

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 787\*  
Judiciary I Committee Substitute Adopted 4/23/01

Short Title: Judicial App./ Voter Retention.

(Public)

Sponsors:

Referred to:

April 3, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE FOR GUBERNATORIAL APPOINTMENT OF JUSTICES OF THE SUPREME COURT AND JUDGES OF THE COURT OF APPEALS SUBJECT TO CONFIRMATION BY THE GENERAL ASSEMBLY AND TO PROVIDE FOR RETENTION BY VOTE OF THE PEOPLE.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 16 of Article IV of the North Carolina Constitution reads as rewritten:

~~"Sec. 16. Terms of office and election of Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court. Selection and tenure of Justices of the Supreme Court and Judges of the Court of Appeals; election of Judges of the Superior Court.~~

~~(1) *Election of judges of the Superior Court.* Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until their successors are elected and qualified. Justices of the Supreme Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of the Superior Court may shall be elected by the qualified voters of the State or by the voters of their respective districts, as the General Assembly may prescribe. districts.~~

~~(2) *Appointment, retention election, and terms of justices and judges of the Appellate Division.* On and after January 1, 2003, when a vacancy occurs in the office of Chief Justice, Associate Justice, or Judge of the Appellate Division, the Governor shall appoint a person to fill the vacancy. For the purposes of this section, creation of a new judgeship within the Appellate Division creates a vacancy. Prior to appointment, such nominations by the Governor shall be subject to confirmation of the General Assembly by a simple majority of the members of each house present and voting. Each house of the General Assembly shall vote on confirmation within 60 calendar days of~~

1 the date of nomination, except that no day shall be included within that calculation if it  
2 is:

- 3           (a) Between sine die adjournment of one regular session and  
4           convening of the next regular session; or  
5           (b) During any period when the General Assembly has adjourned a  
6           regular session for more than 30 days jointly as provided under  
7           Section 20 of Article II of this Constitution.

8       If a nomination is made during either of the periods listed in subdivision (a) or (b) of  
9 this subsection, the Governor may convene the General Assembly in extra session for  
10 the purpose of considering confirmation of the nomination. No action of that extra  
11 session shall be valid after the second calendar day of that session, and that extra session  
12 may not consider any matters other than rules for the extra session, confirmation of the  
13 nomination, and adjournment sine die. The nomination may not be confirmed in any  
14 extra session other than one called under this subsection.

15       The term of office by appointment as Chief Justice, Associate Justice, or Judge of  
16 the Appellate Division extends through December 31 after the next statewide election  
17 for members of the General Assembly that is held more than 60 months after the  
18 appointment. At that election, a person holding by appointment the office of Chief  
19 Justice, Associate Justice, or Judge of the Appellate Division who desires to continue in  
20 office shall be subject to approval by nonpartisan ballot, by a majority of the votes cast  
21 on the issue of the Justice's or Judge's retention. A Chief Justice, Associate Justice, or  
22 Judge of the Appellate Division then approved for retention serves a regular term.

23       The regular term of office of the Chief Justice, Associate Justices, and Judges of the  
24 Appellate Division is eight years and expires on December 31.

25       A Chief Justice, Associate Justice, or Judge of the Appellate Division who desires to  
26 continue in office shall be subject to approval by nonpartisan ballot, by a majority of the  
27 votes cast on the issue of the Justice's or Judge's retention during the next general  
28 election preceding December 31 of the year that the Justice's or Judge's eight-year term  
29 would expire.

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

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

36       (3) *Transition provisions.* A person elected before January 1, 2003, to the office  
37 of Chief Justice, Associate Justice, or Judge of the Appellate Division for a term which  
38 extends beyond January 1, 2003, and who is in office on January 1, 2003, may continue  
39 to serve for the remainder of the term. That person may stand for retention in the office  
40 for a succeeding regular term as provided in this section, subject to the provisions of  
41 G.S. 7A-4.20. If the person continues to serve for the remainder of the term but does not

1 stand for retention election, a vacancy is created in the office upon expiration of the  
2 term, and this vacancy shall be filled by appointment as provided in this section.

