

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 560

Short Title: Judicial Selection/Comprehensive Reform.

(Public)

Sponsors: Representatives Culpepper; and Redwine.

Referred to: Judiciary I.

March 27, 1995

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE FOR THE APPOINTMENT OF APPELLATE JUSTICES AND JUDGES BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE GENERAL ASSEMBLY, TO PROVIDE FOR RECESS APPOINTMENTS PENDING CONFIRMATION, TO PROVIDE FOR TRANSITIONAL AND OTHER PROVISIONS NECESSARY TO MOVE FROM AN ELECTIVE TO AN APPOINTIVE SYSTEM, TO AMEND THE CONSTITUTION TO ALLOW FOR THE APPOINTMENT OF SPECIAL DISTRICT COURT JUDGES, AND TO GENERALLY PROVIDE FOR NONPARTISAN ELECTION OF TRIAL JUDGES IN THEIR DISTRICTS AT THE TIME OF THE PRIMARY ELECTION.

The General Assembly of North Carolina enacts:

Section 1. Section 6(1) of Article IV of the North Carolina Constitution reads as rewritten:

"(1) **Membership.** The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. The Governor shall nominate, and with the advice and consent of a majority of the Senate and of the House of Representatives present and voting, appoint the Chief Justice and the Associate Justices. The General Assembly may by law permit persons nominated to serve pending appointment, and it may permit

1 persons appointed to serve pending the beginning of their initial term. In the event the
2 Chief Justice is unable, on account of absence or temporary incapacity, to perform any of
3 the duties placed upon him, the senior Associate Justice available may discharge these
4 duties."

5 Sec. 2. Section 7 of Article IV of the North Carolina Constitution reads as
6 rewritten:

7 **"Sec. 7. Court of Appeals.**

8 The structure, organization, and composition of the Court of Appeals shall be
9 determined by the General Assembly. The Governor shall nominate, and with the advice
10 and consent of a majority of the Senate and of the House of Representatives present and
11 voting, appoint the Judges of the Court of Appeals. The General Assembly may by law
12 permit persons nominated to serve pending appointment, and it may permit persons
13 appointed to serve pending the beginning of their initial term. The Court shall have not
14 less than five members, and may be authorized to sit in divisions, or other than en banc.
15 Sessions of the Court shall be held at such times and places as the General Assembly may
16 prescribe."

17 Sec. 3. Section 16 of Article IV of the North Carolina Constitution reads as
18 rewritten:

19 "Sec. 16. Terms of office and ~~election~~selection of Justices of the Supreme Court,
20 Judges of the Court of Appeals, and Judges of the Superior Court.

21 ~~Justices of the Supreme Court, Judges of the Court of Appeals, and regular~~ Judges of
22 the Superior court shall be elected by the qualified voters and shall hold office for terms
23 of eight years and until their successors are elected and qualified. ~~Justices of the
24 Supreme Court and Judges of the Court of Appeals shall be elected by the qualified
25 voters of the State.~~ Regular Judges of the Superior Court may be elected by the qualified
26 voters of the State or by the voters of their respective districts, as the General Assembly
27 may prescribe.

28 Justices of the Supreme Court and Judges of the Court of Appeals shall be appointed
29 as provided by this Article and shall hold office for terms of eight years and until their
30 successors are elected and qualified."

31 Sec. 4. Section 19 of Article IV of the North Carolina Constitution reads as
32 rewritten:

33 "Sec. 19. Vacancies.

34 ~~(1) Unless otherwise provided in this Article, all vacancies occurring in the offices
35 provided for by this Article~~ Vacancies in the offices of Regular Superior Court Judges
36 and district attorney shall be filled by appointment of the Governor, and the appointees
37 shall hold their places until the next election for members of the General Assembly that is
38 held more than 60 days after the vacancy occurs, when elections shall be held to fill the
39 offices. When the unexpired term of any ~~of the offices named in this Article of the
40 Constitution in which a vacancy has occurred, and in which it is herein provided that the
41 Governor shall fill the vacancy,~~ Regular Superior Court Judge or district attorney expires
42 on the first day of January succeeding the next election for members of the General
43 Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the

1 office. If any person elected or appointed to ~~any of these offices~~ the office of Regular
2 Superior Court Judge, district attorney, or clerk of superior court shall fail to qualify, the
3 office shall be appointed to, held and filled as provided in case of vacancies occurring
4 therein. All incumbents of these offices shall hold until their successors are qualified.

5 (2) When a vacancy occurs in the office of Chief Justice or Associate Justice of the
6 Supreme Court, or Judge of the Court of Appeals, the Governor shall nominate, and with
7 the advice and consent of a majority of those present and voting of the Senate and of the
8 House of Representatives, appoint a person to fill the unexpired term of the office. The
9 General Assembly may authorize by law interim appointment by the Governor without
10 the advice and consent of the General Assembly, subject to such limitation on the
11 duration of the interim appointment as the General Assembly shall provide by general
12 law." ♦

13 Sec. 5. Article IV of the North Carolina Constitution is amended by adding a
14 new section to read:

15 "Sec. 23. Transition to appointment system.

16 Justices of the Supreme Court and Judges of the Court of Appeals holding office on
17 the effective date of amendments to this Article deleting provisions requiring elections
18 for Justices and Judges, and inserting in their place provisions requiring appointment of
19 Justices and Judges, shall continue in office until the expiration of their terms. The
20 General Assembly may also provide by general law for the extension of terms of such
21 Justices and Judges if necessary to an orderly transition to an appointive system of initial
22 selection."

23 Sec. 6. Section 10 of Article IV of the Constitution of North Carolina reads as
24 rewritten:

25 "Sec. 10. District Courts.

