

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 219
Constitution Committee Substitute Adopted 4/18/89
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Short Title: Appointive Judges Statute.

(Public)

Sponsors:

Referred to:

February 21, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR APPOINTMENT OF APPELLATE JUDGES BY THE
3 GOVERNOR SUBJECT TO THE ADVICE AND CONSENT OF THE GENERAL
4 ASSEMBLY, TO PROVIDE FOR THE RECONFIRMATION OF SITTING
5 JUDGES BY THE GENERAL ASSEMBLY, AND TO PROVIDE FOR
6 TRANSITIONAL AND OTHER PROVISIONS NECESSARY TO MOVE FROM
7 AN ELECTIVE TO AN APPOINTIVE SYSTEM.

8 The General Assembly of North Carolina enacts:

9 Section 1. Chapter 7A of the General Statutes is amended by adding a new
10 Article to read:

11 **“ARTICLE 1A.**
12 **"APPOINTMENT, CONFIRMATION, AND RECONFIRMATION**
13 **OF JUSTICES AND JUDGES.**

14 **"§ 7A-4.1. Appointment of Justices and Judges by Governor and confirmation by**
15 **General Assembly.**

16 (a) When a new judgeship on the Supreme Court or Court of Appeals is created,
17 the Governor shall within 90 days after the act creating the judgeship becomes law
18 nominate a person from the list of nominees provided pursuant to G.S. 7A-4.2 to serve
19 in the judgeship. Unless otherwise provided, the nominee shall be subject to
20 confirmation by the Senate and the House of Representatives in the first regular session
21 held in an odd-numbered year convening after the judgeship is created.

1 (b) When a vacancy occurs in the office of Chief Justice of the Supreme Court,
2 Associate Justice of the Supreme Court, or Judge of the Court of Appeals, the Governor
3 shall nominate a person to fill the vacancy from the list of nominees provided pursuant
4 to G.S. 7A-4.2. If the vacancy occurs because the holder of the office indicates that he
5 will not seek reconfirmation at the end of his term, the Governor shall submit his
6 nomination to the General Assembly by February 1 of the year after that intention is
7 made known. If the vacancy occurs for any other reason, the Governor shall submit his
8 nomination to the General Assembly no later than 90 days after the vacancy is created.

9 (c) Nominees nominated pursuant to subsections (a) or (b) of this section are
10 subject to confirmation as provided in this subsection. If the nomination is for a vacancy
11 to be created at the end of a term and the nomination is the first such nomination for that
12 office, the nomination shall be considered during the regular session held in the odd-
13 numbered year in which the term of office of the judge vacating the office expires. All
14 other nominations may be considered for confirmation at any regular or extra session of
15 the General Assembly, but the nomination shall be considered at the first regular session
16 conducted in an odd-numbered year after the nomination is submitted, unless it is
17 submitted after April 1 during such a session. Nominations submitted during such a
18 session and after April 1 may be considered by the General Assembly for confirmation
19 in that session or any regular or extra session conducted thereafter, but the nomination
20 shall be considered for confirmation, if it has not already been considered, at the first
21 regular session in an odd-numbered year convening after the nomination is submitted.
22 To be confirmed, a nominee shall receive a majority vote in the Senate and House of
23 Representatives during the session in which the nomination is considered. Failure to
24 receive a majority vote in both houses in a session in which a nomination is considered
25 constitutes a failure to confirm and creates a vacancy in the office to be filled as
26 provided by this section. A nominee confirmed by both the Senate and the House of
27 Representatives shall be appointed by the Governor for a four-year term to begin on the
28 next September 1 in an odd-numbered year. A person confirmed may begin service
29 immediately upon being appointed, even though his term of office has not begun. For
30 purposes of this subsection, a nomination is 'considered' if either house of the General
31 Assembly votes on the nomination. For purposes of this subsection, a session ends when
32 it adjourns or recesses for more than 30 days, or adjourns **sine die**, whichever comes
33 first.

34 (d) In addition to any other lawful requirement for service as a Justice or Judge, a
35 nominee, to be eligible to be nominated for Chief Justice, Associate Justice of the
36 Supreme Court, or Judge of the Court of Appeals, shall be a registered voter in this
37 State.