3 The term of office of a person who has been appointed before January 1, 2003, to the  
4 office of Chief Justice, Associate Justice, or Judge of the Appellate Division for a term  
5 which extends beyond January 1, 2003, and who is in office on January 1, 2003, shall  
6 end on December 31, 2004. If the person so appointed wishes to continue to serve an  
7 additional term, that person shall provide written notice to the Governor, the President  
8 of the Senate, and the Speaker of the House of Representatives no later than 5:00 P.M.  
9 on April 30, 2004, and shall be reappointed subject to confirmation by the General  
10 Assembly as provided herein. The term of office by reappointment of the person, if so  
11 confirmed, shall be the same as the term of office when the Governor makes an  
12 appointment and the appointment is confirmed by the General Assembly, as provided  
13 herein. The term of office for the person will begin January 1, 2005.

14 Upon the death, resignation, removal, or retirement of any incumbent Justice or  
15 Judge on or after January 1, 2003, and before the expiration of the Justice's or Judge's  
16 term of office, the resulting vacancy shall be filled by appointment as provided in this  
17 section.

18 Vacancies in judicial offices in the Appellate Division occurring before January 1,  
19 2003, and not filled by that date shall be filled by appointment as provided in this  
20 section.

21 From the date any incumbent described in this subsection is continued in office by  
22 retention vote for a term next succeeding the term in progress on January 1, 2003, or is  
23 succeeded in office by another person, the office is held subject to the provisions of this  
24 section.

25 (4) The General Assembly may implement this section by general law."

26 **SECTION 2.** The amendment set out in Section 1 of this act shall be  
27 submitted to the qualified voters of the State at the general election in November 2002,  
28 which election shall be conducted under the laws then governing elections in the State.  
29 Ballots, voting systems, or both may be used in accordance with Chapter 163 of the  
30 General Statutes.

31 "[ ] FOR [ ] AGAINST

32 Constitutional amendment to replace the present practice of partisan election  
33 of justices and judges of the Appellate Division with a method by which justices and  
34 judges of the Appellate Division will be appointed by the Governor, confirmed by the  
35 General Assembly, and then serve for limited terms after which the question of the  
36 justice's or judge's retention in office is regularly submitted for approval or disapproval  
37 by nonpartisan vote of the people at general elections."

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



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

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

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

14       (d) If a person who has filed a notice calling a retention election dies or is  
15 removed from office prior to the time that the ballots are printed, the retention election  
16 is cancelled. If a person who has filed a notice calling a retention election dies or is  
17 removed from office after the ballots are printed, the State Board of Elections may  
18 cancel the election if it determines that the ballots can be reprinted without significant  
19 expense. If the ballots cannot be reprinted, then the results of the election shall be  
20 ineffective.

21 **"§ 7A-4.6. Filing fees; refunds.**

22       A person filing a notice to continue in office shall pay to the State Board of  
23 Elections at the time of filing a filing fee in the amount of one percent (1%) of the  
24 annual salary of the office sought. If any person who has filed a notice under this  
25 section and paid the filing fee withdraws his or her notice prior to the date on which the  
26 right to file for that office expires, he or she shall be entitled to have the fee refunded.  
27 The chairman of the State Board of Elections shall cause a warrant to be drawn on the  
28 State Treasurer for the refund payment. If any person who has filed a notice under this  
29 section and paid the filing fee dies prior to the date of the election, the personal  
30 representative of the estate shall be entitled to have the fee refunded if application is  
31 made to the State Board of Elections no later than one year after the date of death, and  
32 refund shall be made in the same manner as in withdrawal of candidacy."

33       **SECTION 3.2.** G.S. 163-140(a) reads as rewritten:

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

- 36       (1) Ballot for presidential electors
- 37       (2) Ballot for United States Senator
- 38       (3) Ballot for member of the United States House of Representatives
- 39       (4) State ballot
- 40       (5) County ballot
- 41       (6) Repealed by Session Laws 1973, c. 793, s. 56

1 (7) Ballot for constitutional amendments and other propositions submitted  
2 to the people

3 (8) Judicial ballot for superior court.

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

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

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

22 ~~All candidates for the Appellate Division shall appear on the same ballot."~~

23 **SECTION 3.3.** For the purpose of Section 1 of this act, terms of justices and  
24 judges covered by Section 2 of Chapter 98 of the 1995 Session Laws are as provided by  
25 that act.

