

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SECOND EXTRA SESSION 1996**

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SENATE BILL 41

Short Title: Nonpartisan Superior Court Elections.

(Public)

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Sponsors: Senators Cooper; and Winner.

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Referred to: Appropriations.

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July 15, 1996

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR NONPARTISAN ELECTION OF SUPERIOR COURT  
2 JUDGES IN THEIR DISTRICTS.

3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 7A of the General Statutes is amended by inserting a new  
5 section to read:

6 **"§ 7A-41.2. Nomination and election of regular superior court judges.**

7 Candidates for the office of regular superior court judge shall be both nominated and  
8 elected by the qualified voters of the superior court district for which the election is  
9 sought."

10 Sec. 2. G.S. 163-1 is amended in the table by deleting the word "State" in the  
11 column entitled "Jurisdiction" under the entry for "Judges of the superior courts", and  
12 substituting "Superior Court District".

13 Sec. 3. Chapter 163 of the General Statutes is amended by adding a new  
14 Subchapter to read:

15 **"SUBCHAPTER X. ELECTION OF SUPERIOR COURT JUDGES.**

16 **"ARTICLE 25.**

17 **"NOMINATION AND ELECTION OF SUPERIOR COURT JUDGES.**

18 **"§ 163-321. Applicability.**  
19

1 The nomination and election of superior court judges of the General Court of Justice  
2 shall be as provided by this Article.

3 **"§ 163-322. Nonpartisan primary election method.**

4 (a) General. Except as provided in G.S. 163-329, there shall be a primary to  
5 narrow the field of candidates to two candidates for each position to be filled if, when the  
6 filing period closes, there are more than two candidates for a single office or the number  
7 of candidates for a group of offices exceeds twice the number of positions to be filled. If  
8 only one or two candidates file for a single office, no primary shall be held for that office  
9 and the candidates shall be declared nominated. If the number of candidates for a group  
10 of offices does not exceed twice the number of positions to be filled, no primary shall be  
11 held for those offices and the candidates shall be declared nominated.

12 (b) Determination of Nominees. In the primary, the two candidates for a single  
13 office receiving the highest number of votes, and those candidates for a group of offices  
14 receiving the highest number of votes, equal to twice the number of positions to be filled,  
15 shall be declared nominated. If two or more candidates receiving the highest number of  
16 votes each receive the same number of votes, the State Board of Elections shall determine  
17 their relative ranking by lot, and shall declare the nominees accordingly. The canvass of  
18 the primary shall be held on the same date as the primary canvass fixed under G.S. 163-  
19 188. The canvass shall be conducted in accordance with Article 16 of this Chapter.

20 (c) Determination of Election Winners. In the election, the names of those  
21 candidates declared nominated without a primary and those candidates nominated in the  
22 primary shall be placed on the ballot. The candidate for a single office receiving the  
23 highest number of votes shall be elected. Those candidates for a group of offices  
24 receiving the highest number of votes, equal in number to the number of positions to be  
25 filled, shall be elected. If two candidates receiving the highest number of votes each  
26 received the same number of votes, the State Board of Elections shall determine the  
27 winner by lot.

28 **"§ 163-323. Notice of candidacy.**

29 (a) Form of Notice. Each person offering himself as a candidate for election shall  
30 do so by filing a notice of candidacy with the State Board of Elections in the following  
31 form, inserting the words in parentheses when appropriate:

32 'Date \_\_\_\_\_;  
33 I hereby file notice that I am a candidate for election to the office of  
34 \_\_\_\_\_ in the regular election to be held \_\_\_\_\_,  
35 \_\_\_\_\_.

36 Signed \_\_\_\_\_;  
37 (Name of Candidate)

38 Witness: \_\_\_\_\_.

39 The notice of candidacy shall be either signed in the presence of the chairman or  
40 secretary of the State Board of Elections, or signed and acknowledged before an officer  
41 authorized to take acknowledgments who shall certify the notice under seal. An  
42 acknowledged and certified notice may be mailed to the State Board of Elections. In  
43 signing a notice of candidacy, the candidate shall use only the candidate's legal name and,

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

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

10 (b) Time for Filing Notice of Candidacy. Candidates seeking election to the  
11 following offices shall file their notice of candidacy with the State Board of Elections no  
12 earlier than 12:00 noon on the first Monday in January and no later than 12:00 noon on  
13 the first Monday in February preceding the election:

