

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 103

Short Title: Appointed Judges Statute.

(Public)

Sponsors: Representatives Michaux; Gist, Gottovi, Mavretic, Oldham, and Wicker.

Referred to: Courts, Justice, Constitutional Amendments & Referenda.

February 20, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR APPOINTMENT OF APPELLATE JUDGES BY THE GOVERNOR SUBJECT TO THE ADVICE AND CONSENT OF THE GENERAL ASSEMBLY, TO PROVIDE FOR THE RECONFIRMATION OF SITTING JUDGES BY THE GENERAL ASSEMBLY, AND TO PROVIDE FOR TRANSITIONAL AND OTHER PROVISIONS NECESSARY TO MOVE FROM AN ELECTIVE TO AN APPOINTIVE SYSTEM.

The General Assembly of North Carolina enacts:

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

"ARTICLE 1A.

"APPOINTMENT, CONFIRMATION, AND RECONFIRMATION OF JUSTICES AND JUDGES.

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

(a) When a new judgeship on the Supreme Court or Court of Appeals is created, the Governor shall within 120 days after the act creating the judgeship becomes law nominate a person from the list of nominees provided pursuant to G.S. 7A-4.2 to serve in the judgeship. Unless otherwise provided, the nominee shall be subject to confirmation by the Senate and the House of Representatives in the first regular session held in an odd-numbered year convening after the judgeship is created.

(b) When a vacancy occurs in the office of Chief Justice of the Supreme Court, Associate Justice of the Supreme Court, or Judge of the Court of Appeals, the Governor shall nominate a person to fill the vacancy from the list of nominees provided pursuant

1 to G.S. 7A-4.2. If the vacancy occurs because the holder of the office indicates that he
2 will not seek reconfirmation at the end of his term, the Governor shall submit his
3 nomination to the General Assembly by March 1 of the year after that intention is made
4 known. If the vacancy occurs for any other reason, the Governor shall submit his
5 nomination to the General Assembly no later than 120 days after the vacancy is created.

6 (c) Nominees nominated pursuant to subsections (a) or (b) of this section are
7 subject to confirmation as provided in this subsection. If the nomination is for a vacancy
8 to be created at the end of a term and the nomination is the first such nomination for that
9 office, the nomination shall be considered during the regular session held in the odd-
10 numbered year in which the term of office of the judge vacating the office expires. All
11 other nominations may be considered for confirmation at any regular or extra session of
12 the General Assembly, but the nomination shall be considered no later than the first
13 regular session conducted in an odd-numbered year after the nomination is submitted,
14 unless it is submitted after April 1 during such a session. Nominations submitted during
15 such a session and after April 1 may be considered by the General Assembly for
16 confirmation in that session or any regular or extra session conducted thereafter, but the
17 nomination shall be considered for confirmation no later than the first regular session in
18 an odd-numbered year convening after the nomination is submitted. To be confirmed, a
19 nominee shall receive a majority vote in the Senate and House of Representatives
20 during the session in which the nomination is considered. Failure to receive a majority
21 vote in both houses in a session in which a nomination is considered constitutes a failure
22 to confirm and creates a vacancy in the office to be filled as provided by this section. A
23 nominee confirmed by both the Senate and the House of Representatives shall be
24 appointed by the Governor for a four-year term to begin on the next September 1 in an
25 odd-numbered year. A person confirmed may begin service immediately upon being
26 appointed, even though his term of office has not begun. For purposes of this
27 subsection, a nomination is 'considered' if either house of the General Assembly votes
28 on the nomination. For purposes of this subsection, a session ends when it adjourns or
29 recesses for more than 30 days, or adjourns **sine die**, whichever comes first.

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

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

36 **"§ 7A-4.2. Judicial Selection and Retention Commission recommendations for**
37 **vacancies.**

38 (a) The Governor, in making a nomination to the office of Chief Justice,
39 Associate Justice of the Supreme Court, or Judge of the Court of Appeals shall make the
40 nomination from a list of nominees provided by the Judicial Selection and Retention
41 Commission. The Governor shall promptly notify the Commission of any resignation,
42 retirement, death, removal from office or decision not to seek reconfirmation of a Chief
43 Justice, Associate Justice or Court of Appeals Judge. The Commission shall within 45

1 days of the receipt of the notice submit to the Governor not less than three nor more
2 than five names of possible nominees for the vacancy.