26 **SECTION 3.4.** G.S. 7A-10(a) reads as rewritten:

27 "(a) The Supreme Court shall consist of a Chief Justice and six associate ~~justices,~~  
28 ~~elected by the qualified voters of the State for terms of eight years.~~justices selected as  
29 provided by Article 1A of this Chapter. Before entering upon the duties of his office,  
30 each justice shall take an oath of office. Four justices shall constitute a quorum for the  
31 transaction of the business of the court. Except as otherwise provided in this subsection,  
32 sessions of the court shall be held in the city of Raleigh, and scheduled by rule of court  
33 so as to discharge expeditiously the court's business. The court may by rule hold  
34 sessions not more than twice annually in the Old Chowan County Courthouse (1767) in  
35 the Town of Edenton, which is a State-owned court facility that is designated as a  
36 National Historic Landmark by the United States Department of the Interior."

37 **SECTION 3.5.** G.S. 7A-16 reads as rewritten:

38 "**§ 7A-16. Creation and organization.**

39 ~~The Court of Appeals is created effective January 1, 1967. It shall consist initially of~~  
40 ~~six judges, elected by the qualified voters of the State for terms of eight years. The~~  
41 ~~Chief Justice of the Supreme Court shall designate one of the judges as Chief Judge, to~~  
42 ~~serve in such capacity at the pleasure of the Chief Justice. Before entering upon the~~

1 duties of his office, a judge of the Court of Appeals shall take the oath of office  
2 prescribed for a judge of the General Court of Justice.

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

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

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

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

24 On or after December 15, 2000, the Governor shall appoint three additional judges  
25 to increase the number of judges to 15. Each judgeship shall not become effective until  
26 the temporary appointment is made, and each appointee shall serve from the date of  
27 qualification until January 1, 2005. Those judges' successors shall be elected in the 2004  
28 general election and shall take office on January 1, 2005, to serve terms expiring  
29 December 31, 2012.

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

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

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

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

5 **SECTION 3.6.** G.S. 163-106(c) reads as rewritten:

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

10 Governor

11 Lieutenant Governor

12 All State executive officers

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

14 Judges of the district courts

15 United States Senators

16 Members of the House of Representatives of the United States

17 District attorneys

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

22 State Senators

23 Members of the State House of Representatives

24 All county offices."

25 **SECTION 3.7.** G.S. 163-106(d) reads as rewritten:

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

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

39 **SECTION 3.8.** G.S. 163-107(a) reads as rewritten:

40 "(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate  
41 shall pay to the board of elections with which he files under the provisions of G.S.

1	163-106 a filing fee for the office he seeks in the amount specified in the following	
2	tabulation:	
3	Office Sought	Amount of Filing Fee
4	Governor	One percent (1%) of the annual
5		salary of the office sought
6	Lieutenant Governor	One percent (1%) of the annual
7		salary of the office sought
8	All State executive offices	One percent (1%) of the annual
9		salary of the office sought
10	<del>All Justices, Judges, and</del>	One percent (1%) of the annual
11	<u>District Court Judges and</u>	salary of the office sought
12	District Attorneys of the	
13	General Court of Justice	
14	other than superior court	
15	judge	
16	United States Senator	One percent (1%) of the annual
17		salary of the office sought
18	Members of the United States	One percent (1%) of the annual
19	House of Representatives	salary of the office sought
20	State Senator	One percent (1%) of the annual
21		salary of the office sought
22	Member of the State House of	One percent (1%) of the annual
23	Representatives	salary of the office sought
24	All county offices not	One percent (1%) of the annual
25	compensated by fees	salary of the office sought
26	County commissioners, if	Ten dollars (\$10.00)
27	compensated entirely by fees	
28	Members of county board of	Five dollars (\$5.00)
29	education, if compensated	
30	entirely by fees	
31	Sheriff, if compensated	Forty dollars (\$40.00), plus one
32	entirely by fees	percent (1%) of the income of the
33		office above four thousand
34		dollars (\$4,000)
35	Clerk of superior court, if	Forty dollars (\$40.00), plus one
36	compensated entirely by fees	percent (1%) of the income of the
37		office above four thousand
38		dollars (\$4,000)
39	Register of deeds, if	Forty dollars (\$40.00), plus one
40	compensated entirely by fees	percent (1%) of the income of the
41		office above four thousand
42		dollars (\$4,000)

1	Any other county office, if	Twenty dollars (\$20.00), plus one
2	compensated entirely by fees	percent (1%) of the income of the
3		office above two thousand dollars
4		(\$2,000)
5	All county offices compensated	One percent (1%) of the first
6	partly by salary and partly	annual salary to be received
7	by fees	(exclusive of fees)."

