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SENATE BILL 12
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Short Title: Judicial App./Voter Retention.

(Public)

Sponsors:

Referred to:

January 28, 1999

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

1 ~~qualified voters of the State or by the voters of their respective districts, as the General~~
2 ~~Assembly may prescribe districts.~~

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

9 (3) Nomination, appointment, retention election, and terms of justices and judges.
10 On and after January 1, 2001, when a vacancy occurs in the office of Chief Justice,
11 Associate Justice, or Judge of the Appellate Division, the Governor shall appoint a person
12 to fill the vacancy. For the purposes of this section, creation of a new judgeship within
13 the Appellate Division creates a vacancy.

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

22 The regular term of office of the Chief Justice, Associate Justices, and Judges of the
23 Appellate Division is eight years and expires on June 30.

24 A Chief Justice, Associate Justice, or Judge of the Appellate Division who desires to
25 continue in office shall be subject to approval by nonpartisan ballot, by a majority of the
26 votes cast on the issue of the Justice's or Judge's retention during the next general election
27 preceding June 30 of the year that the Justice's or Judge's eight-year term would expire.

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

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

34 (4) Transition provisions. The term of office of a person who has been elected
35 before January 1, 2001, to the office of Chief Justice, Associate Justice, or Judge of the
36 Appellate Division for a term which extends beyond January 1, 2001, and who is in
37 office on January 1, 2001, is extended through June 30 of the year following the eighth
38 year after the date any such justice or judge was last elected to the office. If the person so
39 elected continues to serve for the remainder of the term, that person may stand for
40 retention in the office for a succeeding regular term as provided in this section, subject to
41 the provisions of G.S. 7A-4.20. If the person continues to serve for the remainder of the
42 term but does not stand for retention election, a vacancy is created in the office upon

1 expiration of the term, and this vacancy shall be filled by nomination and appointment as
2 provided in this section.

3 The term of office of a person who has been appointed before January 1, 2001, to the
4 office of Chief Justice, Associate Justice, or Judge of the Appellate Division for a term
5 which extends beyond January 1, 2001, and who is in office on January 1, 2001, shall end
6 on June 30, 2003. If the person so appointed continues to serve for the remainder of the
7 term, that person may stand for retention in the office for a regular term as provided by
8 this section at the statewide election for members of the General Assembly held in 2002.

9 Upon the death, resignation, removal, or retirement of any incumbent justice or judge
10 on or after January 1, 2001, and before the expiration of the justice's or judge's term of
11 office, the resulting vacancy shall be filled by nomination and appointment as provided in
12 this section.

13 Vacancies in judicial offices in the Appellate Division occurring before January 1,
14 2001, and not filled by that date, shall be filled by nomination and appointment as
15 provided in this section.

16 From the date any incumbent described in this subsection is continued in office by
17 retention vote for a term next succeeding the term in progress on January 1, 2001, or is
18 succeeded in office by another person, the office is held subject to the provisions of this
19 section.

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

21 Section 2. The amendment set out in Section 1 of this act shall be submitted to
22 the qualified voters of the State at the general election in November 2000, which election
23 shall be conducted under the laws then governing elections in the State. Ballots, voting
24 systems, or both may be used in accordance with Chapter 163 of the General Statutes.

25 **"[] FOR [] AGAINST**

26 Constitutional amendment to replace the present practice of selecting justices
27 and judges of the Appellate Division by gubernatorial appointment, followed by partisan
28 elections, with a method by which justices and judges of the Appellate Division will be
29 nominated by a nominating commission, appointed by the Governor, and then serve for
30 limited terms after which the question of the justice's or judge's retention in office is
31 regularly submitted for approval or disapproval by nonpartisan vote of the people at
32 general elections, and to provide for election of superior court judges in their districts."

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

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

40 **"ARTICLE 1A.**
41 **"APPOINTMENT OF JUSTICES AND JUDGES;**
42 **RETENTION ELECTIONS.**

1 **"§ 7A-4.1. Nomination of justices and judges by nominating commission and**
2 **appointment by Governor.**

3 The offices of Chief Justice and Justice of the Supreme Court and Judge of the Court
4 of Appeals are filled by nomination by the Judicial Nomination Commission and
5 appointment by the Governor in accordance with Section 16 of Article IV of the
6 Constitution.