38 (e) The Governor, in making nominations, shall make reasonable efforts to
39 ensure that his nominees are broadly representative of the people of this State.

40 **"§ 7A-4.2. Nomination procedure.**

41 (a) The Governor, in making a nomination to the office of Chief Justice, shall
42 make the nomination from among a list of nominees as follows:

43 (1) All active trial judges in the General Court of Justice;

- 1 (2) All active Associate Justices and Court of Appeals Judges in the
2 General Court of Justice;
3 (3) Not more than three nominees from each district bar, as defined by
4 G.S. 84-19, who are residents of the district; and
5 (4) Former justices and judges in the General Court of Justice, except
6 those who (i) have been impeached, (ii) have been removed from
7 office, (iii) have failed to be confirmed or reconfirmed pursuant to
8 Article 1A of Chapter 7A of the General Statutes, or (iv) are serving as
9 emergency or recalled justices or judges pursuant to Article 6 of
10 Chapter 7A of the General Statutes.

11 (b) The Governor, in making a nomination to the office of Associate Justice,
12 shall make the nomination from among a list of nominees as follows:

- 13 (1) All active trial judges in the General Court of Justice;
14 (2) All active Court of Appeals Judges in the General Court of Justice;
15 (3) Not more than three nominees from each district bar, as defined by
16 G.S. 84-19, who are residents of the district; and
17 (4) Former justices and judges in the General Court of Justice, except
18 those who (i) have been impeached, (ii) have been removed from
19 office, (iii) have failed to be confirmed or reconfirmed pursuant to
20 Article 1A of Chapter 7A of the General Statutes, or (iv) are serving as
21 emergency or recalled justices or judges pursuant to Article 6 of
22 Chapter 7A of the General Statutes.

23 (c) The Governor, in making a nomination to the office of Judge of the Court of
24 Appeals, shall make the nomination from among a list of nominees as follows:

- 25 (1) All active trial judges in the General Court of Justice;
26 (2) Not more than three nominees from each district bar, as defined by
27 G.S. 84-19, who are residents of the district; and
28 (3) Former justices and judges in the General Court of Justice, except
29 those who (i) have been impeached, (ii) have been removed from
30 office, (iii) have failed to be confirmed or reconfirmed pursuant to
31 Article 1A of Chapter 7A of the General Statutes, or (iv) are serving as
32 emergency or recalled justices or judges pursuant to Article 6 of
33 Chapter 7A of the General Statutes.

34 (d) The nominees of the district bars shall be submitted within 30 days of the date
35 the bar is notified of the occurrence of the vacancy. If any district bar fails to submit a
36 nomination within the 30-day period, the Governor shall make the nomination and
37 appointment from among the nominations received before the expiration of the 30-day
38 period. The Governor shall notify each district bar in writing of the occurrence of a
39 vacancy in the office of Chief Justice, Associate Justice, or Court of Appeals Judge. If
40 the Governor is informed of the creation of a vacancy to become effective on a future
41 date certain, he may notify the district bars before the effective date of the vacancy, and
42 the 30-day period shall begin to run from the date of the notice.

43 **"§ 7A-4.3. Reconfirmation procedure.**

1 (a) Any Chief Justice, Associate Justice, or Judge of the Court of Appeals, to be
2 eligible to be reconfirmed, shall by November 1 in the year immediately preceding the
3 year in which his term expires, file a written declaration of his intent to seek
4 reconfirmation. The declaration shall be filed with the Governor. The Governor shall
5 promptly notify the General Assembly and the Judicial Retention Commission of his
6 receipt of the declaration. Failure to file the declaration in a timely manner results in
7 the creation of a vacancy in the office at the expiration of the term. A Justice or Judge
8 may indicate in writing to the Governor that he does not intend to seek reconfirmation,
9 and the filing of that intention creates a vacancy in the office at the expiration of the
10 term, unless the Justice or Judge leaves office at an earlier date.