14 Judges of the superior courts.

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

19 (d) Certificate That Candidate is Registered Voter. Candidates shall file along  
20 with their notice a certificate signed by the chairman of the board of elections or the  
21 supervisor of elections of the county in which they are registered to vote, stating that the  
22 person is registered to vote in that county, and if the county contains more than one  
23 superior court district, stating which superior court district the person is a resident of. In  
24 issuing such certificate, the chairman or supervisor shall check the registration records of  
25 the county to verify such information. During the period commencing 36 hours  
26 immediately preceding the filing deadline, the State Board of Elections shall accept, on a  
27 conditional basis, the notice of candidacy of a candidate who has failed to secure the  
28 verification ordered herein subject to receipt of verification no later than three days  
29 following the filing deadline. The State Board of Elections shall prescribe the form for  
30 such certificate, and distribute it to each county board of elections no later than the last  
31 Monday in December of each odd-numbered year.

32 (e) Candidacy for More Than One Office Prohibited. No person may file a notice  
33 of candidacy for more than one office or group of offices described in subsection (b) of  
34 this section for any one election. If a person has filed a notice of candidacy with a board  
35 of elections under this section for one office or group of offices, then a notice of  
36 candidacy may not later be filed for any other office or group of offices under this section  
37 when the election is on the same date unless the notice of candidacy for the first office is  
38 withdrawn under subsection (c) of this section.

39 **§ 163-324. Filing fees required of candidates; refunds.**

40 (a) Fee Schedule. At the time of filing a notice of candidacy under this Article,  
41 each candidate shall pay to the State Board of Elections a filing fee for the office he seeks  
42 in the amount of one percent (1%) of the annual salary of the office sought.

1 (b) Refund of Fees. If any person who has filed a notice of candidacy and paid the  
2 filing fee prescribed in subsection (a) of this section withdraws his notice of candidacy  
3 within the period prescribed in G.S. 163-323(c), he shall be entitled to have the fee he  
4 paid refunded. The chairman of the State Board of Elections shall cause a warrant to be  
5 drawn on the State Treasurer for the refund payment.

6 **"§ 163-325. Petition in lieu of payment of filing fee.**

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

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

20 **"§ 163-326. Certification of notices of candidacy.**

21 (a) Names of Candidates Sent to Secretary of State. Within three days after the  
22 time for filing notices of candidacy with the State Board of Elections under the provisions  
23 of G.S. 163-323(b) has expired, the chairman or secretary of that Board shall certify to  
24 the Secretary of State the name and address of each person who has filed with the State  
25 Board of Elections, indicating in each instance the office sought.

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

34 (c) Receipt of Notification by County Board. Within two days after receipt of  
35 each of the letters of certification from the chairman of the State Board of Elections  
36 required by subsection (b) of this section, each county elections board chairman shall  
37 acknowledge receipt by letter addressed to the chairman of the State Board of Elections.

38 **"§ 163-327. Death of candidates or elected officers.**

39 (a) Death of Candidate Before Primary. If a candidate for nomination in a primary  
40 dies, becomes disqualified, or withdraws before the primary but after the ballots have  
41 been printed, the State Board of Elections shall determine whether or not there is time to  
42 reprint the ballots. If the Board determines that there is not enough time to reprint the  
43 ballots, the deceased or disqualified candidate's name shall remain on the ballots. If that

1 candidate receives enough votes for nomination, such votes shall be disregarded and the  
2 candidate receiving the next highest number of votes below the number necessary for  
3 nomination shall be declared nominated. If the death or disqualification of the candidate  
4 leaves only two candidates for each office to be filled, the nonpartisan primary shall not  
5 be held and all candidates shall be declared nominees.

6 (b) Death, Disqualification, or Resignation of Official After Election. If a person  
7 elected to the office of superior court judge dies, becomes disqualified, or resigns on or  
8 after election day and before he has qualified by taking the oath of office, the office shall  
9 be deemed vacant and shall be filled as provided by law.

10 **"§ 163-328. Failure of candidates to file; death of a candidate before election.**

11 (a) Insufficient Number of Candidates. If when the filing period expires,  
12 candidates have not filed for an office to be filled under this Article, the State Board of  
13 Elections shall extend the filing period for five days for any such offices.