7 **"§ 7A-4.2. Judicial Nomination Commission – creation; membership; terms;**
8 **administration.**

9 (a) The Judicial Nomination Commission is created within the Administrative
10 Office of the Courts for budgetary purposes.

11 (b) The Commission shall consist of 18 members as follows:

12 (1) A district attorney chosen by the Conference of District Attorneys;

13 (2) A public defender chosen by the public defenders;

14 (3) A superior court judge chosen by the Conference of Superior Court
15 Judges;

16 (4) A district court judge chosen by the Conference of District Court
17 Judges;

18 (5) A clerk of superior court chosen by the Association of Clerks of
19 Superior Court of North Carolina;

20 (6) Six attorneys appointed by the Council of the State Bar to include at
21 least one attorney actively engaged in the practice of criminal defense
22 law, one attorney actively engaged in a civil law practice representing
23 plaintiffs, and one attorney actively engaged in a civil law practice
24 representing defendants;

25 (7) A present or former dean of an accredited law school in North Carolina
26 appointed by the Council of the State Bar;

27 (8) Two nonattorneys appointed by the Governor;

28 (9) Two nonattorneys appointed by the General Assembly upon the
29 recommendation of the Speaker of the House of Representatives; and

30 (10) Two nonattorneys appointed by the General Assembly upon the
31 recommendation of the President Pro Tempore of the Senate.

32 (c) Members of the Commission shall serve for staggered four-year terms. One-
33 half of the appointees shall serve an initial term of two years, as determined by lot at the
34 first meeting of the Commission. The remainder of the appointees shall serve an initial
35 term of four years. Commission members may not serve more than two consecutive
36 terms.

37 (d) All members of the Commission are voting members. The members shall elect
38 a chair at the Commission's first meeting. The chair shall preside for the duration of the
39 chair's term as a member. Vacancies in the appointed membership shall be filled by the
40 appointing officer who made the initial appointment.

41 (e) Members, staff, and consultants of the Commission shall receive travel and
42 subsistence expenses in accordance with the provisions of G.S. 120-3.1, paid from funds
43 appropriated to implement this Article and within the limits of those funds.

1 (f) No member of the General Assembly shall serve concurrently as a member of
2 the Commission.

3 **"§ 7A-4.3. Judicial Nomination Commission; duties.**

4 The Commission shall:

- 5 (1) Establish operating procedures for the Commission.
6 (2) Solicit judicial nominations from interested persons and members of the
7 general public to fill appellate court vacancies.
8 (3) Establish and publicize the procedures for submitting a candidate to be
9 considered by the Commission.
10 (4) Interview and investigate candidates for judicial appointment to the
11 appellate courts.
12 (5) Nominate persons to the Governor for appointment to the appellate
13 courts.
14 (6) Review and evaluate the tenure of justices and judges who must stand
15 for a retention election.
16 (7) Issue a report on justices and judges standing for a retention election 90
17 days before the retention election. The report shall include: (i)
18 information the Commission believes would be helpful to the citizens of
19 North Carolina; and (ii) information regarding any disciplinary action
20 taken against a justice or judge during tenure. The report may include a
21 recommendation by the Commission for or against the justice's or
22 judge's retention.
23 (8) Perform any other duties the Commission deems necessary to carry out
24 the mandate of this Article.

25 **"§ 7A-4.4. Nomination procedures.**

26 (a) The Commission may conduct an investigation of a nominee. The
27 investigation may include an evaluation of the nominee's ethical conduct, the nominee's
28 knowledge of and application of the law, the nominee's management of the courts over
29 which he has presided, the nominee's work habits, the nominee's health, and the
30 nominee's judicial demeanor. The nominee or judge shall be given an opportunity to
31 present to the Commission any information that the nominee determines to be
32 appropriate.

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

38 (c) The Commission shall nominate at least three and no more than five persons to
39 be considered by the Governor for judicial appointment within 60 days of any vacancy in
40 office that occurs because of death, resignation, retirement, failure to be retained, or any
41 other reason. The Governor may appoint a person who was not nominated by the
42 Commission.