26 The General Assembly shall, from time to time, divide the State into a convenient
27 number of local court districts and shall prescribe where the District Courts shall sit, but a
28 District Court must sit in at least one place in each county. Regular District Judges shall
29 be elected for each district for a term of four years, in a manner prescribed by law. When
30 more than one District Judge is authorized and elected for a district, the Chief Justice of
31 the Supreme Court shall designate one of the judges as Chief District Judge. The General
32 Assembly may provide by general law for the appointment of special district court judges
33 not selected for a particular district. Every Regular District Judge shall reside in the
34 district for which he is elected. For each county, the senior regular resident Judge of the
35 Superior Court serving the county shall appoint for a term of two years, from
36 nominations submitted by the Clerk of the Superior Court of the county, one or more
37 Magistrates who shall be officers of the District Court. The number of District Judges
38 and Magistrates shall, from time to time, be determined by the General Assembly.
39 Vacancies in the office of District Judge shall be filled for the unexpired term in a manner
40 prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired
41 term in the manner provided for original appointment to the office."

42 Sec. 7. The amendments set out in Sections 1 through 6 of this act shall be
43 submitted to the qualified voters of the State at a statewide election on November 7,

1 1995, which election shall be conducted under the laws then governing elections in the
2 State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of
3 the General Statutes. The question to be used in the voting systems and ballots shall be:

4 **"[] FOR [] AGAINST**

5 Constitutional amendments to change from election to appointment of
6 appellate judges by the Governor subject to the advice and consent of the General
7 Assembly, for terms of eight years, to allow the appointment of special district court
8 judges, and to provide by law for nonpartisan election of superior court and district court
9 judges."

10 Sec. 8. If a majority of votes cast on the question are in favor of the
11 amendments set out in Sections 1 through 6 of this act, the State Board of Elections shall
12 certify the amendments to the Secretary of State. The amendments become effective
13 upon this certification. The Secretary of State shall enroll the amendments so certified
14 among the permanent records of that office.

15 Sec. 8.1. Notwithstanding G.S. 163-107(c), in 1996 only, if at the time filing
16 of notices for candidacy for the offices of Chief Justice of the Supreme Court, Justice of
17 the Supreme Court, or Judge of the Court of Appeals is to open under G.S. 163-106(c),
18 the provisions of this act that provide that those offices are no longer elective have not
19 been approved under section 5 of the Voting Rights Act of 1965, then notices of
20 candidacy for that office shall not be filed with the State Board of Elections earlier than
21 the third Monday in January.

22 Sec. 9. Chapter 7A of the General Statutes is amended by adding a new
23 Article to read:

24 **"ARTICLE 1A.**

25 **"APPOINTMENT AND CONFIRMATION OF JUSTICES AND JUDGES.**

26 **"§ 7A-4.1. Appointment of justices and judges by Governor and confirmation by**
27 **General Assembly.**

28 (a) When a new judgeship on the Supreme Court or Court of Appeals is created,
29 the Governor shall, within 120 days after the act creating the judgeship becomes law,
30 nominate a person to serve in the judgeship.

31 (b) When a vacancy occurs in the office of Chief Justice of the Supreme Court,
32 Associate Justice of the Supreme Court, or Judge of the Court of Appeals, the Governor
33 shall nominate a person to fill the vacancy for the remainder of the unexpired term. The
34 Governor shall submit the nomination to the General Assembly no later than 120 days
35 after the vacancy is created.

36 (c) When a term of office of Chief Justice of the Supreme Court, Associate Justice
37 of the Supreme Court, or Judge of the Court of Appeals is to expire, the Governor should
38 submit a nomination no later than March 1 of the year the term is to expire.

39 (d) Nominees are subject to confirmation as provided in this subsection. A
40 nominee is confirmed by passage of a joint resolution of the General Assembly. The
41 Governor may withdraw a nomination at any time.

42 (e) In addition to any other lawful requirement for service as a justice or judge, a
43 nominee, in order to be eligible to be nominated for Chief Justice of the Supreme Court,

1 Associate Justice of the Supreme Court, or Judge of the Court of Appeals, shall be a
2 registered voter in this State.

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

5 **"§ 7A-4.2. Recess appointments.**

6 No nominee of the Governor to Chief Justice, Associate Justice of the Supreme Court,
7 or Judge of the Court of Appeals, shall be appointed until that appointee shall have been
8 confirmed by joint resolution of the General Assembly, unless the vacancy occurs after
9 the General Assembly has adjourned sine die or for more than 10 days and has not
10 reconvened. If the vacancy occurs after the General Assembly has adjourned sine die or
11 for more than 10 days and has not reconvened, the Governor may appoint a person who
12 shall assume office and serve until the earlier of the expiration of the term or the sixtieth
13 calendar day following the next day either house of the General Assembly is in session.
14 After that date, the appointee does not hold over.

15 **"§ 7A-4.3. Confirmation procedures.**

16 (a) A legislative committee to which the issue of confirmation is referred may
17 conduct an investigation of the nominee. Documents prepared or received by the
18 committee in the course of its investigation are confidential and not subject to public
19 inspection without the consent of the nominee, notwithstanding the provisions of Chapter
20 132 of the General Statutes. The investigation may include an evaluation of the
21 nominee's ethical conduct, the nominee's knowledge of and application of the law, the
22 nominee's management of the courts over which he has presided, the nominee's work
23 habits, the nominee's health, the nominee's judicial demeanor, and any other matter that
24 the Committee determines to be relevant to its inquiry. The nominee or judge shall be
25 given an opportunity to present to the committee any information that the nominee
26 determines to be appropriate.

27 (b) The committee shall be allowed to inspect the files of the Judicial Standards
28 Commission by request of the chairman of the committee. Notwithstanding the
29 provisions of G.S. 7A-377, the files of the Judicial Standards Commission shall be made
30 available to the committee. Meetings of the committee shall not be subject to the
31 provisions of Article 33C of Chapter 143 of the General Statutes. Testimony and other
32 evidence presented to the committee is privileged in any action for defamation.