14 (b) Death of Candidate; Reopening Filing. If there is no primary because only one  
15 or two candidates have filed for a single office, or the number of candidates filed for a  
16 group of offices does not exceed twice the number of positions to be filled, and thereafter  
17 a candidate dies before the election and before the ballots are printed, the State Board of  
18 Elections shall, upon notification of the death, immediately reopen the filing period for an  
19 additional five days during which time additional candidates shall be permitted to file for  
20 election. If the ballots have been printed at the time the State Board of Elections receives  
21 notice of the candidate's death, the Board shall determine whether there will be sufficient  
22 time to reprint them before the election if the filing period is reopened for three days. If  
23 the Board determines that there will be sufficient time to reprint the ballots, it shall  
24 reopen the filing period for three days to allow other candidates to file for election, and  
25 such election shall be conducted on the plurality basis.

26 (c) Death of Nominated Candidate; Ballots Not Reprinted. If the ballots have  
27 been printed at the time the State Board of Elections receives notice of a candidate's  
28 death, and if the Board determines that there is not enough time to reprint the ballots  
29 before the election if the filing period is reopened for three days, then regardless of the  
30 number of candidates remaining for the office or group of offices, the ballots shall not be  
31 reprinted and the name of the deceased candidate shall remain on the ballots. If a  
32 deceased candidate should poll the highest number of votes in the election for a single  
33 office or enough votes to be elected to one of a group of offices, the State Board of  
34 Elections shall declare the office vacant and it shall be filled in the manner provided by  
35 law.

36 **"§ 163-329. Elections to fill vacancy created after primary filing period to use**  
37 **plurality method.**

38 (a) General. If a vacancy is created in the office of judge of superior court after  
39 the filing period for the primary open but more than 60 days before the general election,  
40 and under the Constitution of North Carolina an election is to be held for that position,  
41 such that the office shall be filled in the general election as provided in G.S. 163-9, the  
42 election to fill the office for the remainder of the term shall be conducted without a  
43 primary using the plurality method as provided in subsection (b) of this section. If a

1 vacancy is created in the office of judge of superior court before the filing period for the  
2 primary opens, and under the Constitution of North Carolina an election is to be held for  
3 that position, such that the office shall be filled in the general election as provided in G.S.  
4 163-9, the election to fill the office for the remainder of the term shall be conducted in  
5 accordance with G.S. 163-322.

6 (b) **Plurality Election Rules.** Elections under this section shall be conducted using  
7 the following rules:

8 (1) The filing period shall be prescribed by the State Board of Elections, but  
9 in no event may it be less than five working days. If a vacancy occurs  
10 in a second office in the same superior court district after the first filing  
11 period established under the section has closed, the State Board of  
12 Elections shall reopen filing for a period of not less than five working  
13 days for the office of superior court judge. All persons filing in either  
14 filing period shall run as a group and the election results shall be  
15 determined by subdivision (3) of this subsection.

16 (2) When more than one person is seeking election to a single office, the  
17 candidate who receives the highest number of votes shall be declared  
18 elected.

19 (3) When more persons are seeking election to two or more offices  
20 (constituting a group) than there are offices to be filled, those candidates  
21 receiving the highest number of votes, equal in number to the number of  
22 offices to be filled, shall be declared elected.

23 (4) If two or more candidates receiving the highest number of votes each  
24 receive the same number of votes, the board of elections shall determine  
25 the winner by lot.

26 (5) Except as provided in this section, the provisions of this Article apply to  
27 elections conducted under this section.

28 **"§ 163-330. Voting in primary.**

29 Any person who will become qualified by age or residence to register and vote in the  
30 general election for which the primary is held, even though not so qualified by the date of  
31 the primary, shall be entitled to register for the primary and general election prior to the  
32 primary and then to vote in the primary after being registered. Such person may register  
33 not earlier than 60 days nor later than the last day for making application to register under  
34 G.S. 163-82.6(c) prior to the primary.