3 (b) In making the recommendations to the governor, the Commission shall make
4 every feasible effort to recruit and attract potential candidates of the highest possible
5 qualifications. No candidate may be recommended by the Commission unless the
6 candidate submits a written declaration of availability to the Commission. The
7 Commission may adopt such rules as it deems necessary for its operation. Any rules so
8 adopted shall be available to public inspection, but the provisions of General Statutes
9 Chapter 150B do not apply to the Commission. The Commission's recommendations
10 shall be by majority vote of those present and voting.

11 (c) The Commission shall make reasonable efforts to insure that the candidates
12 submitted to the Governor are broadly representative of the population of this State.

13 (d) Except as provided in this section, documents received or prepared by the
14 Committee in the fulfillment of its duties under this section are confidential and not
15 open to inspection to anyone other than:

16 (1) The Governor or a member of his staff, with respect to documents and
17 information about the candidates recommended by the Commission for
18 consideration by the Governor; and

19 (2) The General Assembly and its staff, with respect to documents and
20 information about the candidate nominated by the Governor.

21 Documents prepared or received by the Commission remain confidential when
22 transferred to the Governor's office or the General Assembly. The list of names
23 submitted by the Commission to the Governor shall be a public record.

24 **"§ 7A-4.3. Reconfirmation procedure.**

25 (a) Any Chief Justice, Associate Justice, or Judge of the Court of Appeals, to be
26 eligible to be reconfirmed, shall by November 1 in the year immediately preceding the
27 year in which his term expires, file a written declaration of his intent to seek
28 reconfirmation. The declaration shall be filed with the Governor. The Governor shall
29 promptly notify the General Assembly and the Judicial Selection and Retention
30 Commission of his receipt of the declaration. Failure to file the declaration in a timely
31 manner results in the creation of a vacancy in the office at the expiration of the term. A
32 Justice or Judge may indicate in writing to the Governor that he does not intend to seek
33 reconfirmation, and the filing of that intention creates a vacancy in the office at the
34 expiration of the term, unless the Justice or Judge leaves office at an earlier date.

35 (b) The Judicial Selection and Retention Commission, upon receipt of a Justice's
36 or Judge's written declaration of his intent to seek reconfirmation, shall investigate the
37 Judge's performance as a Justice or Judge to determine if it should recommend that he
38 be reconfirmed. The Commission shall conduct a public hearing to allow comment
39 from interested persons on the Justice's or Judge's fitness to continue in office.
40 Information received in the course of the investigation is confidential and shall not be
41 disclosed unless specifically required by law or unless the Justice or Judge consents to
42 the disclosure. Documents prepared or received by the Commission in the course of its
43 investigation are confidential and not subject to public inspection without the consent of
44 the Justice or Judge, notwithstanding the provisions of Chapter 132 of the General

1 Statutes. The investigation shall include an evaluation of the Justice's or Judge's ethical
2 conduct, his knowledge of and application of the law, his management of the courts
3 over which he has presided, his work habits, his health, his judicial demeanor, and any
4 other matter that the Commission determines to be relevant to its inquiry. The Judge
5 shall be given an opportunity to present to the Commission any information he
6 determines to be appropriate. The Commission's recommendation shall be by majority
7 vote of those present and voting.

8 (c) No later than 30 days after the convening of the General Assembly in the year
9 following the filing of a Justice's or Judge's intent to seek reconfirmation, the
10 Commission shall report to the General Assembly as to whether it recommends that the
11 Justice or Judge be reconfirmed. A majority vote of of both the Senate and the House of
12 Representatives shall be necessary to reject the recommendation of the Commission. If
13 either house fails to vote on the report of the Commission during the session in which it
14 is submitted, the recommendation of the Commission shall be deemed to have been
15 approved by the General Assembly. For the purpose of this subsection, a session ends
16 when it adjourns or recesses for more than 30 days, or adjourns **sine die**, whichever
17 comes first.

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

25 **"§ 7A-4.4. Judicial Selection and Retention Commission.**

26 (a) The Judicial Selection and Retention Commission consists of:

- 27 (1) Five members appointed by the Governor, none of whom may be
28 licensed attorneys, with at least one member from each judicial
29 division as those divisions were constituted on January 1, 1991;
- 30 (2) Five members appointed by the President of the State Bar from its
31 membership with at least one member from each judicial division as
32 those divisions were constituted on January 1, 1991;
- 33 (3) One member appointed by the General Assembly on recommendation
34 of the Speaker of the House of Representatives, as provided by G.S.
35 120-121;
- 36 (4) One member appointed by the General Assembly on recommendation
37 of the President Pro Tempore of the Senate, as provided by G.S. 120-
38 121;
- 39 (5) One member appointed by the President of the North Carolina Bar
40 Association from its membership;
- 41 (6) One member appointed by the President of the North Carolina
42 Association of Women Attorneys from its membership;
- 43 (7) One member appointed by the President of the North Carolina
44 Academy of Trial Lawyers from its membership;

1 (8) One member appointed by the President of the North Carolina
2 Association of Black Lawyers from its membership.