33 **"§ 7A-4.4. Governor to issue commissions to justices and judges.**

34 Every person duly nominated by the Governor as Chief Justice of the Supreme Court,
35 Associate Justice of the Supreme Court, or Judge of the Court of Appeals and duly
36 confirmed by the General Assembly shall be appointed by the Governor and shall procure
37 from the Governor a commission attesting that fact, which the Governor shall issue upon
38 receipt of a certification by the Secretary of State of the joint resolution of confirmation.
39 The Secretary of State shall inform the Governor whenever the General Assembly
40 adjourns or recesses for more than 30 days or adjourns sine die.

41 **"§ 7A-4.5. Transitional provisions for judges in office on effective date of Article.**

42 (a) Terms of office of justices and judges of the Supreme Court and Court of
43 Appeals in office on December 31, 1996, are extended until August 31 of the year in

1 which they would have expired. Succeeding terms commence on September 1, and terms
2 of any additional justices of the Supreme Court or judges of the Court of Appeals
3 commence on September 1, except that the General Assembly may provide for
4 commencement at an earlier date in that year, with the expiration remaining at eight years
5 from September 1.

6 (b) No election for Chief Justice or Associate Justice of the Supreme Court, or
7 Judge of the Court of Appeals, shall be held in 1996 or thereafter.

8 **"§ 7A-4.6. Regular Judge only.**

9 This Article does not apply to vacancies in the office of special, emergency, or special
10 emergency judge of Superior Court."

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

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

18 Sec. 11. G.S. 7A-16 reads as rewritten:

19 **"§ 7A-16. Creation and organization.**

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

26 ~~The Governor on or after July 1, 1967, shall make temporary appointments to the six~~
27 ~~initial judgeships. The appointees shall serve until January 1, 1969. Their successors shall~~
28 ~~be elected at the general election for members of the General Assembly in November,~~
29 ~~1968, and shall take office on January 1, 1969, to serve for the remainder of the~~
30 ~~unexpired term which began on January 1, 1967.~~

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

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

41 ~~Effective January 1, 1977, the number of judges is increased to 12; and the Governor,~~
42 ~~on or after July 1, 1977, shall make temporary appointments to the additional judgeships~~
43 ~~thus created. The appointees shall serve until January 1, 1979. Their successors shall be~~

1 ~~elected at the general election for members of the General Assembly in November, 1978,~~
2 ~~and shall take office on January 1, 1979, to serve the remainder of the unexpired term~~
3 ~~which began on January 1, 1977.~~

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

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

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

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

20 Sec. 12. G.S. 163-106(c) reads as rewritten:

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

25 Governor

26 Lieutenant Governor

27 All State executive officers

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

29 ~~Judges of the superior courts~~

30 ~~Judges of the district courts~~

31 United States Senators

32 Members of the House of Representatives of the United States

33 District attorneys

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

38 State Senators

39 Members of the State House of Representatives

40 All county offices."

41 Sec. 13. G.S. 163-106(d) reads as rewritten:

42 "(d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any primary
43 in which there are ~~two or more vacancies for Chief Justice and associate justices of the~~

1 ~~Supreme Court, two or more vacancies for judge of the Court of Appeals, or two~~
 2 ~~vacancies for United States Senator from North Carolina or two or more vacancies for the~~
 3 ~~office of district court judge~~ to be filled by nominations, each candidate shall, at the time
 4 of filing notice of candidacy, file with the State Board of Elections a written statement
 5 designating the vacancy to which he seeks nomination. Votes cast for a candidate shall be
 6 effective only for his nomination to the vacancy for which he has given notice of
 7 candidacy as provided in this subsection.

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

12 Sec. 14. G.S. 163-107(a) reads as rewritten:

13 "(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate
 14 shall pay to the board of elections with which he files under the provisions of G.S. 163-
 15 106 a filing fee for the office he seeks in the amount specified in the following tabulation:

16 Office Sought	16 Amount of Filing Fee
17	
18 Governor	One percent (1%) of the annual
19	salary of the office sought
20 Lieutenant Governor	One percent (1%) of the annual
21	salary of the office sought
22 All State executive offices	One percent (1%) of the annual
23	salary of the office sought
24 All Justices, Judges, and—	One percent (1%) of the annual
25 District Attorneys of the	salary of the office sought
26 General Court of Justice	
27 United States Senator	One percent (1%) of the annual
28	salary of the office sought
29 Members of the United States	One percent (1%) of the annual
30 House of Representatives	salary of the office sought
31 State Senator	One percent (1%) of the annual
32	salary of the office sought
33 Member of the State House of	One percent (1%) of the annual
34 Representatives	salary of the office sought
35 All county offices not	One percent (1%) of the annual
36 compensated by fees	salary of the office sought
37 County commissioners, if	Ten dollars (\$10.00)
38 compensated entirely by fees	
39 Members of county board of	Five dollars (\$5.00)
40 education, if compensated	
41 entirely by fees	
42 Sheriff, if compensated	Forty dollars(\$40.00), plus one
43 entirely by fees	percent (1%) of the income of the