11 (b) The Judicial Retention Commission, upon receipt of a Justice's or Judge's
12 written declaration of his intent to seek reconfirmation, shall investigate the Judge's
13 performance as a Justice or Judge to determine if it should recommend that he be
14 reconfirmed. The Commission shall conduct a public hearing to allow comment from
15 interested persons on the Justice's or Judge's fitness to continue in office. Information
16 received in the course of the investigation is confidential and shall not be disclosed
17 unless specifically required by law or unless the Justice or Judge consents to the
18 disclosure. Documents prepared or received in the course of the investigation are
19 confidential and not subject to public inspection without the consent of the Justice or
20 Judge, notwithstanding the provisions of Chapter 132 of the General Statutes. The
21 investigation shall include an evaluation of the Justice's or Judge's ethical conduct, his
22 knowledge of and application of the law, his management of the courts over which he
23 has presided, his work habits, his health, his judicial demeanor, and any other matter
24 that the Commission determines to be relevant to its inquiry. The Judge shall be given
25 an opportunity to present to the Commission any information he determines to be
26 appropriate. The Commission's recommendation shall be by majority vote.

27 (c) No later than 30 days after the convening of the General Assembly in the year
28 following the filing of a Justice's or Judge's intent to seek reconfirmation, the
29 Commission shall report to the General Assembly as to whether it recommends that the
30 Justice or Judge be reconfirmed. A vote of sixty percent (60%) of both the Senate and
31 the House of Representatives shall be necessary to reject the recommendation of the
32 Commission. If either house fails to vote on the report of the Commission during the
33 session in which it is submitted, the recommendation of the Commission shall be
34 deemed to have been approved by the General Assembly. For the purpose of this
35 subsection, a session ends when it adjourns or recesses for more than 30 days, or
36 adjourns **sine die**, whichever comes first.

37 (d) A Justice or Judge reconfirmed by the General Assembly serves an eight-year
38 term, to begin at the expiration of the term he is serving at the time of reconfirmation. If
39 the General Assembly does not reconfirm a Justice or Judge, either by a negative vote or
40 by failing to vote on a negative recommendation of the Commission, a vacancy in that
41 office is created at the expiration of the term. The provisions of Article VI, Section 10
42 of the North Carolina Constitution are not applicable to Justices or Judges who are not
43 reconfirmed by the General Assembly.

44 **"§ 7A-4.4. Judicial Retention Commission.**

1 (a) The Judicial Retention Commission consists of:

- 2 (1) Four members appointed by the Governor, none of whom may be
3 licensed attorneys, with one member from each judicial division as
4 those divisions were constituted on January 1, 1989;
5 (2) Four members appointed by the State Bar from its membership with
6 one member from each judicial division as those divisions were
7 constituted on January 1, 1989;
8 (3) One member appointed by the General Assembly on recommendation
9 of the Speaker of the House of Representatives, as provided by G.S.
10 120-121;
11 (4) One member appointed by the General Assembly on recommendation
12 of the President Pro Tempore of the Senate, as provided by G.S. 120-
13 121; and
14 (5) One member appointed by the Chief Justice of the Supreme Court who
15 shall serve as chairman of the Commission.

16 No member of the Commission shall be an active judge or justice of the General Court
17 of Justice or an active member of the General Assembly.

18 (b) The members appointed by the Governor, the State Bar, and the Chief Justice
19 shall serve four-year terms of office, except that two of the initial appointees of the
20 Governor and two of the initial appointees of the State Bar shall serve initial two-year
21 terms to provide for subsequent staggering of terms. The appointees of the General
22 Assembly shall serve two-year terms. Members who have served a full term may be
23 reappointed to one additional full term. The initial term of office of all appointees shall
24 begin July 1, 1991.

25 (c) The Commission shall, upon request, be allowed to inspect the files of the
26 Judicial Standards Commission, notwithstanding the provisions of G.S. 7A-377.
27 Meetings of the Commission shall not be subject to the provisions of Article 33C of
28 Chapter 143 of the General Statutes. Testimony and other evidence presented to the
29 Commission is privileged in any action for defamation.

30 (d) The Commission may employ an executive secretary to assist it in performing
31 its duties.