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

5 (b) The Director of the Administrative Office of the Courts shall convene the
6 initial meeting of the Commission as soon as feasible after the initial appointments are
7 made. At that meeting the Commission shall select a chairman from among its
8 members.

9 (c) All the members appointed by the Governor and by the President of the State
10 Bar shall serve four-year terms of office, except that two of the initial appointees of the
11 Governor and three of the initial appointees of the State Bar President shall serve terms
12 expiring June 30, 1995, and the remaining two appointees of the Governor and the State
13 Bar President shall serve initial terms expiring June 30, 1997. The members appointed
14 by the Presidents of the Bar Association and the Association of Women Attorneys and
15 the Academy of Trial Lawyers shall serve four-year terms, except that the term of office
16 for the initial appointees from those organizations shall expire June 30, 1995. The
17 members appointed by the Presidents of the Association of Black Lawyers and the
18 Association of Defense Attorneys shall serve four-year terms, except that the term of
19 office for these initial appointees shall expire June 30, 1997. The appointees of the
20 General Assembly shall serve two-year terms, except that the term of office of the initial
21 appointees of the General Assembly shall expire June 30, 1995. Members who have
22 served a full term may be reappointed to one additional full term. The members shall be
23 appointed within 30 days of the date this act becomes effective.

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

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

31 **"§ 7A-4.5. Governor to issue commissions to Justices and Judges.**

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

42 **"§ 7A-4.6. Transitional provisions for judges in office on effective date of Article.**

43 (a) Any Chief Justice, Associate Justice, or Judge of the Court of Appeals
44 holding a judgeship on January 15, 1992, that on January 14, 1992, is required by law to

1 be filled by election shall be subject to the reconfirmation procedures in G.S. 7A-4.5
2 and to the provisions of subsections (b) and (c) of this section to retain his office.

3 (b) A Justice or Judge covered by the provisions of subsection (a) who, at the end
4 of his term of office has at least four years of service in the office he is holding on
5 January 15, 1992, shall be subject to the reconfirmation process during the first regular
6 session convening in an odd-numbered year after the term expires. Terms of such
7 Justices and Judges are extended until August 31 of the year following the year in which
8 the term would have normally expired.

9 (c) A Justice or Judge covered by the provisions of subsection (a) who, at the end
10 of his term of office has less than four years in the office he is holding on January 15,
11 1992, shall be subject to the reconfirmation process in the first regular session
12 convening in an odd-numbered year after he would have four years in service in that
13 office, if continued in office past the expiration of his term. Terms of office of such
14 Justices and Judges shall be extended until August 31 of the year in which a
15 reconfirmation decision is made by the General Assembly."

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

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

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

24 "**§ 7A-16. Creation and organization.**

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

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

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

40 ~~Effective January 1, 1969, the number of judges is increased to nine, and the~~
41 ~~Governor, on or after March 1, 1969, shall make temporary appointments to the~~
42 ~~additional judgeships thus created. The appointees shall serve until January 1, 1971.~~
43 ~~Their successors shall be elected at the general election for members of the General~~

1 ~~Assembly in November, 1970, and shall take office on January 1, 1971, to serve for the~~
2 ~~remainder of the unexpired term which began on January 1, 1969.~~

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

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

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

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

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

25 Sec. 3.1. G.S. 120-123 is amended by adding a new subdivision to read:

26 "(3b) The Judicial Selection and Retention Commission as established by
27 G.S. 7A-4.5."

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

29 "**§ 163-106. Notices of candidacy; pledge; with whom filed; date for filing;**
30 **withdrawal.**

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

37 'Date

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

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

44 Signed

Name of candidate

Witness:

.....

.....

(Title of witness)'

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

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

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

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

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

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

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

Governor

Lieutenant Governor

All State executive officers

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

- 1 Judges of the superior courts
- 2 Judges of the district courts
- 3 United States Senators
- 4 Members of the House of Representatives of the United States
- 5 District attorneys

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

- 10 State Senators
- 11 Members of the State House of Representatives
- 12 All county offices.