1 office above four thousand
 2 dollars (\$4,000)
 3 Clerk of superior court, 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 Register of deeds, if Forty dollars (\$40.00), plus one
 8 compensated entirely by fees percent (1%) of the income of the
 9 office above four thousand
 10 dollars(\$4,000)
 11 Any other county office, if Twenty dollars (\$20.00), plus one
 12 compensated entirely by fees percent (1%) of the income of the
 13 office above two thousand dollars
 14 (\$2,000)
 15 All county offices compensated One percent (1%) of the first
 16 partly by salary and partly annual salary to be received
 17 by fees (exclusive of fees)." Sec. 15. G.S. 163-107.1(b) reads as rewritten:
 18 "(b) If the candidate is seeking the office of United States Senator, Governor,
 19 Lieutenant Governor, or any State executive officer, ~~Justice of the Supreme Court or~~
 20 ~~Judge of the Court of Appeals~~, the petition must be signed by 10,000 registered voters
 21 who are members of the political party in whose primary the candidate desires to run,
 22 except that in the case of a political party as defined by G.S. 163-96(a)(2) which will be
 23 making nominations by primary election, the petition must be signed by ten percent
 24 (10%) of the registered voters of the State who are affiliated with the same political party
 25 in whose primary the candidate desires to run, or in the alternative, the petition shall be
 26 signed by no less than 10,000 registered voters regardless of the voter's political party
 27 affiliation, whichever requirement is greater. The petition must be filed with the State
 28 Board of Elections not later than 12:00 noon on Monday preceding the filing deadline
 29 before the primary in which he seeks to run. The names on the petition shall be verified
 30 by the board of elections of the county where the signer is registered, and the petition
 31 must be presented to the county board of elections at least 15 days before the petition is
 32 due to be filed with the State Board of Elections. When a proper petition has been filed,
 33 the candidate's name shall be printed on the primary ballot."
 34 Sec. 16. G.S. 163-111(c)(1) reads as rewritten:
 35 "(1) A candidate who is apparently entitled to demand a second primary,
 36 according to the unofficial results, for one of the offices listed below,
 37 and desiring to do so, shall file a request for a second primary in writing
 38 or by telegram with the Executive Secretary-Director of the State Board
 39 of Elections no later than 12:00 noon on the seventh day (including
 40 Saturdays and Sundays) following the date on which the primary was
 41 conducted, and such request shall be subject to the certification of the
 42 official results by the State Board of Elections. If the vote certification
 43 by the State Board of Elections determines that a candidate who was not

1 originally thought to be eligible to call for a second primary is in fact
2 eligible to call for a second primary, the Executive Secretary-Director of
3 the State Board of Elections shall immediately notify such candidate
4 and permit him to exercise any options available to him within a 48-
5 hour period following the notification:

6 Governor,
7 Lieutenant Governor,
8 All State executive officers,
9 ~~Justices, Judges, or~~ District Attorneys of the General Court of
10 Justice,
11 United States Senators,
12 Members of the United States House of Representatives,
13 State Senators in multi-county senatorial districts, and
14 Members of the State House of Representatives in multi-county
15 representative districts."

16 Sec. 17. G.S. 163-140(a) reads as rewritten:

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

- 19 (1) Ballot for presidential electors
20 (2) Ballot for United States Senator
21 (3) Ballot for member of the United States House of Representatives
22 (4) State ballot
23 (5) County ballot
24 (6) Repealed by Session Laws 1973, c. 793, s. 56.
25 (7) Ballot for constitutional amendments and other propositions submitted
26 to the people.
27 (8) Judicial ballot for Superior Court and District Court.

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

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

40 Contests in the general election for seats in the State House of Representatives and
41 State Senate shall be on ballots that are separate from ballots containing non-legislative
42 contests, except where the voting system used makes separation of ballots impractical.

1 State House and State Senate contests shall be on the same ballot, unless one is a single-
2 seat contest and the other a multi-seat contest.

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

9 The same rules for the judicial ballots for Superior Court and District Court apply
10 whether the election is being held at the same time as the primary under G.S. 163-322, or
11 at the same time as the general election for unexpired terms for the superior court under
12 G.S. 163-322.1."

13 Sec. 18. 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 mail,
17 or otherwise deliver, to the State Board of Elections the duplicate-original abstracts
18 prepared in accordance with G.S. 163-176 for all offices and referenda for which the
19 State Board of Elections is required to canvass the votes and declare the results including:

20 President and Vice-President of the United States

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

22 United States Senators

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

24 ~~Justices, Judges, and Superior Court Judges, District Court Judges and District~~

25 Attorneys of the General Court of Justice

26 State Senators in multi-county senatorial districts

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

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

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

36 All county offices

37 State Senators in single-county senatorial districts

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

40 Propositions submitted to the voters of one county.

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

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

4 Sec. 19. G.S. 163-192 reads as rewritten:

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

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

9 (1) For Governor and all State ~~officers, justices of the Supreme Court,~~
10 ~~judges of the Court of Appeals, judges of the superior court, officers and~~
11 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 name
26 or names of the person or persons whom the State Board of Elections shall ascertain and
27 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 election
34 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, judges of the superior court, officers and~~
37 United States 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 defined
41 in G.S. 7A-133 in the State.

42 (4a) For Superior Court Judges for the several superior court districts in the
43 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. 163-
21 177. Upon the request of the Legislative Services Office, the Secretary of State shall
22 submit a copy of the original abstracts to that Office."

23 Sec. 20. 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. 163-
27 193, shall procure from the Governor a commission attesting his election to the specified
28 office, which the Governor shall issue upon production of the Secretary of State's
29 certificate:

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

33 Sec. 21. (a) G.S. 163-1 is amended in the table by deleting the entries for
34 "Justices and Judges of the Appellate Division".

35 (b) G.S. 163-1 is amended in the table by deleting the word "State" in the column
36 entitled "Jurisdiction" under the entry for "Judges of the superior courts", and substituting
37 "Superior Court District".

38 Sec. 22. G.S. 163-9 reads as rewritten:

39 **"§ 163-9. Filling vacancies in ~~State and district~~ judicial offices.**

40 Vacancies occurring in the ~~offices of Justice of the Supreme Court, judge of the Court~~
41 ~~of Appeals, and office of~~ judge of the superior court for causes other than expiration of
42 term shall be filled by appointment of the Governor. An appointee shall hold his place
43 until the next election for members of the General Assembly that is held more than 60

1 days after the vacancy occurs, at which time an election shall be held to fill the unexpired
2 term of the office: Provided, that when the unexpired term of the office in which the
3 vacancy has occurred expires on the first day of January succeeding the next election for
4 members of the General Assembly, the Governor shall appoint to fill that vacancy for the
5 unexpired term of the office.