32 **"§ 7A-4.5. Governor to issue commissions to Justices and Judges.**

33 Every person duly appointed by the Governor as Chief Justice, Associate Justice, or
34 Judge of the Court of Appeals, and every Justice or Judge duly reconfirmed by the
35 General Assembly shall procure from the Governor a commission attesting that fact,
36 which the Governor shall issue upon receipt of a certification by the principal clerks of
37 the Senate and House of Representatives that the person has been confirmed or
38 reconfirmed by the house in which the clerk serves. The principal clerk of the Senate
39 and the principal clerk of the House of Representatives shall promptly certify the results
40 to the Governor of any judicial confirmation and reconfirmation votes taken in their
41 respective houses. The Secretary of State shall inform the Governor whenever the
42 General Assembly adjourns or recesses for more than 30 days, or adjourns sine die.

43 **"§ 7A-4.6. Transitional provisions for judges in office on effective date of Article.**

1 (a) Any Chief Justice, Associate Justice, or Judge of the Court of Appeals
2 holding a judgeship on January 15, 1991, that on January 14, 1991, is required by law to
3 be filled by election shall be subject to the reconfirmation procedures in G.S. 7A-4.4
4 and to the provisions of subsections (b) and (c) of this section to retain his office.

5 (b) A Justice or Judge covered by the provisions of subsection (a) who, at the end
6 of his term of office has at least four years of service in the office he is holding on
7 January 15, 1991, shall be subject to the reconfirmation process during the first regular
8 session convening in an odd-numbered year after the term expires. Terms of such
9 Justices and Judges are extended until August 31 of the year following the year in which
10 the term would have normally expired.

11 (c) A Justice or Judge covered by the provisions of subsection (a) who, at the end
12 of his term of office has less than four years in the office he is holding on January 15,
13 1991, shall be subject to the reconfirmation process in the first regular session
14 convening in an odd-numbered year after he would have four years in service in that
15 office, if continued in office past the expiration of his term. Terms of office of such
16 Justices and Judges shall be extended until August 31 of the year in which a
17 reconfirmation decision is made by the General Assembly."

18 Sec. 2. G.S. 7A-10(a) reads as rewritten:

19 "(a) The Supreme Court shall consist of a Chief Justice and six associate justices,
20 elected by the qualified voters of the State for terms of eight years selected as provided by
21 Article 1A of this Chapter. Before entering upon the duties of his office, each justice
22 shall take an oath of office. Four justices shall constitute a quorum for the transaction of
23 the business of the court. Sessions of the court shall be held in the city of Raleigh, and
24 scheduled by rule of court so as to discharge expeditiously the court's business."

25 Sec. 3. G.S. 7A-16 reads as rewritten:

26 "**§ 7A-16. Creation and organization.**

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

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

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

42 Effective January 1, 1969, the number of judges is increased to nine, and the
43 Governor, on or after March 1, 1969, shall make temporary appointments to the
44 additional judgeships thus created. The appointees shall serve until January 1, 1971.

1 ~~Their successors shall be elected at the general election for members of the General~~
 2 ~~Assembly in November, 1970, and shall take office on January 1, 1971, to serve for the~~
 3 ~~remainder of the unexpired term which began on January 1, 1969.~~

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

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

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

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

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

26 Sec. 4. G.S. 163-106 reads as rewritten:

27 **"§ 163-106. Notices of candidacy; pledge; with whom filed; date for filing;**
 28 **withdrawal.**

29 (a) Notice and Pledge. – No one shall be voted for in a primary election unless he
 30 shall have filed a notice of candidacy with the appropriate board of elections, State or
 31 county, as required by this section. To this end every candidate for selection as the
 32 nominee of a political party shall file with and place in the possession of the board of
 33 elections specified in subsection (c) of this section, a notice and pledge in the following
 34 form:

35 'Date

36 I hereby file notice as a candidate for nomination as in the party
 37 primary election to be held on, 19..... I affiliate with the party, (and I certify
 38 that I am now registered on the registration records of the precinct in which I reside as
 39 an affiliate of the party.)

40 I pledge that if I am defeated in the primary, I will not run for any office as a write-
 41 in candidate in the next general election.

42 Signed

43 Name of candidate

44 Witness:

1
2
3 (Title of witness)'

4 Each candidate shall sign his notice of candidacy in the presence of the chairman or
5 secretary of the board of elections, State or county, with which he files. In the
6 alternative, a candidate may have his signature on the notice of candidacy
7 acknowledged and certified to by an officer authorized to take acknowledgments and
8 administer oaths, in which case the candidate may mail his notice of candidacy to the
9 appropriate board of elections.

