

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

1

SENATE BILL 855

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

Sponsors: Senators Clodfelter; and Rand.

Referred to: Ways and Means.

March 23, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION 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 qualified voters of the State or by the voters of their respective districts, as the General Assembly may prescribe. districts.~~

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

(3) Nomination, appointment, retention election, and terms of Justices and Judges. On and after January 1, 2006, when a vacancy occurs in the office of Chief Justice, Associate Justice, or Judge of the Appellate Division, the Governor shall

1 appoint a person to fill the vacancy. For the purposes of this section, creation of a new
2 judgeship within the Appellate Division creates a vacancy.

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

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

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

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

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

24 (4) Transition provisions. The term of office of a person who has been elected
25 before January 1, 2006, to the office of Chief Justice, Associate Justice, or Judge of the
26 Appellate Division for a term which extends beyond January 1, 2006, and who is in
27 office on January 1, 2006, is extended through June 30 of the year following the eighth
28 year after the date any such Justice or Judge was last elected to the office. If the person
29 so elected continues to serve for the remainder of the term, that person may stand for
30 retention in the office for a succeeding regular term as provided in this section, subject
31 to the provisions of G.S. 7A-4.20. If the person continues to serve for the remainder of
32 the term but does not stand for retention election, a vacancy is created in the office upon
33 expiration of the term, and this vacancy shall be filled by nomination and appointment
34 as provided in this section.

35 The term of office of a person who has been appointed before January 1, 2006, to the
36 office of Chief Justice, Associate Justice, or Judge of the Appellate Division for a term
37 which extends beyond January 1, 2006, and who is in office on January 1, 2006, shall
38 end on June 30, 2007. If the person so appointed continues to serve for the remainder of
39 the term, that person may stand for retention in the office for a regular term as provided
40 by this section at the statewide election for members of the General Assembly held in
41 2006.

42 Upon the death, resignation, removal, or retirement of any incumbent Justice or
43 Judge on or after January 1, 2006, and before the expiration of the Justice's or Judge's

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

3 Vacancies in judicial offices in the Appellate Division occurring before January 1,
4 2006, and not filled by that date, shall be filled by nomination and appointment as
5 provided in this section.

6 From the date any incumbent described in this subsection is continued in office by
7 retention vote for a term next succeeding the term in progress on January 1, 2006, or is
8 succeeded in office by another person, the office is held subject to the provisions of this
9 section.

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

11 **SECTION 2.** The amendment set out in Section 1 of this act shall be
12 submitted to the qualified voters of the State at an election on November 8, 2005, which
13 election shall be conducted under the laws then governing elections in the State.
14 Ballots, voting systems, or both may be used in accordance with Chapter 163 of the
15 General Statutes. The question on the ballot shall be:

16 "[] FOR [] AGAINST

17 Constitutional amendment to replace the present practice of selecting Justices
18 and Judges of the Appellate Division by gubernatorial appointment, followed by
19 partisan elections, with a method by which Justices and Judges of the Appellate
20 Division will be nominated by a nominating commission, appointed by the Governor,
21 and then serve for limited terms after which the question of the Justice's or Judge's
22 retention in office is regularly submitted for approval or disapproval by nonpartisan vote
23 of the people at general elections, and to provide for election of superior court judges in
24 their districts."

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

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

32 "Article 1A.

33 "Appointment of Justices and Judges; Retention Elections."

34 "**§ 7A-4.1. Nomination of justices and judges by nominating commission and**
35 **appointment by Governor.**

36 The offices of Chief Justice and Justice of the Supreme Court and Judge of the Court
37 of Appeals are filled by nomination by the Judicial Nomination Commission and
38 appointment by the Governor in accordance with Section 16 of Article IV of the North
39 Carolina Constitution.