35 **"§ 163-331. Date of primary.**

36 The primary shall be held on the same date as established for primary elections under  
37 G.S. 163-1(b).

38 **"§ 163-332. Ballots.**

39 (a) **General.** In elections there shall be official ballots. The ballots shall be printed  
40 to conform to the requirement of G.S. 163-140(c) and to show the name of each person  
41 who has filed notice of candidacy, and the office for which each aspirant is a candidate.

42 Only those who have filed the required notice of candidacy with the proper board of  
43 elections, and who have paid the required filing fee or qualified by petition, shall have

1 their names printed on the official primary ballots. Only those candidates properly  
2 nominated shall have their names appear on the official general election ballots.

3 (b) Ballots to be Furnished by County Board of Elections. It shall be the duty of  
4 the county board of elections to print official ballots for the following offices to be voted  
5 for in the primary:

6 Superior court judge.

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

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

15 **"§ 163-333. Canvass.**

16 The county board of elections shall, in addition to the requirements contained in G.S.  
17 163-175, canvass the results in judicial primaries and elections, the number of legal votes  
18 cast in each precinct for each candidate, the name of each person voted for, and the total  
19 number of votes cast in the county for each person for each different office.

20 **"§ 163-334. Counting of ballots.**

21 Counting of ballots in primaries and elections held under this Article shall be under  
22 the same rules as for counting of ballots in nonpartisan municipal elections under Article  
23 24 of this Chapter.

24 **"§ 163-335. Other rules.**

25 Except as provided by this Article, the conduct of elections shall be governed by  
26 Subchapter VI of this Chapter."

27 Sec. 4. G.S. 163-106(c) reads as rewritten:

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

32 Governor

33 Lieutenant Governor

34 All State executive officers

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

36 ~~Judges of the superior courts~~

37 Judges of the district courts

38 United States Senators

39 Members of the House of Representatives of the United States

40 District attorneys

41 Candidates seeking party primary nominations for the following offices shall file their  
42 notice of candidacy with the county board of elections no earlier than 12:00 noon on the

1 first Monday in January and no later than 12:00 noon on the first Monday in February  
2 preceding the primary:

3 State Senators

4 Members of the State House of Representatives

5 All county offices."

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

7 "(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate  
8 shall pay to the board of elections with which he files under the provisions of G.S. 163-  
9 106 a filing fee for the office he seeks in the amount specified in the following tabulation:

10 Office Sought Amount of Filing Fee

11  
12 Governor One percent (1%) of the annual

salary of the office sought

13  
14 Lieutenant Governor

One percent (1%) of the annual  
salary of the office sought

15  
16 All State executive offices

One percent (1%) of the annual  
salary of the office sought

17  
18 All Justices, Judges, and

One percent (1%) of the annual  
salary of the office sought

19 District Attorneys of the

20 General Court of Justice

21 other than superior court

22 judge

23 United States Senator

One percent (1%) of the annual  
salary of the office sought

24  
25 Members of the United States

One percent (1%) of the annual  
salary of the office sought

26 House of Representatives

27 State Senator

One percent (1%) of the annual  
salary of the office sought

28  
29 Member of the State House of  
30 Representatives

One percent (1%) of the annual  
salary of the office sought

31 All county offices not  
32 compensated by fees

One percent (1%) of the annual  
salary of the office sought

33 County commissioners, if

Ten dollars (\$10.00)

34 compensated entirely by fees

35 Members of county board of

Five dollars (\$5.00)

36 education, if compensated

37 entirely by fees

38 Sheriff, if compensated

Forty dollars (\$40.00), plus one  
percent (1%) of the income of the  
office above four thousand  
dollars (\$4,000)

39 entirely by fees

40  
41  
42 Clerk of superior court, if

Forty dollars (\$40.00), plus one  
percent (1%) of the income of the

43 compensated entirely by fees



|    |  |                                    |
|----|--|------------------------------------|
| 1  |  | office above four thousand         |
| 2  |  | dollars (\$4,000)                  |
| 3  | Register of deeds, if  | Forty dollars (\$40.00), plus one  |
| 4  | compensated entirely by fees   | percent (1%) of the income of the  |
| 5  |  | office above four thousand         |
| 6  |  | dollars (\$4,000)                  |
| 7  | Any other county office, if  | Twenty dollars (\$20.00), plus one |
| 8  | compensated entirely by fees   | percent (1%) of the income of the  |
| 9  |  | office above two thousand dollars  |
| 10 |  | (\$2,000)                          |
| 11 | All county offices compensated   | One percent (1%) of the first      |
| 12 | partly by salary and partly  | annual salary to be received       |
| 13 | by fees (exclusive of fees)." Sec. 6. G.S. 163-111(c)(1) reads as rewritten: |                                    |