10 In signing his notice of candidacy the candidate shall use only his legal name and, in
11 his discretion, any nickname by which he is commonly known. A candidate may also, in
12 lieu of his legal first name and legal middle initial or middle name (if any) sign his
13 nickname, provided that he appends to the notice of candidacy an affidavit that he has
14 been commonly known by that nickname for at least five years prior to the date of
15 making the affidavit. The candidate shall also include with the affidavit the way his
16 name (as permitted by law) should be listed on the ballot if another candidate with the
17 same last name files a notice of candidacy for that office.

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

20 Prior to the date on which candidates may commence filing, the State Board of
21 Elections shall print and furnish, at State expense, to each county board of elections a
22 sufficient number of the notice of candidacy forms prescribed by this subsection for use
23 by candidates required to file with county boards of elections.

24 (b) Eligibility to File. – No person shall be permitted to file as a candidate in a
25 primary if, at the time he offers to file notice of candidacy, he is registered on the
26 appropriate registration book or record as an affiliate of a political party other than that
27 in whose primary he is attempting to file. No person who has changed his political party
28 affiliation or who has changed from unaffiliated status to party affiliation as permitted
29 in G.S. 163-74(b), shall be permitted to file as a candidate in the primary of the party to
30 which he changed unless he has been affiliated with the political party in which he
31 seeks to be a candidate for at least 90 days prior to the filing date for the office for
32 which he desires to file his notice of candidacy.

33 A person registered as 'unaffiliated' shall be ineligible to file as a candidate in a
34 party primary election.

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

- 39 Governor
- 40 Lieutenant Governor
- 41 All State executive officers
- 42 ~~Justices of the Supreme Court, Judges of the Court of Appeals~~
- 43 Judges of the superior courts
- 44 Judges of the district courts

1 United States Senators
2 Members of the House of Representatives of the United States
3 District attorneys

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

8 State Senators
9 Members of the State House of Representatives
10 All county offices.

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

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

24 (e) Withdrawal of Notice of Candidacy. – Any person who has filed notice of
25 candidacy for an office shall have the right to withdraw it at any time prior to the date
26 on which the right to file for that office expires under the terms of subsection (c) of this
27 section. If a candidate does not withdraw before the filing deadline, except as provided
28 in G.S. 163-112, his name shall be printed on the primary ballot, any votes for him shall
29 be counted, and he shall not be refunded his filing fee.

30 (f) Candidates required to file their notice of candidacy with the State Board of
31 Elections under subsection (c) of this section shall file along with their notice a
32 certificate signed by the chairman of the board of elections or the supervisor of elections
33 of the county in which they are registered to vote, stating that the person is registered to
34 vote in that county, stating the party with which the person is affiliated, and that the
35 person has not changed his affiliation from another party or from unaffiliated within
36 three months prior to the filing deadline under subsection (c) of this section. In issuing
37 such certificate, the chairman or supervisor shall check the registration records of the
38 county to verify such information. During the period commencing 36 hours immediately
39 preceding the filing deadline the State Board of Elections shall accept, on a conditional
40 basis, the notice of candidacy of a candidate who has failed to secure the verification
41 ordered herein subject to receipt of verification no later than three days following the
42 filing deadline. The State Board of Elections shall prescribe the form for such
43 certificate, and distribute it to each county board of elections no later than the last
44 Monday in December of each odd-numbered year.

(g) When any candidate files a notice of candidacy with a county board of elections under subsection (c) of this section or under G.S. 163-291(2), the chairman or supervisor of elections shall, immediately upon receipt of the notice of candidacy, inspect the registration records of the county, and cancel the notice of candidacy of any person who is not eligible under subsection (c) of this section. The Board shall give notice of cancellation to any candidate whose notice of candidacy has been cancelled under this subsection by mail or by having the notice served on him by the sheriff.