40 "**§ 7A-4.2. Judicial Nomination Commission – creation; membership; terms;**
41 **administration.**

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

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

- 1 (1) A district attorney chosen by the Conference of District Attorneys;
- 2 (2) A public defender chosen by the public defenders;
- 3 (3) A superior court judge chosen by the Conference of Superior Court
- 4 Judges;
- 5 (4) A district court judge chosen by the Conference of District Court
- 6 Judges;
- 7 (5) A clerk of superior court chosen by the Association of Clerks of
- 8 Superior Court of North Carolina;
- 9 (6) Six attorneys appointed by the Council of the State Bar to include at
- 10 least one attorney actively engaged in the practice of criminal defense
- 11 law, one attorney actively engaged in a civil law practice representing
- 12 plaintiffs, and one attorney actively engaged in a civil law practice
- 13 representing defendants;
- 14 (7) A present or former dean of an accredited law school in North
- 15 Carolina appointed by the Council of the State Bar;
- 16 (8) Two nonattorneys appointed by the Governor;
- 17 (9) Two nonattorneys appointed by the General Assembly upon the
- 18 recommendation of the Speaker of the House of Representatives; and
- 19 (10) Two nonattorneys appointed by the General Assembly upon the
- 20 recommendation of the President Pro Tempore of the Senate.

21 (c) Members of the Commission shall serve for staggered four-year terms.

22 One-half of the appointees shall serve an initial term of two years, as determined by lot

23 at the first meeting of the Commission. The remainder of the appointees shall serve an

24 initial term of four years. Commission members may not serve more than two

25 consecutive terms.

26 (d) All members of the Commission are voting members. The members shall

27 elect a chair at the Commission's first meeting. The chair shall preside for the duration

28 of the chair's term as a member. Vacancies in the appointed membership shall be filled

29 by the appointing officer who made the initial appointment.

30 (e) Members, staff, and consultants of the Commission shall receive travel and

31 subsistence expenses in accordance with the provisions of G.S. 120-3.1, paid from funds

32 appropriated to implement this Article and within the limits of those funds.

33 (f) No member of the General Assembly shall serve concurrently as a member of

34 the Commission.

35 **"§ 7A-4.3. Judicial Nomination Commission; duties.**

36 The Commission shall:

- 37 (1) Establish operating procedures for the Commission.
- 38 (2) Solicit judicial nominations from interested persons and members of
- 39 the general public to fill appellate court vacancies.
- 40 (3) Establish and publicize the procedures for submitting a candidate to be
- 41 considered by the Commission.
- 42 (4) Interview and investigate candidates for judicial appointment to the
- 43 appellate courts.

- 1 (5) Nominate persons to the Governor for appointment to the appellate
2 courts.
- 3 (6) Review and evaluate the tenure of Justices and Judges who must stand
4 for a retention election.
- 5 (7) Issue a report on Justices and Judges standing for a retention election
6 90 days before the retention election. The report shall include: (i)
7 information the Commission believes would be helpful to the citizens
8 of North Carolina; and (ii) information regarding any disciplinary
9 action taken against a Justice or Judge during tenure. The report may
10 include a recommendation by the Commission for or against the
11 Justice's or Judge's retention.
- 12 (8) Perform any other duties the Commission deems necessary to carry out
13 the mandate of this Article.

14 **"§ 7A-4.4. Nomination procedures.**

15 (a) The Commission may conduct an investigation of a nominee. The
16 investigation may include an evaluation of the nominee's ethical conduct, the nominee's
17 knowledge of and application of the law, the nominee's management of the courts over
18 which he has presided, the nominee's work habits, the nominee's health, and the
19 nominee's judicial demeanor. The nominee or Judge shall be given an opportunity to
20 present to the Commission any information that the nominee determines to be
21 appropriate.

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

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

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

37 **"§ 7A-4.5. Governor to issue commissions to justices and judges.**

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

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

1 **"§ 7A-4.6. No elections in 2006.**

2 No election as previously provided by law for Chief Justice or Associate Justice of
3 the Supreme Court, or Judge of the Court of Appeals shall be held in 2006 or thereafter.

4 **"§ 7A-4.7. Retention elections.**

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

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

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

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

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

27 **SECTION 3.2.** 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 3.3.** G.S. 7A-10(a) reads as rewritten:

31 "(a) ~~The Supreme Court shall consist of a Chief Justice and six associate justices,~~
32 ~~electd by the qualified voters of the State for terms of eight years~~selected as provided
33 by Article 1A of this Chapter. Before entering upon the duties of his office, each justice
34 shall take an oath of office. Four justices shall constitute a quorum for the transaction of
35 the 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
38 County Courthouse (1767) in the Town of Edenton, which is a State-owned court
39 facility that is designated as a National Historic Landmark by the United States
40 Department of the Interior."