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

- 28            Governor,
- 29            Lieutenant Governor,
- 30            All State executive officers,
- 31            Justices, Judges, or District Attorneys of the General Court of
- 32            Justice, other than superior court judge,
- 33            United States Senators,
- 34            Members of the United States House of Representatives,
- 35            State Senators in multi-county senatorial districts, and
- 36            Members of the State House of Representatives in multi-county
- 37            representative districts."

38        Sec. 7. G.S. 163-140(a) reads as rewritten:

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

- 41            (1) Ballot for presidential electors
- 42            (2) Ballot for United States Senator
- 43            (3) Ballot for member of the United States House of Representatives

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

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

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

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

24 ~~If the State Board of Elections divides the State ballot into two or more ballots, all~~  
25 ~~candidates for superior court shall appear on the same ballot except that the State Board~~  
26 ~~of Elections may divide the election of superior court judges into two ballots either~~  
27 ~~because of length of the ballot or to provide a separate ballot for multi seat races but only~~  
28 ~~superior court judges shall be on those ballots, and all candidates for the Appellate~~  
29 ~~Division shall appear on the same ballot."~~

30 Sec. 8. G.S. 163-107.1(c) reads as rewritten:

31 "(c) County, Municipal and District Primaries. – If the candidate is seeking one of  
32 the offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this  
33 section, or a municipal or any other office requiring a partisan primary which is not set  
34 forth in G.S. 163-106(c) or (d), he shall file a written petition with the appropriate board  
35 of elections no later than 12:00 noon on Monday preceding the filing deadline before the  
36 primary. The petition shall be signed by ten percent (10%) of the registered voters of the  
37 election area in which the office will be voted for, who are affiliated with the same  
38 political party in whose primary the candidate desires to run, or in the alternative, the  
39 petition shall be signed by no less than 200 registered voters regardless of said voter's  
40 political party affiliation, whichever requirement is greater. The board of elections shall  
41 verify the names on the petition, and if the petition is found to be sufficient, the  
42 candidate's name shall be printed on the appropriate primary ballot. Petitions for  
43 candidates for member of the U.S. House of Representatives, District Attorney, and judge



1 not all the county is  
 2 located in that district,  
 3 then in voting, only those  
 4 members of the county  
 5 executive committee who  
 6 reside within the  
 7 district shall vote  
 8

|  |                  |   |
|--|------------------|---|
| 9 Judge of Superior Court in a<br>10 <del>single county superior</del><br>11 <del>court district where the</del><br>12 <del>district is the whole</del><br>13 <del>county or part of the</del><br>14 <del>county</del> | †<br>†<br>†<br>† | County executive committee<br>of political party in<br>which vacancy occurs;<br>provided, in the case of<br>a superior court judge in a<br>single county district where<br>not all the county is<br>located in that district,<br>then in voting, only those<br>members of the county<br>executive committee who<br>reside within the<br>district shall vote |
|--|------------------|---|

|  |             |   |
|--|-------------|---|
| 23 Judge of Superior Court in a<br>24 <del>multi county superior</del><br>25 <del>court district</del> | †<br>†<br>† | Appropriate district<br>executive committee of<br>political party in which<br>vacancy occurs. |
|--|-------------|---|

27 The party executive making a nomination in accordance with the provisions of this  
 28 section shall certify the name of its nominee to the chairman of the board of elections,  
 29 State or county, charged with the duty of printing the ballots on which the name is to  
 30 appear. If at the time a nomination is made under this section the general election ballots  
 31 have already been printed, the provisions of G.S. 163-139 shall apply. If any person  
 32 nominated as a candidate of a political party vacates such nomination and such vacancy  
 33 arises from a cause other than death and the vacancy in nomination occurs more than 120  
 34 days before the general election, the vacancy in nomination may be filled under this  
 35 section only if the appropriate executive committee certifies the name of the nominee in  
 36 accordance with this paragraph at least 75 days before the general election.