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

9 Sec. 23. Chapter 163 of the General Statutes is amended by adding a new
10 Subchapter to read:

11 **"SUBCHAPTER X. ELECTION OF JUSTICES AND JUDGES.**

12 **"ARTICLE 25.**

13 **"NOMINATION AND ELECTION OF JUDGES.**

14 **"§ 163-321. Applicability.**

15 The nomination and election of Superior and District Court Judges of the General
16 Court of Justice shall be as provided by this Article. G.S. 163-322 applies to elections for
17 district court judges and elections of Superior Court Judges to full terms and provides for
18 election at the time of the primary with a runoff at the time of the second primary. G.S.
19 163-322.1 applies to elections of Superior Court Judges to the remainder of an unexpired
20 term, which under Section 19 of Article IV of the Constitution of North Carolina must be
21 held at the time of the general election for members of the General Assembly.

22 **"§ 163-322. Nonpartisan election and runoff election method; district court,**
23 **superior court full terms.**

24 (a) Except as otherwise provided in this Article, elections of Superior and District
25 Court Judges shall be determined by a majority of the votes cast. A majority within the
26 meaning of this section shall be determined as follows:

27 (1) When more than one person is seeking election to a single office, the
28 majority shall be ascertained by dividing the total vote cast for all
29 candidates by two. Any excess of the sum so ascertained shall be a
30 majority, and the candidate who obtains a majority shall be declared
31 elected.

32 (2) When more persons are seeking election to two or more offices
33 (constituting a group) than there are offices to be filled, the majority
34 shall be ascertained by dividing the total vote cast for all candidates by
35 the number of offices to be filled, and by dividing the result by two.
36 Any excess of the sum so ascertained shall be a majority, and the
37 candidates who obtain a majority shall be declared elected. If more
38 candidates obtain a majority than there are offices to be filled, those
39 having the highest vote (equal to the number of offices to be filled) shall
40 be declared elected.

41 (b) If no candidate for a single office receives a majority of the votes cast, or if an
42 insufficient number of candidates receives a majority of the votes cast for a group of
43 offices, a runoff election shall be held as herein provided:

1 (1) If no candidate for a single office receives a majority of the votes cast,
2 the candidate receiving the highest number of votes shall be declared
3 elected unless the candidate receiving the second highest number of
4 votes requests a runoff election in accordance with subsection (c) of this
5 section. In the runoff election only the names of the two candidates who
6 received the highest and next highest number of votes shall be printed
7 on the ballot.

8 (2) If candidates for two or more offices (constituting a group) are to be
9 selected and aspirants for some or all of the positions within the group
10 do not receive a majority of the votes, those candidates equal in number
11 to the positions remaining to be filled and having the highest number of
12 votes shall be declared elected unless some one or all of the candidates
13 equal in number to the positions remaining to be filled and having the
14 second highest number of votes shall request a runoff election in
15 accordance with subsection (c) of this section. In the runoff election to
16 elect candidates for the positions in the group remaining to be filled, the
17 names of all those candidates receiving the highest number of votes and
18 demanding a runoff election shall be printed on the ballot.

19 (c) The election shall be on the same day as the primary election as provided by
20 G.S. 163-1(b).

21 (d) The canvass of the first election shall be held on the same date as the canvass
22 for the partisan primary. A candidate who is apparently entitled to demand a runoff
23 election, according to the unofficial results, for one of the offices listed below, and
24 desiring to do so, shall file a request for a runoff election in writing or by telegram with
25 the Executive Secretary-Director of the State Board of Elections no later than 12:00 noon
26 on the seventh day (including Saturdays and Sundays) following the date on which the
27 election was conducted, and such request shall be subject to the certification of the
28 official results by the State Board of Elections. If the vote certification by the State Board
29 of Elections determines that a candidate who was not originally thought to be eligible to
30 call for a runoff election is in fact eligible to call for a runoff election, the Executive
31 Secretary-Director of the State Board of Elections shall immediately notify such
32 candidate and permit him to exercise any options available to him within a 48-hour
33 period following the notification.

34 (e) Tie votes; how determined:

35 (1) If there is a tie for the highest number of votes in a first election, the
36 State Board of Elections shall conduct a recount and declare the results.
37 If the recount shows a tie vote, a runoff election between the two shall
38 be held unless one of the candidates, within three days after the result of
39 the recount has been officially declared, files a written notice of
40 withdrawal with the State Board of Elections. Should that be done, the
41 remaining candidate shall be declared elected.

42 (2) If one candidate receives the highest number of votes cast in a first
43 election, but short of a majority, and there is a tie between two or more

1 of the other candidates receiving the second highest number of votes,
2 the State Board of Elections shall declare the candidate having the
3 highest number of votes to be elected, unless all but one of the tied
4 candidates give written notice of withdrawal to the State Board of
5 Elections within three days after the result of the first election has been
6 officially declared. If all but one of the tied candidates withdraw within
7 the prescribed three-day period, and the remaining candidate demands a
8 runoff election in accordance with subsection (c) of this section, a
9 runoff election shall be held between the candidate who received the
10 highest vote and the remaining candidate who received the second
11 highest vote.

12 (f) Runoff elections shall be held on the same date as the second primary in
13 accordance with G.S. 163-111(e). Persons whose registrations become valid between the
14 date of the first election and the runoff election shall be entitled to vote in the runoff
15 election, but in all other respects the runoff election shall be held under the laws, rules,
16 and regulations provided for the first election.

17 (g) A second runoff election shall not be held. The candidates receiving the
18 highest number of votes in a runoff election shall be elected. If in a runoff election there
19 is a tie for the highest number of votes between two candidates, the board of elections
20 shall determine the winner by lot.

21 **"§ 163-322.1. Plurality election for superior court unexpired terms.**

22 (a) This section applies to elections to fill the unexpired terms of superior court
23 judges.