(h) No person may file a notice of candidacy for more than one office described in subsection (c) of this section for any one election. If a person has filed a notice of candidacy with a board of elections under this section for one office, then a notice of candidacy may not later be filed for any other office under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (e) of this section; provided that this subsection shall not apply unless the deadline for filing notices of candidacy for both offices is the same. Notwithstanding this subsection, a person may file a notice of candidacy for a full term as United States Senator, and also file a notice of candidacy for the remainder of the unexpired term of that same seat in an election held under G.S. 163-12, and may file a notice of candidacy for a full term as a member of the United States House of Representatives, and also file a notice of candidacy for the remainder of the unexpired term in an election held under G.S. 163-13.

(i) No person may file a notice of candidacy for superior court judge unless that person is at the time of filing the notice of candidacy a resident of the judicial district as it will exist at the time the person would take office if elected. No person may be nominated as a superior court judge under G.S. 163-114 unless that person is at the time of nomination a resident of the judicial district as it will exist at the time the person would take office if elected. This subsection implements Article IV Section 9(1) of the North Carolina Constitution which requires regular Superior Court Judges to reside in the district for which elected."

Sec. 5. G.S. 163-107(a) reads as rewritten:

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

Office Sought	Amount of Filing Fee
Governor	One percent (1%) of the annual salary of the office sought
Lieutenant Governor	One percent (1%) of the annual salary of the office sought
All Justices, Judges, and	One percent (1%) of the annual salary of the office sought

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

1 one percent (1%) of the
2 income of the office above
3 two thousand dollars
4 (\$2,000)
5 One percent (1%) of the first
6 annual salary to be
7 received (exclusive of
8 fees)".
9

10 Sec. 6. G.S. 163-107.1(b) reads as rewritten:

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

27 Sec. 7. G.S. 163-111(c) reads as rewritten:

28 "(c) Procedure for Requesting Second Primary. –

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

44 Governor,

1 Lieutenant Governor,
 2 All State executive officers,
 3 ~~Justices, Judges, or Superior and District Court Judges, or~~
 4 District Attorneys of the General Court of Justice,
 5 United States Senators,
 6 Members of the United States House of Representatives,
 7 State Senators in multi-county senatorial districts, and
 8 Members of the State House of Representatives in multi-county
 9 representative districts.

- 10 (2) A candidate who is apparently entitled to demand a second primary,
 11 according to the unofficial results, for one of the offices listed below
 12 and desiring to do so, shall file a request for a second primary in
 13 writing or by telegram with the chairman or supervisor of the county
 14 board of elections no later than 12:00 noon on the seventh day
 15 (including Saturdays and Sundays) following the date on which the
 16 primary was conducted, and such request shall be subject to the
 17 certification of the official results by the county board of elections:

18 State Senators in single-county senatorial districts,
 19 Members of the State House of Representatives in single-
 20 county representative districts, and
 21 All county officers.

- 22 (3) Immediately upon receipt of a request for a second primary the
 23 appropriate board of elections, State or county, shall notify all
 24 candidates entitled to participate in the second primary, by telephone
 25 followed by written notice, that a second primary has been requested
 26 and of the date of the second primary."

27 Sec. 8. G.S. 163-140(a) reads as rewritten:

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

- 30 (1) Ballot for presidential electors
 31 (2) Ballot for United States Senator
 32 (3) Ballot for member of the United States House of Representatives
 33 (4) State ballot
 34 (5) County ballot
 35 (7) Ballot for constitutional amendments and other propositions submitted
 36 to the people.

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

43 Unless prohibited by this section, the board of elections, State or county, charged by
 44 law with printing ballots may, in its discretion, combine any two or more official

1 ballots. Whenever two or more ballots are combined, the voting instructions for the
2 State ballot set out in subsection (b)(4) of this section shall be used, except that if the
3 two ballots being combined do not contain a multi-seat race, then the second sentence of
4 instruction b. shall not appear on the ballot.