41 **SECTION 3.4.** G.S. 7A-16 reads as rewritten:

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

43 ~~The Court of Appeals is created effective January 1, 1967. It shall consist initially of~~
44 ~~six judges, electd by the qualified voters of the State for terms of eight years. The~~

1 Chief Justice of the Supreme Court shall designate one of the judges as Chief Judge, to
2 serve in such capacity at the pleasure of the Chief Justice. Before entering upon the
3 duties of his office, a judge of the Court of Appeals shall take the oath of office
4 prescribed for a judge of the General Court of Justice.

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

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

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

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

26 On or after December 15, 2000, the Governor shall appoint three additional judges
27 to increase the number of judges to 15.

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

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

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

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

1 **SECTION 3.5.** G.S. 163-1 is amended in the table by deleting the entries for
2 "Justices and Judges of the Appellate Division".

3 **SECTION 3.6.** G.S. 163-9 reads as rewritten:

4 "**§ 163-9. Filling vacancies in State and district judicial offices.**

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

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

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

18 (1) With only one resident judge; or

19 (2) In which no county is subject to section 5 of the Voting Rights Act of
20 1965,

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

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

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

31 **SECTION 3.7.** G.S. 143-318.11(a) is amended by adding the following new
32 subdivision to read:

33 "(10) To consider the qualifications, competence, performance, character,
34 and fitness of a candidate who is seeking a judicial nomination to the
35 Governor by the Judicial Nomination Commission."

36 **SECTION 3.8.** The title of Subchapter X of Chapter 163 of the General
37 Statutes reads as rewritten:

38 "**SUBCHAPTER X. ELECTION OF APPELLATE, SUPERIOR, SUPERIOR**
39 **AND DISTRICT COURT JUDGES.**"

40 **SECTION 3.9.** The title of Article 25 of Chapter 163 of the General Statutes
41 reads as rewritten:

42 "Article 25.

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

44 **SECTION 3.9A.** G.S. 163-321 reads as rewritten:

1 **"§ 163-321. Applicability.**

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

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

6 **"§ 163-323. Notice of candidacy.**

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

10
11 Date: _____

12
13 I hereby file notice that I am a candidate for election to the office of
14 _____ in the regular election to be held _____, ____.

15
16 Signed: _____
17 (Name of Candidate)

18
19 Witness: _____

20
21 The notice of candidacy shall be either signed in the presence of the chairman or
22 secretary of the State Board of Elections, or signed and acknowledged before an officer
23 authorized to take acknowledgments who shall certify the notice under seal. An
24 acknowledged and certified notice may be mailed to the State Board of Elections. In
25 signing a notice of candidacy, the candidate shall use only the candidate's legal name
26 and, in his discretion, any nickname by which commonly known. A candidate may also,
27 in lieu of that candidate's first name and legal middle initial or middle name, if any, sign
28 that candidate's nickname, provided the candidate appends to the notice of candidacy an
29 affidavit that the candidate has been commonly known by that nickname for at least five
30 years prior to the date of making the affidavit. The candidate shall also include with the
31 affidavit the way the candidate's name (as permitted by law) should be listed on the
32 ballot if another candidate with the same last name files a notice of candidacy for that
33 office.

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

36 (b) Time for Filing Notice of Candidacy. – Candidates seeking election to the
37 following offices shall file their notice of candidacy with the State Board of Elections
38 no earlier than 12:00 noon on the second Monday in February and no later than 12:00
39 noon on the last business day in February preceding the election:

- 40 ~~Justices of the Supreme Court.~~
- 41 ~~Judges of the Court of Appeals.~~
- 42 Judges of the superior courts.
- 43 Judges of the district courts.

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

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

19 (e) Candidacy for More Than One Office Prohibited. – No person may file a
20 notice of candidacy for more than one office or group of offices described in subsection
21 (b) of this section, or for an office or group of offices described in subsection (b) of this
22 section and an office described in G.S. 163-106(c), for any one election. If a person has
23 filed a notice of candidacy with a board of elections under this section or under
24 G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not
25 later be filed for any other office or group of offices under this section when the election
26 is on the same date unless the notice of candidacy for the first office is withdrawn under
27 subsection (c) of this section.