1 (d) The internal files and information obtained by the Commission, during the
2 examination of a potential judicial nominee, are not public records until such time as the
3 candidate is recommended to the Governor for a judicial appointment. Nominations, the
4 Commission's vote on judicial nominees, and the reports made by the Commission are
5 public records.

6 **"§ 7A-4.5. Governor to issue commissions to justices and judges.**

7 Every person duly nominated by the Judicial Nomination Commission and appointed
8 by the Governor as Chief Justice of the Supreme Court, Associate Justice of the Supreme
9 Court, or Judge of the Court of Appeals shall procure from the Governor a commission
10 attesting that fact.

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

14 **"§ 7A-4.6. No elections in 2001.**

15 No partisan election as previously provided by law for Chief Justice or Associate
16 Justice of the Supreme Court, or Judge of the Court of Appeals shall be held in 2001 or
17 thereafter.

18 **"§ 7A-4.7. Retention elections.**

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

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

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

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

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

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

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

43 (1) Ballot for presidential electors

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

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

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

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

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

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

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

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

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

42 "**§ 7A-16. Creation and organization.**

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

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

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

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

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

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

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

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

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

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

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

6 Governor

7 Lieutenant Governor

8 All State executive officers

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

10 Judges of the district courts

11 United States Senators

12 Members of the House of Representatives of the United States

13 District attorneys

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

18 State Senators

19 Members of the State House of Representatives

20 All county offices."

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

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

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

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

36 "(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate
37 shall pay to the board of elections with which he files under the provisions of G.S. 163-
38 106 a filing fee for the office he seeks in the amount specified in the following tabulation:

39 Office Sought Amount of Filing Fee

40

41 Governor One percent (1%) of the annual

42 salary of the office sought

43 Lieutenant Governor One percent (1%) of the annual

1		salary of the office sought
2	All State executive offices	One percent (1%) of the annual
3		salary of the office sought
4	All Justices, Judges, and	One percent (1%) of the annual
5	salary of the office sought	
6		
7	<u>District Court Judges,</u>	
8	District Attorneys of the	
9	General Court of Justice	
10	—other than Superior Court Judge	
11	United States Senator	One percent (1%) of the annual
12		salary of the office sought
13	Members of the United States	One percent (1%) of the annual
14	House of Representatives	salary of the office sought
15	State Senator	One percent (1%) of the annual
16		salary of the office sought
17	Member of the State House of	One percent (1%) of the annual
18	Representatives	salary of the office sought
19	All county offices not	One percent (1%) of the annual
20	compensated by fees	salary of the office sought
21	County commissioners, if	Ten dollars (\$10.00)
22	compensated entirely by fees	
23	Members of county board of	Five dollars (\$5.00)
24	education, if compensated	
25	entirely by fees	
26	Sheriff, if compensated	Forty dollars (\$40.00), plus one
27	entirely by fees	percent (1%) of the income of the
28		office above four thousand
29		dollars (\$4,000)
30	Clerk of superior court, if	Forty dollars (\$40.00), plus one
31	compensated entirely by fees	percent (1%) of the income of the
32		office above four thousand
33		dollars (\$4,000)
34	Register of deeds, if	Forty dollars (\$40.00), plus one
35	compensated entirely by fees	percent (1%) of the income of the
36		office above four thousand
37		dollars (\$4,000)
38	Any other county office, if	Twenty dollars (\$20.00), plus one
39	compensated entirely by fees	percent (1%) of the income of the
40		office above two thousand dollars
41		(\$2,000)
42	All county offices compensated	One percent (1%) of the first
43	partly by salary and partly	annual salary to be received