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

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

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

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

1 certificate, and distribute it to each county board of elections no later than the last
 2 Monday in December of each odd-numbered year.

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

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

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

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

32 "(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate
 33 shall pay to the board of elections with which he files under the provisions of G.S. 163-
 34 106 a filing fee for the office he seeks in the amount specified in the following
 35 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
All State executive offices	One percent (1%) of the annual salary of the office

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

1 Twenty dollars (\$20.00), plus
2 one percent (1%) of the
3 income of the office above
4 two thousand dollars
5 (\$2,000)
6 One percent (1%) of the first
7 annual salary to be
8 received (exclusive of
9 fees)".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **"§ 163-177. Disposition of duplicate abstracts.**

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

21 President and Vice-President of the United States

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

23 United States Senators

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

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

27 State Senators in multi-county senatorial districts

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

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

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

38 All county offices

39 State Senators in single-county senatorial districts

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

42 Propositions submitted to the voters of one county.

43 If the chairman of the county board of elections fails or neglects to transmit
44 duplicate abstracts to the chairman of the State Board of Elections within the time

1 prescribed in this section, he shall be guilty of a misdemeanor. Provided, that the
2 penalty shall not apply if the chairman was prevented from performing the prescribed
3 duty because of sickness or other unavoidable delay, but the burden of proof shall be on
4 the chairman to show that his failure to perform was due to sickness or unavoidable
5 delay."

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

7 **"§ 163-192. State Board of Elections to prepare abstracts and declare results of**
8 **primaries and elections.**

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

- 11 (1) For Governor and all State officers, ~~justices of the Supreme Court, judges~~
12 ~~of the Court of Appeals,~~ judges of the superior court, and United States
13 Senators.
- 14 (2) For members of the United States House of Representatives for the
15 several congressional districts in the State.
- 16 (3) For district court judges for the several district court districts in the
17 State.
- 18 (4) For district attorney in the several prosecutorial districts in the State.
- 19 (5) For State Senators in the several senatorial districts in the State
20 composed of more than one county.
- 21 (6) For members of the State House of Representatives in the several
22 representative districts in the State composed of more than one county.

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

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

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

- 33 (1) For President and Vice-President of the United States, when an
34 election is held for those offices.
- 35 (2) For Governor and all State officers, ~~justices of the Supreme Court, judges~~
36 ~~of the Court of Appeals,~~ judges of the superior court, and United States
37 Senators.
- 38 (3) For members of the United States House of Representatives for the
39 several congressional districts in the State.
- 40 (4) For district court judges for the several district court districts as
41 defined in G.S. 7A-133 in the State.
- 42 (5) For district attorney in the several prosecutorial districts in the State.
- 43 (6) For State Senators in the several senatorial districts in the State
44 composed of more than one county.

- 1 (7) For members of the State House of Representatives in the several
2 representative districts in the State composed of more than one county.
3 (8) For and against any constitutional amendments or propositions
4 submitted to the people.

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

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

14 (c) Disposition of Abstracts of Returns. – The State Board of Elections shall file
15 with the Secretary of State the original abstracts of returns prepared by it under the
16 provisions of subsections (a) and (b) of this section, and also the duplicate county
17 abstracts transmitted to the State Board of Elections under the provisions of G.S. 163-
18 177."

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

20 "**§ 163-194. Governor to issue commissions to certain elected officials.**

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

26 Members of the United States House of Representatives,
27 ~~Justices, Judges, and Superior and District Court Judges and District Attorneys~~
28 of the General Court of Justice."

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

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

32 "**§ 163-9. Filling vacancies in State and district judicial offices.**

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

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

1 Sec. 14. This act shall become effective only if the amendments to the
2 Constitution of North Carolina proposed by "AN ACT TO AMEND THE NORTH
3 CAROLINA CONSTITUTION TO PROVIDE FOR THE APPOINTMENT OF
4 APPELLATE JUDGES BY THE GOVERNOR, WITH THE ADVICE AND
5 CONSENT OF THE GENERAL ASSEMBLY, AND TO AUTHORIZE THE
6 GENERAL ASSEMBLY TO PROVIDE A PROCEDURE TO DETERMINE IF
7 JUDGES SO APPOINTED SHOULD BE RETAINED IN OFFICE" are approved by
8 the voters, and if so approved, this act becomes effective January 15, 1992.