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

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

40 (g) No person may file a notice of candidacy for superior court judge unless that
41 person is at the time of filing the notice of candidacy a resident of the judicial district as
42 it will exist at the time the person would take office if elected. No person may be
43 nominated as a superior court judge under G.S. 163-114 unless that person is at the time
44 of nomination a resident of the judicial district as it will exist at the time the person

1 would take office if elected. This subsection implements Article IV, Section 9(1) of the
2 North Carolina Constitution which requires regular Superior Court Judges to reside in
3 the district for which elected."

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

5 **"§ 163-325. Petition in lieu of payment of filing fee.**

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

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

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

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

34 **SECTION 3.12.** G.S. 163-327(b) reads as rewritten:

35 "(b) Death, Disqualification, or Resignation of Official After Election. – If a
36 person elected to the office of ~~justice of the Supreme Court, judge of the Court of~~
37 ~~Appeals, or superior or district court judge~~ dies, becomes disqualified, or resigns on or
38 after election day and before he has qualified by taking the oath of office, the office
39 shall be deemed vacant and shall be filled as provided by law."

40 **SECTION 3.13.** G.S. 163-329 reads as rewritten:

41 **"§ 163-329. Elections to fill vacancy created after primary filing period to use**
42 **plurality method.**

43 (a) General. – If a vacancy is created in the office of ~~justice of the Supreme~~
44 ~~Court, judge of the Court of Appeals, or judge of superior court~~ after the filing period

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

11 (b) Plurality Election Rules. – Elections under this section shall be conducted
12 using the following rules:

- 13 (1) The filing period shall be prescribed by the State Board of Elections,
14 but in no event may it be less than five working days. If a vacancy
15 occurs in a second office in the same superior court district after the
16 first filing period established under the section has closed, the State
17 Board of Elections shall reopen filing for a period of not less than five
18 working days for the office of ~~justice of the Supreme Court, judge of~~
19 ~~the Court of Appeals, or superior court judge~~. All persons filing in
20 either filing period shall run as a group and the election results shall be
21 determined by subdivision (3) of this subsection.
- 22 (2) When more than one person is seeking election to a single office, the
23 candidate who receives the highest number of votes shall be declared
24 elected.
- 25 (3) When more persons are seeking election to two or more offices
26 (constituting a group) than there are offices to be filled, those
27 candidates receiving the highest number of votes, equal in number to
28 the number of offices to be filled, shall be declared elected.
- 29 (4) If two or more candidates receiving the highest number of votes each
30 receive the same number of votes, the board of elections shall resolve
31 the tie in accordance with G.S. 163-182.8.
- 32 (5) Except as provided in this section, the provisions of this Article apply
33 to elections conducted under this section."

34 **SECTION 3.14.** G.S. 163-332(b) reads as rewritten:

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

- 38 ~~Justice of the Supreme Court.~~
- 39 ~~Judge of the Court of Appeals.~~
- 40 Superior court judge.
- 41 District court judge.

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

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

6 **SECTION 3.15.** The General Assembly recognizes the importance of having
7 a well-qualified and diverse group of Justices and Judges to serve on the State's
8 appellate courts. In selecting persons to serve on the Judicial Nomination Commission,
9 the appointing authority should select, from among the most qualified persons, those
10 persons whose appointment would promote gender, ethnic, racial, and geographical
11 diversity in the membership of the Commission. When appointing nonattorneys to the
12 Commission, the Governor, Speaker of the House of Representatives, and the President
13 Pro Tempore of the Senate are encouraged to consider individuals with experience in
14 alternative dispute resolution, individuals with experience working with victim
15 assistance programs, and individuals with an interest in children's and family issues.

16 **SECTION 3.16.** Sections 3.1 through 3.15 of this act are effective only if the
17 constitutional amendment proposed by Section 1 of this act is approved by the qualified
18 voters in accordance with Section 2 of this act.

19 **SECTION 4.** Except as otherwise provided for, this act is effective when it
20 becomes law.