5 If the State Board of Elections divides the State ballot into two or more ballots, all
6 candidates for superior court shall appear on the same ballot except that the State Board
7 of Elections may divide the election of superior court judges into two ballots either
8 because of length of the ballot or to provide a separate ballot for multi-seat races but
9 only superior court judges shall be on those ballots, ~~and all candidates for the Appellate~~
10 ~~Division shall appear on the same ballot."~~

11 Sec. 9. G.S. 163-177 reads as rewritten:

12 **"§ 163-177. Disposition of duplicate abstracts.**

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

19 President and Vice-President of the United States

20 Governor, Lieutenant Governor, and all other State executive officers

21 United States Senators

22 Members of the House of Representatives of the United States Congress

23 ~~Justices, Judges, and Superior and District Court Judges and District Attorneys~~
24 of the General Court of Justice

25 State Senators in multi-county senatorial districts

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

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

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

36 All county offices

37 State Senators in single-county senatorial districts

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

40 Propositions submitted to the voters of one county.

41 If the chairman of the county board of elections fails or neglects to transmit
42 duplicate abstracts to the chairman of the State Board of Elections within the time
43 prescribed in this section, he shall be guilty of a misdemeanor. Provided, that the
44 penalty shall not apply if the chairman was prevented from performing the prescribed

1 duty because of sickness or other unavoidable delay, but the burden of proof shall be on
2 the chairman to show that his failure to perform was due to sickness or unavoidable
3 delay."

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

5 **"§ 163-192. State Board of Elections to prepare abstracts and declare results of**
6 **primaries and elections.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Abstracts prepared by the State Board of Elections under this subsection shall state
4 the names of all persons voted for, the office for which each received votes, and the
5 number of legal ballots cast for each candidate for each office canvassed by the State
6 Board of Elections. They shall also state the name or names of the person or persons
7 whom the State Board of Elections shall ascertain and judicially determine by the count
8 to be elected to each office.

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

12 (c) Disposition of Abstracts of Returns. – The State Board of Elections shall file
13 with the Secretary of State the original abstracts of returns prepared by it under the
14 provisions of subsections (a) and (b) of this section, and also the duplicate county
15 abstracts transmitted to the State Board of Elections under the provisions of G.S. 163-
16 177."

17 Sec. 11. G.S. 163-194 reads as rewritten:

18 **"§ 163-194. Governor to issue commissions to certain elected officials.**

19 Every person duly elected to one of the offices listed below, upon obtaining a
20 certificate of his election from the Secretary of State under the provisions of G.S. 163-
21 193, shall procure from the Governor a commission attesting his election to the
22 specified office, which the Governor shall issue upon production of the Secretary of
23 State's certificate:

24 Members of the United States House of Representatives,

25 ~~Justices, Judges, and Superior and District Court Judges and District Attorneys~~
26 of the General Court of Justice."

27 Sec. 12. G.S. 163-1 is amended in the table by deleting the entries for
28 "Justices and Judges of the Appellate Division".

29 Sec. 13. G.S. 163-9 reads as rewritten:

30 **"§ 163-9. Filling vacancies in State and district judicial offices.**

31 Vacancies occurring in the offices of ~~Justice of the Supreme Court, judge of the Court of~~
32 ~~Appeals, and judge of the superior court~~ for causes other than expiration of term shall be
33 filled by appointment of the Governor. An appointee shall hold his place until the next
34 election for members of the General Assembly that is held more than 60 days after the
35 vacancy occurs, at which time an election shall be held to fill the unexpired term of the
36 office: Provided, that when the unexpired term of the office in which the vacancy has
37 occurred expires on the first day of January succeeding the next election for members of
38 the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired
39 term of the office.

40 Vacancies in the office of district judge which occur before the expiration of a term
41 shall not be filled by election. Vacancies in the office of district judge shall be filled in
42 accordance with G.S. 7A-142."

43 Sec. 14. This act shall become effective only if the amendments to the
44 Constitution of North Carolina proposed by "AN ACT TO AMEND THE NORTH

1 CAROLINA CONSTITUTION TO PROVIDE FOR APPOINTMENT OF
2 APPELLATE JUDGES BY THE GOVERNOR, WITH THE ADVICE AND
3 CONSENT OF THE GENERAL ASSEMBLY, AND TO AUTHORIZE THE
4 GENERAL ASSEMBLY TO PROVIDE A PROCEDURE TO DETERMINE IF
5 JUDGES SO APPOINTED SHOULD BE RETAINED IN OFFICE”are approved by
6 the voters, and if so approved, this act shall become effective January 15, 1991.