37 ~~In a county which is partly in a multi county superior court district, in choosing that~~  
 38 ~~county's member or members of the superior court district executive committee for the~~  
 39 ~~multi county district, only the county convention delegates or county executive~~  
 40 ~~committee members who reside within the area of the county which is within that multi-~~  
 41 ~~county district may vote.~~

42 In a county not all of which is located in one congressional district, in choosing the  
 43 congressional district executive committee member or members from that area of the

1 county, only the county convention delegates or county executive committee members  
2 who reside within the area of the county which is within the congressional district may  
3 vote.

4 In a county which is partly in a multi-county senatorial district or which is partly in a  
5 multi-county House of Representatives district, in choosing that county's member or  
6 members of the senatorial district executive committee or House of Representatives  
7 district executive committee for the multi-county district, only the county convention  
8 delegates or county executive committee members who reside within the area of the  
9 county which is within that multi-county district may vote."

10 Sec. 10. G.S. 163-122 is amended by adding the following subsection:

11 "(c) This section does not apply to elections under Article 25 of this Chapter."

12 Sec. 11. G.S. 163-135 is amended by adding a new subsection to read:

13 "(f) Judicial Elections. Except as provided by Article 25 of this Chapter, this  
14 Article shall apply to and control all elections for judges of the superior court."

15 Sec. 12. G.S. 163-137(a) is amended by adding the following new subdivision:

16 "(4) The names of all candidates nominated under Article 25 of this  
17 Chapter."

18 Sec. 13. G.S. 163-138 reads as rewritten:

19 "**§ 163-138. Instructions for printing names on primary and election ballots.**

20 In preparing primary, general, and special election ballots, the legal name of a  
21 candidate (together with his nickname in the situation outlined below) shall be printed  
22 precisely as it appears on the notice of candidacy form filed in accordance with G.S. ~~163-~~  
23 ~~106-163-106~~, G.S. 163-323, or in petition forms filed in accordance with G.S. 163-122.  
24 If the candidate has inserted a nickname on the notice of candidacy or in the petition, it  
25 shall be printed on the ballot immediately before the candidate's surname and shall be  
26 enclosed by parentheses. Notwithstanding the previous sentence, if the candidate has  
27 used his nickname in lieu of first and middle names as permitted by G.S. 163-106(a),  
28 unless another candidate for the same office who files a notice of candidacy has the same  
29 last name, the nickname shall be printed on the ballot immediately before the candidate's  
30 surname but shall not be enclosed by parentheses. If another candidate for the same  
31 office who filed a notice of candidacy has the same last name, then the candidate's name  
32 shall be printed on the ballot in accordance with the alternate indicated by the candidate  
33 on his affidavit under G.S. ~~163-106(a)-163-106(a)~~ or G.S. 163-323(a). No title,  
34 appendage, or appellation indicating rank, status, or position, shall be printed before or  
35 following or as a nickname or in connection with the name of any candidate on any  
36 ballot. Nevertheless, a candidate who is a married woman may use the prefix 'Mrs.' and a  
37 candidate who is a single woman may use the prefix 'Miss' before her name if she so  
38 elects."

39 Sec. 14. G.S. 163-140(b)(4) reads as rewritten:

40 "(4) State Ballot: Beneath the title and general instructions set out in this  
41 subsection, the ballot for single-seat contests for State officers, and for  
42 all State officers where mechanical voting machines are used (~~including~~  
43 ~~judges of the superior court~~) shall be divided into parallel columns

1 separated by distinct black lines. The State Board of Elections shall  
2 assign a separate column to each political party having candidates for  
3 State offices and one to unaffiliated candidates, if any. At the head of  
4 each party column the party's name shall be printed in large type, and at  
5 the head of the column for unaffiliated candidates shall be printed in  
6 large type the words 'Unaffiliated Candidates.' Below the party name in  
7 each column shall be printed a circle, one-half inch in diameter, around  
8 which shall be plainly printed the following instruction: 'For a straight  
9 ticket, mark within this circle.' With distinct black lines, the State Board  
10 of Elections shall divide the columns into horizontal sections and, in the  
11 customary order of office, assign a separate section to each office or  
12 group of offices to be filled. On a single line at the top of each section  
13 shall be printed a direction as to the number of candidates for whom a  
14 vote may be cast. If candidates are to be chosen for different terms to  
15 the same office, the term in each instance shall be printed as part of the  
16 title of the office.