8           **SECTION 3.9.** G.S. 163-107.1(b) reads as rewritten:

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

25           **SECTION 3.10.** G.S. 163-111(c)(1) reads as rewritten:

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

41           Governor,  
42           Lieutenant Governor,

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

10 **SECTION 3.11.** G.S. 163-177 reads as rewritten:

11 **"§ 163-177. Disposition of duplicate abstracts.**

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

18 President and Vice-President of the United States  
19 Governor, Lieutenant Governor, and all other State executive officers  
20 United States Senators  
21 Members of the House of Representatives of the United States Congress  
22 ~~Justices, Judges, and Superior Court Judges, District Court Judges, and~~  
23 District Attorneys of the General Court of Justice  
24 State Senators in ~~multi-county~~multicounty senatorial districts  
25 Members of the State House of Representatives in ~~multi-county~~multicounty  
26 representative districts  
27 Constitutional amendments and propositions submitted to the voters of the  
28 State.

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

35 All county offices  
36 State Senators in single-county senatorial districts  
37 Members of the State House of Representatives in single-county  
38 representative districts  
39 Propositions submitted to the voters of one county.

40 If the chairman of the county board of elections fails or neglects to transmit  
41 duplicate abstracts to the chairman of the State Board of Elections within the time  
42 prescribed in this section, he shall be guilty of a Class 2 misdemeanor. Provided, that

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

5 **SECTION 3.12.** G.S. 163-192 reads as rewritten:

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

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

- 10 (1) For Governor and all State ~~officers, justices of the Supreme Court,~~  
11 ~~judges of the Court of Appeals, officers~~ and United States 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 (3a) For superior court judges for the several superior 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,~~  
36 ~~judges of the Court of Appeals, officers~~ and United States Senators.  
37 (3) For members of the United States House of Representatives for the  
38 several congressional districts in the State.  
39 (4) For district court judges for the several district court districts as  
40 defined in G.S. 7A-133 in the State.  
41 (4a) For superior court judges for the several superior court districts in the  
42 State.

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

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

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

17 (c) Disposition of Abstracts of Returns. – The State Board of Elections shall file  
18 with the Secretary of State the original abstracts of returns prepared by it under the  
19 provisions of subsections (a) and (b) of this section, and also the duplicate county  
20 abstracts transmitted to the State Board of Elections under the provisions of G.S.  
21 163-177. Upon the request of the Legislative Services Office, the Secretary of State  
22 shall submit a copy of the original abstracts to that Office."

23 **SECTION 3.13.** G.S. 163-194 reads as rewritten:

24 **"§ 163-194. Governor to issue commissions to certain elected officials.**

25 Every person duly elected to one of the offices listed below, upon obtaining a  
26 certificate of his election from the Secretary of State under the provisions of G.S.  
27 163-193, shall procure from the Governor a commission attesting his election to the  
28 specified office, which the Governor shall issue upon production of the Secretary of  
29 State's certificate:

30 Members of the United States House of Representatives,  
31 ~~Justices, Judges, and Superior Court Judges, District Court Judges, and District~~  
32 ~~Attorneys of the General Court of Justice."~~

33 **SECTION 3.14.** G.S. 163-1 is amended in the table by deleting the entries  
34 for "Justices and Judges of the Appellate Division".

35 **SECTION 3.15.** G.S. 163-9 reads as rewritten:

36 **"§ 163-9. Filling vacancies in State and district judicial offices.**

37 (a) Vacancies occurring in the ~~offices of Justice of the Supreme Court, judge of~~  
38 ~~the Court of Appeals, and office of~~ judge of the superior court for causes other than  
39 expiration of term shall be filled by appointment of the Governor. An appointee to the  
40 office of Justice of the Supreme Court or judge of the Court of Appeals shall hold office  
41 until January 1 next following the election for members of the General Assembly that is

1 held more than 60 days after the vacancy occurs, at which time an election shall be held  
2 for an eight-year term and until a successor is elected and qualified.

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

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

9 (1) With only one resident judge; or

10 (2) In which no county is subject to section 5 of the Voting Rights Act of  
11 1965,

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

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

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

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

25 **SECTION 4.** This act is effective when it becomes law.