24 (b) The election shall be held at the same time as the general election under G.S.
25 163-1.

26 (c) In conducting nonpartisan elections and using the plurality method, elections
27 shall be determined in accordance with the following rules:

28 (1) When more than one person is seeking election to a single office, the
29 candidate who receives the highest number of votes shall be declared
30 elected.

31 (2) When more persons are seeking election to two or more offices
32 (constituting a group) than there are offices to be filled, those candidates
33 receiving the highest number of votes, equal in number to the number of
34 offices to be filled, shall be declared elected.

35 (3) If two or more candidates receiving the highest number of votes each
36 receive the same number of votes, the State Board of Elections shall
37 determine the winner by lot.

38 **"§ 163-323. Notice of candidacy.**

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

42 'Date _____';

1 I hereby file notice that I am a candidate for election to the office of
2 _____
3 _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____

Signed _____;
(Name of Candidate)

Witness: _____

7 The notice of candidacy shall be either signed in the presence of the chairman or
8 secretary of the State Board of Elections, or signed and acknowledged before an officer
9 authorized to take acknowledgments who shall certify the notice under seal. An
10 acknowledged and certified notice may be mailed to the State Board of Elections. In
11 signing his notice of candidacy, the candidate shall use only his legal name and, in his
12 discretion, any nickname by which he is commonly known. A candidate may also, in lieu
13 of his first name and legal middle initial or middle name, if any, sign his nickname,
14 provided he appends to the notice of candidacy an affidavit that he has been commonly
15 known by that nickname for at least five years prior to the date of making the affidavit.
16 The candidate shall also include with the affidavit the way his name (as permitted by law)
17 should be listed on the ballot if another candidate with the same last name files a notice
18 of candidacy for that office.

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

21 (b) Time for Filing Notice of Candidacy. Candidates seeking election to a full
22 term for Judge of the Superior Courts or Judge of the District Courts shall file their notice
23 of candidacy with the State Board of Elections no earlier than 12:00 noon on the first
24 Monday in January and no later than 12:00 noon on the first Monday in February
25 preceding the election.

26 Candidates seeking election to the unexpired term of a judge of superior court shall
27 file their notice of candidacy with the State Board of Elections no:

28 (1) Earlier than 12:00 noon on the first Monday in January and no later than
29 12:00 noon on the first Monday in February preceding the election if the
30 vacancy occurs prior to the first day in December of the year preceding
31 the election;

32 (2) Earlier than 12:00 noon on the first Monday in August and no later than
33 12:00 noon on the first Monday in September preceding the election if
34 the vacancy occurs after the last day in November of the year preceding
35 the election but prior to the first day in July of the year of the election;

36 or

37 (3) Later than 12:00 noon on the 55th day prior to the election if the
38 vacancy occurs after the last day in June but no later than the 60th day
39 before the election;

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

1 (d) Certificate that Candidate is Registered Voter. Candidates shall file along with
2 their notice a certificate signed by the chairman of the board of elections or the supervisor
3 of elections of the county in which they are registered to vote, stating that the person is
4 registered to vote in that county, and if the county contains more than one superior court
5 district, stating which superior court district the person is a resident of. In issuing such
6 certificate, the chairman or supervisor shall check the registration records of the county to
7 verify such information. During the period commencing 36 hours immediately preceding
8 the filing deadline, the State Board of Elections shall accept, on a conditional basis, the
9 notice of candidacy of a candidate who has failed to secure the verification ordered herein
10 subject to receipt of verification no later than three days following the filing deadline.
11 The State Board of Elections shall prescribe the form for such certificate, and distribute it
12 to each county board of elections no later than the last Monday in December of each odd-
13 numbered year.

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

21 **"§ 163-324. Filing fees required of candidates; refunds.**

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

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

30 **"§ 163-325. Petition in lieu of payment of filing fee.**

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

34 (b) Requirements of Petition; Deadline for Filing. If the candidate is seeking the
35 Office of Superior Court Judge or District Court Judge, he shall file a written petition
36 with the State Board of Elections no later than 12:00 noon on Monday preceding the
37 filing deadline before the primary. The petition shall be signed by ten per cent (10%) of
38 the registered voters of the election area in which the office will be voted for. The board
39 of elections shall verify the names on the petition, and if the petition is found to be
40 sufficient, the candidate's name shall be printed on the appropriate primary ballot.
41 Petitions for candidates for Judge of the District Court and the Judge of the Superior
42 Court must be presented to the county board of elections for verification at least 15 days
43 before the petition is due to be filed with the State Board of Elections. The State Board

1 of Elections may adopt rules to implement this section and to provide standard petition
2 forms.

3 **"§ 163-326. Certification of notices of candidacy.**

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

9 (b) Notification of Local Boards. No later than 10 days after the time for filing
10 notices of candidacy under the provisions of G.S. 163-323(b) has expired, the chairman
11 of the State Board of Elections shall certify to the chairman of the county board of
12 elections in each county in the appropriate district the names of candidates for
13 nomination to the offices of Superior Court Judge and District Court Judge who have
14 filed the required notice and paid the required filing fee or presented the required petition
15 to the State Board of Elections, so that their names may be printed on the official county
16 ballots.

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

21 **"§ 163-327. Death of elected officers.**

22 If a person elected to the office of District or Superior Court Judge dies, becomes
23 disqualified, or resigns on or after election day and before he has qualified by taking the
24 oath of office, the office shall be deemed vacant, and shall be filled as provided by law.