1 by fees (exclusive of fees)."Section 3.9. G.S. 163-107.1(b) reads as rewritten:
2 "(b) If the candidate is seeking the office of United States Senator, Governor,
3 Lieutenant Governor, or any State executive officer, Justice of the Supreme Court or
4 Judge of the Court of Appeals, the petition must be signed by 10,000 registered voters
5 who are members of the political party in whose primary the candidate desires to run,
6 except that in the case of a political party as defined by G.S. 163-96(a)(2) which will be
7 making nominations by primary election, the petition must be signed by ten percent
8 (10%) of the registered voters of the State who are affiliated with the same political party
9 in whose primary the candidate desires to run, or in the alternative, the petition shall be
10 signed by no less than 10,000 registered voters regardless of the voter's political party
11 affiliation, whichever requirement is greater. The petition must be filed with the State
12 Board of Elections not later than 12:00 noon on Monday preceding the filing deadline
13 before the primary in which he seeks to run. The names on the petition shall be verified
14 by the board of elections of the county where the signer is registered, and the petition
15 must be presented to the county board of elections at least 15 days before the petition is
16 due to be filed with the State Board of Elections. When a proper petition has been filed,
17 the candidate's name shall be printed on the primary ballot."

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

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

33 Governor,

34 Lieutenant Governor,

35 All State executive officers,

36 ~~Justices, Judges, or District Court Judges or District~~

37 Attorneys of the General Court of Justice, other than
38 superior court judge,

39 United States Senators,

40 Members of the United States House of

41 Representatives,

42 State Senators in multi-county senatorial

43 districts, and

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

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

"§ 163-177. Disposition of duplicate abstracts.

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

President and Vice-President of the United States

Governor, Lieutenant Governor, and all other State executive officers

United States Senators

Members of the House of Representatives of the United States Congress

~~Justices, Judges, and Superior Court Judges, District Court Judges, and District~~

~~Attorneys of the General Court of Justice~~

State Senators in multi-county senatorial districts

Members of the State House of Representatives in multi-county representative districts

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

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

All county offices

State Senators in single-county senatorial districts

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

Propositions submitted to the voters of one county.

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

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

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

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

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

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

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

5 (3a) For superior court judges for the several superior court districts in the
6 State.

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

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

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

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

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

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

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

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

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

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

30 (4a) For superior court judges for the several superior court districts in the
31 State.

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

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

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

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

39 Abstracts prepared by the State Board of Elections under this subsection shall state
40 the names of all persons voted for, the office for which each received votes, and the
41 number of legal ballots cast for each candidate for each office canvassed by the State
42 Board of Elections. They shall also state the name or names of the person or persons

1 whom the State Board of Elections shall ascertain and judicially determine by the count
2 to be elected to each office.

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

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

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

13 **"§ 163-194. Governor to issue commissions to certain elected officials.**

14 Every person duly elected to one of the offices listed below, upon obtaining a
15 certificate of his election from the Secretary of State under the provisions of G.S. 163-
16 193, shall procure from the Governor a commission attesting his election to the specified
17 office, which the Governor shall issue upon production of the Secretary of State's
18 certificate:

19 Members of the United States House of Representatives,

20 ~~Justices, Judges, and Superior Court Judges, District Court Judges, and District~~
21 ~~Attorneys of the General Court of Justice."~~

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

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

25 **"§ 163-9. Filling vacancies in State and district judicial offices.**

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

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

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

39 (1) With only one resident judge; or

40 (2) In which no county is subject to section 5 of the Voting Rights Act of
41 1965,

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

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

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

11 Section 3.16. G.S. 143-318.11(a) is amended by adding the following new
12 subdivision:

13 "(8) To consider the qualifications, competence, performance, character, and
14 fitness of a candidate who is seeking a judicial nomination to the
15 Governor by the Judicial Nomination Commission."

16 Section 3.17. The General Assembly recognizes the importance of having a
17 well-qualified and diverse group of justices and judges to serve on the State's appellate
18 courts. In selecting persons to serve on the Judicial Nomination Commission, the
19 appointing authority should select, from among the most qualified persons, those persons
20 whose appointment would promote gender, ethnic, racial, and geographical diversity in
21 the membership of the Commission. When appointing nonattorneys to the Commission,
22 the Governor, Speaker of the House of Representatives, and the President Pro Tempore
23 of the Senate are encouraged to consider individuals with experience in alternative
24 dispute resolution, individuals with experience working with victim assistance programs,
25 and individuals with an interest in children's and family issues.

26 Section 3.18. Sections 3.1 through 3.16 of this act are effective only if the
27 constitutional amendment proposed by Section 1 of this act is approved by the qualified
28 voters in accordance with Section 2 of this act.

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