17 The name or names of each political party's candidate or candidates  
18 for each office listed on the ballot shall be printed in the appropriate  
19 office section of the proper party column, and the names of unaffiliated  
20 candidates shall be printed in the appropriate office section of the  
21 column headed 'Unaffiliated Candidates.' At the left of each name shall  
22 be printed a voting square, and in each column all voting squares shall  
23 be arranged in a perpendicular line.

24 On the face of the ballot, above the party and unaffiliated column  
25 division, the following instructions shall be printed in heavy black type,  
26 and the words 'you must also' in instruction c. shall be underlined:

- 27 'a. To vote for all candidates of one party (a straight ticket), make a  
28 cross (X) mark in the circle of the party for whose candidates you  
29 wish to vote.
- 30 b. You may vote a split ticket by not marking a cross (X) mark in  
31 the party circle, but by making a cross (X) mark in the square  
32 opposite the name of each candidate for whom you wish to vote.
- 33 c. You may also vote a split ticket by marking a cross (X) mark in  
34 the party circle and then making a cross (X) mark in the square  
35 opposite the name of any candidate you choose of a different  
36 party. In any multi-seat race where a party circle is marked and  
37 you vote for candidates of another party, you must also make a  
38 cross (X) mark opposite the name of any candidate you choose of  
39 the party for which you marked the party circle to assure your  
40 vote will count.
- 41 d. If you tear or deface or wrongly mark this ballot, return it and get  
42 another.'

1                   On the bottom of the ballot shall be printed an identified  
2                   facsimile of the signature of the Chairman of the State Board of  
3                   Elections. If the State ballot contains no multi-seat race, then the  
4                   second sentence of instruction b. shall not appear on the ballot."

5           Sec. 15. G.S. 163-140(b) is amended by adding a new subdivision to read:

6           "(9) Judicial ballot for superior court. The form of the judicial ballot for  
7           judges of the superior court and district court shall be prepared by the  
8           county board of elections. On the face of the ballot, shall be printed  
9           instructions for marking the voter's choice, in addition to the following  
10           instruction: 'If you tear or deface or wrongly mark this ballot, return it  
11           and get another.' On the bottom of the ballot shall be printed an  
12           identified facsimile of the signature of the chairman of the responsible  
13           county board of elections. This ballot may not be combined with any  
14           other ballot except another judicial ballot."

15           Sec. 16. G.S. 163-140(c)(2) reads as rewritten:

16           "(2) Separate Ballots for Each Political Party: For each political party  
17           conducting a primary election separate ballots shall be printed, and the  
18           paper used for each party's ballots shall be different in color from that  
19           used for the ballots of other parties. Ballots for primaries held under  
20           Article 25 of this Chapter shall be different in color than the ballots of  
21           parties. Primary ballots shall not provide for voting a straight-party  
22           ticket, but a voting square shall be printed to the left of the name of each  
23           candidate appearing on the ballot."

24           Sec. 17. G.S. 163-191 reads as rewritten:

25           **"§ 163-191. Contested primaries and elections; how tie broken.**

26           In a primary for party nomination for one or more of the offices to be canvassed by  
27           the State Board of Elections under the provisions of G.S. 163-187, the results shall be  
28           determined in accordance with the provisions of G.S. 163-111.

29           In a general election for one or more of the offices to be canvassed by the State Board  
30           of Elections under the provisions of G.S. 163-187, the persons having the highest number  
31           of votes for each office, respectively, shall be declared duly elected to that office by the  
32           State Board of Elections. But if two or more be equal and highest in votes for the office,  
33           then the State Board of Elections shall order a new election for the purpose of breaking  
34           the tie ~~vote.~~ except if there is a tie for superior court judge the tie shall be broken in  
35           accordance with Article 25 of this Chapter."

36           Sec. 18. The names of any persons validly placed on the ballot for superior  
37           court judge for the 1996 election under G.S. 163-98 or Article 10 of 11 of Chapter 163 of  
38           the General Statutes shall be considered to have filed notice of candidacy under G.S. 163-  
39           233 for the 1996 election.

40           Sec. 19. This act is effective upon ratification.