25 **"§ 163-328. Failure of candidates to file; death of a candidate before election.**

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

29 (b) Death of Candidate; Reopening Filing. If at the time the filing period closes
30 only one or two persons have filed notice of candidacy for election to a single office or
31 not more than twice as many persons have filed notice of candidacy for group offices as
32 there are offices to be filled, and thereafter a candidate dies before the election and before
33 the ballots are printed, the Board of Elections shall, upon notification of the death,
34 immediately reopen the filing period for an additional five days during which time
35 additional candidates shall be permitted to file for election. If the ballots have been
36 printed at the time the State Board of Elections receives notice of the candidate's death,
37 the Board shall determine whether there will be sufficient time to reprint them before the
38 election if the filing period is reopened for three days. If the Board determines that there
39 will be sufficient time to reprint the ballots, it shall reopen the filing period for three days
40 to allow other candidates to file for election.

41 (c) Death of Nominated Candidate; Ballots Not Reprinted. If the ballots have
42 been printed at the time the Board of Elections receives notice of a candidate's death, and
43 if the Board determines that there is not enough time to reprint the ballots before the

1 election if the filing period is reopened for three days, then regardless of the number of
2 candidates remaining for the office or group of offices, the ballots shall not be reprinted
3 and the name of the deceased candidate shall remain on the ballots. If a deceased
4 candidate should poll the highest number of votes in the election for a single office or
5 enough votes to be elected to one of a group of offices, the State Board of Elections shall
6 declare the office vacant and it shall be filled in the manner provided by law.

7 **"§ 163-329. Ballots.**

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

11 Only those who have filed the required notice of candidacy with the proper board of
12 elections, and who have paid the required filing fee or qualified by petition, shall have
13 their names printed on the official primary ballots.

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

17 Superior Court Judge, and District Court Judge.

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

21 In its discretion, the county board of elections may print separate ballots for the
22 offices listed in this subsection, or it may combine some or all of them on a single ballot.
23 In an election, if there are 10 or more candidates for nomination to any one office or
24 group of offices, the county board of elections in its discretion may prepare a separate
25 ballot for that office or group of offices.

26 Three days before the election, the chairman of the county board of elections shall
27 distribute official ballots to the chief judge of each precinct in his county, and the chief
28 judge shall give a receipt for the ballots received. On the day of the primary, it shall be
29 the chief judge's duty to have all the ballots delivered to him available for use at the
30 precinct voting place.

31 **"§ 163-330. Canvass.**

32 The county board of elections shall, in addition to the requirements contained in G.S.
33 163-175, canvass the results in judicial elections, the number of legal votes cast in each
34 precinct for each candidate, the name of each person voted for, and the total number of
35 votes cast in the county for each person for each different office.

36 **"§ 163-331. Counting of ballots.**

37 Counting of ballots in primaries and elections held under this Article shall be under
38 the same rules as for counting of ballots in nonpartisan municipal elections under Article
39 24 of this Chapter.

40 **"§ 163-335. Other rules.**

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

1 Sec. 24. Chapter 7A of the General Statutes is amended by inserting a new
2 section to read:

3 **"§ 7A-41.2. Nomination and election of Regular Superior Court Judges.**

4 Candidates for the office of Regular Superior Court Judge shall be both nominated
5 and elected by the qualified voters of the superior court district for which the election is
6 sought."

7 Sec. 25. G.S. 7A-142 reads as rewritten:

8 **"§ 7A-142. Vacancies in office.**

9 A vacancy in the office of district judge shall be filled for the unexpired term by
10 appointment of the Governor from nominations submitted by the bar of the judicial
11 district as defined in G.S. 84-19. If the district court district is comprised of counties in
12 more than one judicial district, the nominees shall be submitted jointly by the bars of
13 those judicial districts, but only those members who reside in the district court district
14 shall participate in the selection of the nominees. ~~If the district court judge was elected as~~
15 ~~the nominee of a political party, then the~~ The district bar shall submit to the Governor the
16 names of three persons who are residents of the district court district ~~who~~ that are duly
17 authorized to practice law in the ~~district and who are members of the same political party~~
18 ~~as the vacating judge; district;~~ provided that if there are not three persons who are
19 available, the bar shall submit the names of two persons who meet the qualifications of
20 this sentence. Within 60 days after the district bar submits nominations for a vacancy, the
21 Governor shall appoint to fill the vacancy. If the Governor fails to appoint a district bar
22 nominee within 60 days, then the district bar nominee who received the highest number
23 of votes from the district bar shall fill the vacancy. If the district bar fails to submit
24 nominations within 30 days from the date the vacancy occurs, the Governor may appoint
25 to fill the vacancy without waiting for nominations."

26 Sec. 26. G.S. 7A-147 reads as rewritten:

27 **"§ 7A-147. Specialized judgeships.**

28 (a) Prior to January 1 of each year in which elections for district court judges are
29 to be held, the Administrative Officer of the Courts may, with the approval of the chief
30 district judge, designate one or more judgeships in districts having three or more
31 judgeships, as specialized judgeships, naming in each case the specialty. Designations
32 shall become effective when filed with the State Board of Elections. ~~Nominees for the~~
33 ~~position or positions of specialist judge shall be made in the ensuing primary and the~~ The
34 position or positions shall be filled at the general election thereafter. The State Board of
35 Elections shall prepare ~~primary and~~ general election ballots to effectuate the purposes of
36 this section.

37 (b) The designation of a specialized judgeship shall in no way impair the right of
38 the chief district judge to arrange sessions for the trial of specialized cases and to assign
39 any district judge to preside over these sessions. A judge elected to a specialized
40 judgeship has the same powers as a regular district judge.

41 (c) The policy of the State is to encourage specialization in juvenile cases by
42 district court judges who are qualified by training and temperament to be effective in
43 relating to youth and in the use of appropriate community resources to meet their needs.

1 The Administrative Office of the Courts is therefore authorized to encourage judges who
2 hear juvenile cases to secure appropriate training whether or not they were elected to a
3 specialized judgeship as provided herein. Such training shall be provided within the funds
4 available to the Administrative Office of the Courts for such training, and judges
5 attending such training shall be reimbursed for travel and subsistence expenses at the
6 same rate as is applicable to other State employees.

