		4	5	
36					Richmond		5	6	Hamlet
37					Moore		5	8	Southern
38									Pines
39	21	7	Forsyth	3	15	Kernersville			
40	22	7	Alexander	2	3				
41					Davidson		7	10	Thomasville
42					Davie		2	3	
43					Iredell		4	9	Mooresville

1	23	3	Alleghany	4	2		
2					Ashe	3	4
3					Wilkes	4	6
4					Yadkin	3	5
5	24	3	Avery	3	4		
6					Madison	4	5
7					Mitchell	3	4
8					Watauga	4	6
9					Yancey	2	4
10	25	7	Burke	4	7		
11					Caldwell	4	7
12					Catawba	6	10
13	26	14	Mecklenburg	15	26		
14	27A	5	Gaston	11	20		
15	27B	4	Cleveland	5	8		
16					Lincoln	4	6
17	28	5	Buncombe	6	15		
18	29	4	Henderson	4	6		
19					McDowell	3	5
20					Polk	3	4
21					Rutherford	6	8
22					Transylvania	2	4
23	30	4	Cherokee	3	4		
24					Clay	1	2
25					Graham	2	3
26					Haywood	5	7
27					Jackson	3	4
28					Macon	3	4
29					Swain	2	3

Hickory

Canton

(b) For district court districts of less than a whole county, or with part or all of one county with part of another, the composition of the district is as follows:

(1) District Court District 9 consists of Franklin and Granville Counties and the remainder of Vance County not in District Court District 9B.

(2) District Court District 9B consists of Warren County and Middleburg, Townsville and Williamsboro Precincts of Vance County.

Precinct boundaries as used in this section for Vance County are those shown on maps on file with the Legislative Services Office on May 1, 1991, and for other counties are those reported by the United States Bureau of the Census under Public Law 94-171 for the 1990 Census in the IVTD Version of the TIGER files.

(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

42						Additional
43					Magistrates	Seats of

	County	Min.-Max.	Court		
1					
2					
3	Camden	1 2			
4	Chowan	2 3			
5	Currituck	1 2			
6	Dare	3 8			
7	Gates	2 3			
8	Pasquotank	3 4			
9	Perquimans	2 3			
10	Martin		5	8	
11	Beaufort	4 8			
12	Tyrrell	1 3			
13	Hyde	2 4			
14	Washington	3 4			
15	Pitt		10	12	Farmville
16					Ayden
17	Craven		7	10	Havelock
18	Pamlico	2 3			
19	Carteret	5 8			
20	Sampson	6 8			
21	Duplin	9 11			
22	Jones	2 3			
23	Onslow	8 14			
24	New Hanover		6	11	
25	Pender	4 6			
26	Halifax	9 14	Roanoke		
27					Rapids,
28					Scotland Neck
29	Northampton	5 6			
30	Bertie	4 5			
31	Hertford	5 6			
32	Nash		7	10	Rocky Mount
33	Edgecombe	4 6	Rocky Mount		
34	Wilson	4 6			
35	Wayne		5	11	Mount Olive
36	Greene	2 4			
37	Lenoir	4 10	La Grange		
38	Granville		3	7	
39	Vance	3 5			
40	Warren	3 4			
41	Franklin	3 6			
42	Person		3	4	
43	Caswell	2 5			

1	Wake	12	20	Apex,
2				Wendell,
3				Fuquay-
4				Varina,
5				Wake Forest
6	Harnett	7	11	Dunn
7	Johnston 10	12	Benson,	
8				Clayton
9				and Selma
10	Lee 4 6			
11	Cumberland	10	17	
12	Bladen	4	6	
13	Brunswick	4	7	
14	Columbus6	8	Tabor City	
15	Durham	8	12	
16	Alamance	7	10	Burlington
17	Orange	4	11	Chapel Hill
18	Chatham 3	8	Siler City	
19	Scotland	3	5	
20	Hoke 4 5			
21	Robeson	8	16	Fairmont,
22				Maxton,
23				Pembroke,
24				Red Springs,
25				Rowland,
26				St. Pauls
27	Rockingham	4	9	Reidsville,
28				Eden,
29				Madison
30	Stokes 2	5		
31	Surry 5 8		Mt. Airy	
32	Guilford	20	26	High Point
33	Cabarrus	5	9	Kannapolis
34	Montgomery	2	4	
35	Randolph 5	8	Liberty	
36	Rowan 5	10		
37	Stanly 5 6			
38	Union 4 6			
39	Anson 4 5			
40	Richmond	5	6	Hamlet
41	Moore 5 8		Southern	
42				Pines
43	Forsyth 3	15	Kernersville	

1	Alexander	2	3	
2	Davidson 7	10	Thomasville	
3	Davie 2 3			
4	Iredell 4 9		Mooreville	
5	Alleghany	1	2	
6	Ashe 3 4			
7	Wilkes 4	6		
8	Yadkin 3	5		
9	Avery 3 4			
10	Madison 4	5		
11	Mitchell 3	4		
12	Watauga 4	6		
13	Yancey 2	4		
14	Burke 4	7		
15	Caldwell 4	7		
16	Catawba 6	10	Hickory	
17	Mecklenburg	15	26	
18	Gaston	11	20	
19	Cleveland 5	8		
20	Lincoln 4	6		
21	Buncombe	6	15	
22	Henderson	4	6	
23	McDowell	3	5	
24	Polk 3 4			
25	Rutherford	6	8	
26	Transylvania	2	4	
27	Cherokee 3	4		
28	Clay 1 2			
29	Graham 2	3		
30	Haywood 5	7	Canton	
31	Jackson 3	4		
32	Macon 3	4		
33	Swain 2 3."			

34 Sec. 11. (a) The total number of judges shown for existing law for District Court
 35 Districts 12 and 18 include those authorized by Section 200.6 of Chapter 321 of the 1993
 36 Session Laws which have not yet been approved under Section 5 of the Voting Rights
 37 Act of 1965.

38 (b) Section 10 of this act does not affect the right of any judge to finish the term of
 39 office for which elected.

40 Sec. 12. The provisions of this act are severable. If any provision of this act is
 41 held invalid by a court of competent jurisdiction, the invalidity does not affect other
 42 provisions of the act that can be given effect without the invalid provision.

43 Sec. 13. This act is effective upon ratification.