

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 986
SENATE BILL 892

AN ACT TO MAKE PROVISIONS FOR FILLING UNEXPIRED TERMS FOR SUPERIOR COURT JUDGE IN THE SAME YEAR AS FULL TERMS, BY CONSIDERING UNEXPIRED TERMS AS SEPARATE OFFICES FOR THE PURPOSE OF APPLYING A DESIGNATED SEAT RULE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-156. Rules when two or more vacancies for superior court judge of different term length are to be voted on in the same year, or where two or more elections for less than a full term are to be voted on in the same year. – (a) The General Assembly finds that:

- (1) The provisions of law requiring candidates for superior court judge to designate the vacancy they are seeking are unenforceable under Section 5 of the Voting Rights Act of 1965;
- (2) In some judicial districts, where such staggered terms have been approved under Section 5 of the Voting Rights Act, not all the terms of the superior court judges expire at the same time, and the provisions of Article IV, Section 19 of the North Carolina Constitution dealing with filling of unexpired terms in an election could result in an election being held simultaneously in a judicial district for one or more full eight-year terms, and one or more unexpired terms of two, four, or six years.
- (3) The senior resident superior court judge is given additional responsibilities by North Carolina law, and applying a rule whereby a full term and an unexpired term are voted on at the same time without designation as to vacancy could result in a senior judge running for reelection for a full eight-year term instead being elected to a two-year unexpired term merely because that judge finished second in statewide voting for two seats, which would be disruptive of the process of retaining career judges;
- (4) Article IV, Section 19 of the North Carolina Constitution requires that vacancies in superior court judgeships occurring as late as 31 days before the general election be filled for the remainder of the unexpired term, which is long after the main part of the judicial ballot has been printed, and while absentee voting is already going on. In the past,

when an unexpired term has occurred soon before the election, a supplemental ballot has been issued for use along with the regular judicial ballot. If the State were required to conduct elections for last-minute unexpired terms without designation as to vacancy with the already scheduled full terms, it would require scrapping ballots already printed and would greatly disrupt the election process.

(b) When there is an election in a judicial district for one or more offices of superior court judge for full terms, and there is also to be an election for one or more unexpired terms in the same district at that same election in accordance with Article IV, Section 19 of the North Carolina Constitution, the nomination and election shall be determined by the following special rules in addition to any other provisions of law:

- (1) If the unexpired term occurs prior to the tenth day before the filing period ends under G.S. 163- 106(c), nominations shall be made by primary election as provided by Article 10 of this Chapter, with designation as to the vacancy for the unexpired term as against any full term, but without designation as to vacancy between unexpired terms if there is more than one unexpired term;
- (2) If the unexpired term occurs beginning on the tenth day before the filing period ends under G.S. 163- 106(c), and ending on the sixtieth day before the general election, a nomination shall be made by the appropriate district executive committee of each political party and the names of the nominees shall be printed on the general election ballots, with designation as to the vacancy for the unexpired term as against any full term, but without designation as to vacancy between unexpired terms if there is more than one unexpired term;
- (3) beginning on the fifty-ninth day before the general election and ending on the thirtieth day before the general election, a nomination shall be made by the appropriate district executive committee of each political party and the names of the nominees shall be printed on the general election ballots, with designation as to the vacancy;
- (4) The general election ballot shall contain, without designation as to vacancy between full terms, spaces for the election of all full terms. The general election ballot shall contain, without designation as to vacancy between unexpired terms, spaces for the election of all unexpired terms where nominations were made under subdivisions (1) or (2) of this subsection;
- (5) In the general election, the persons receiving the highest numbers of votes equal to the number of full terms to be elected shall be elected to those full terms;
- (6) In the general election, the persons receiving the highest numbers of votes shall be elected to the unexpired term or terms, in order of length of the unexpired terms (longest first), until all those terms have been filled. If unexpired terms of different lengths are to be filled, and two or more persons receive an equal number of votes, and all are to be

elected, then the provisions of the last sentence of G.S. 163-191 shall not apply, and the State Board of Elections by lot shall determine which term each candidate elected is to receive;

- (7) In addition, the general election ballot shall contain, with designation of vacancy, spaces for the election of all unexpired terms where nominations are made under subdivision (3) of this subsection.

(c) When there is no election in a judicial district for any offices of superior court judge for full terms, and there is to be an election for one or more unexpired terms in that district at that same election in accordance with Article VI, Section 19 of the North Carolina Constitution, the nomination and election shall be determined by the following special rules in addition to any other provisions of law:

- (1) If the unexpired term occurs prior to the tenth day before the filing period ends under G.S. 163- 106(c), nominations shall be made by primary election as provided by Article 10 of this Chapter, without designation as to the vacancy;
- (2) If the unexpired term occurs beginning on the tenth day before the filing period ends under G.S. 163- 106(c), and ending on the sixtieth day before the general election, a nomination shall be made by the appropriate district executive committee of each political party and the names of the nominees shall be printed on the general election ballots, without designation as to the vacancy;
- (3) Beginning on the fifty-ninth day before the general election and ending on the thirtieth day before the general election, a nomination shall be made by the appropriate district executive committee of each political party and the names of the nominees shall be printed on the general election ballots, with designation as to the vacancy;
- (4) The general election ballot shall contain, without designation as to vacancy, spaces for the election of all unexpired terms where nominations were made under subdivisions (1) or (2) of this subsection. The persons receiving the highest numbers of votes equal to the unexpired term or terms, shall be elected to the unexpired term or terms, in order of length of the unexpired terms (longest first), until all those terms have been filled. If unexpired terms of different lengths are to be filled, and two or more persons receive an equal number of votes, and all are to be elected, then the provisions of the last sentence of G.S 163-191 shall not apply, and if the terms are of unequal length, the State Board of Elections by lot shall determine which term each candidate elected is to receive;
- (5) In addition, the general election ballot shall contain, with designation of vacancy, spaces for the election of all unexpired terms where nominations are made under subdivision (3) of this subsection."

Sec. 2. G.S. 163-22(k), G.S. 163-227(a), G.S. 163- 229(b), G.S. 163-229(c), G.S. 163-230(2)a., G.S. 163-248(b), G.S. 163-248(c) and G.S. 163-227.3(a) are

amended by deleting "60 days", each place those words appear, and substituting "50 days".

Sec. 3. G.S. 163-22(k) is amended by deleting "45 days", and substituting "30 days".

Sec. 4. This act is effective upon ratification, but Sections 2 and 3 of this act shall expire with respect to primaries and elections held on or after December 31, 1986.

In the General Assembly read three times and ratified, this the 11th day of July, 1986.