7 The Administrative Office of the Courts shall develop a plan whereby a district court
8 judge may be better qualified to hear juvenile cases by reason of training, experience, and
9 demonstrated ability. Any district court judge who completes the training under this plan
10 shall receive a certificate to this effect from the Administrative Office of the Courts. In
11 districts where there is a district court judge who has completed this training as herein
12 provided, the chief district judge shall give due consideration in the assignment of such
13 cases where practical and feasible."

14 Sec. 27. G.S. 163-107.1(c) reads as rewritten:

15 "(c) County, Municipal and District Primaries. – If the candidate is seeking one of
16 the offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this
17 section, or a municipal or any other office requiring a partisan primary which is not set
18 forth in G.S. 163-106(c) or (d), he shall file a written petition with the appropriate board
19 of elections no later than 12:00 noon on Monday preceding the filing deadline before the
20 primary. The petition shall be signed by ten percent (10%) of the registered voters of the
21 election area in which the office will be voted for, who are affiliated with the same
22 political party in whose primary the candidate desires to run, or in the alternative, the
23 petition shall be signed by no less than 200 registered voters regardless of said voter's
24 political party affiliation, whichever requirement is greater. The board of elections shall
25 verify the names on the petition, and if the petition is found to be sufficient, the
26 candidate's name shall be printed on the appropriate primary ballot. Petitions for
27 candidates for member of the U.S. House of Representatives, District Attorney, ~~judge of~~
28 ~~the District Court and judge of the Superior Court~~, or members of the State House of
29 Representatives from multi-county districts or members of the State Senate from multi-
30 county districts must be presented to the county board of elections for verification at least
31 15 days before the petition is due to be filed with the State Board of Elections, and such
32 petition must be filed with the State Board of Elections no later than 12:00 noon on
33 Monday preceding the filing deadline. The State Board of Elections may adopt rules to
34 implement this section and to provide standard petition forms."

35 Sec. 28. G.S. 163-114 reads as rewritten:

36 **"§ 163-114. Filling vacancies among party nominees occurring after nomination and**
37 **before election.**

38 If any person nominated as a candidate of a political party for one of the offices listed
39 below (either in a primary or convention or by virtue of having no opposition in a
40 primary) dies, resigns, or for any reason becomes ineligible or disqualified before the
41 date of the ensuing general election, the vacancy shall be filled by appointment according
42 to the following instructions:
43

1	Position		Vacancy is to be filled by
2	Any elective State office		appointment of State
3	United States Senator		executive committee of
4			political party in which
5			vacancy occurs
6			
7	A district office, including:		
8	Member of the United States		
9	House of Representatives		
10	Judge of superior court		
11	Judge of district court		
12			Appropriate district executive
13	District Attorney		committee of political party
14	State Senator in a multi-		in which vacancy occurs
15	county senatorial district		
16	Member of State House of		
17	Representatives in a multi-		
18	county representative		
19	district		
20			
21	State Senator in a single-		County executive committee
22	county senatorial district		of political party in which
23	Member of State House of		vacancy occurs, provided, in
24	Representatives in a		the case of the State
25	single-county		Senator or State
26	representative district		Representative in a
27	Any elective county office		single-county district where
28			not all the county is
29			located in that district,
30			then in voting, only those
31			members of the county
32			executive committee who
33			reside within the
34			district shall vote
35			
36	Judge of Superior Court in a		County executive committee
37	single-county superior		of political party in
38	court district where the		which vacancy occurs;
39	district is the whole		provided, in the case of
40	county or part of the		a superior court judge in a
41	county		single-county district where
42			not all the county is
43			located in that district,

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~~then in voting, only those~~
~~members of the county~~
~~executive committee who~~
~~reside within the~~
~~district shall vote~~

Judge of Superior Court in a	†	Appropriate district
multi-county superior	†	executive committee of
court district	†	political party in which
		vacancy occurs.

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

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

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

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

Sec. 29. G.S. 163-122 is amended by adding the following subsection:

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

Sec. 30. G.S. 163-135 is amended by adding a new subsection to read:

"(f) Judicial Elections. Except as provided by Article 25 of this Chapter, this Article shall apply to and control all elections for Superior Court and District Court Judges of the General Court of Justice."

Sec. 31. G.S. 163-137(a) is amended by adding the following new subdivision:

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

3 Sec. 32. G.S. 163-138 reads as rewritten:

4 "**§ 163-138. Instructions for printing names on primary and election ballots.**

5 In preparing primary, general, and special election ballots, the legal name of a
6 candidate (together with his nickname in the situation outlined below) shall be printed
7 precisely as it appears on the notice of candidacy form filed in accordance with G.S. ~~163-~~
8 ~~106-163-106~~, G.S. 163-323, or in petition forms filed in accordance with G.S. 163-122.
9 If the candidate has inserted a nickname on the notice of candidacy or in the petition, it
10 shall be printed on the ballot immediately before the candidate's surname and shall be
11 enclosed by parentheses. Notwithstanding the previous sentence, if the candidate has
12 used his nickname in lieu of first and middle names as permitted by G.S. 163-106(a),
13 unless another candidate for the same office who files a notice of candidacy has the same
14 last name, the nickname shall be printed on the ballot immediately before the candidate's
15 surname but shall not be enclosed by parentheses. If another candidate for the same
16 office who filed a notice of candidacy has the same last name, then the candidate's name
17 shall be printed on the ballot in accordance with the alternate indicated by the candidate
18 on his affidavit under G.S. ~~163-106(a)~~-163-106(a) or G.S. 163-323(a). No title,
19 appendage, or appellation indicating rank, status, or position, shall be printed before or
20 following or as a nickname or in connection with the name of any candidate on any
21 ballot. Nevertheless, a candidate who is a married woman may use the prefix 'Mrs.' and a
22 candidate who is a single woman may use the prefix 'Miss' before her name if she so
23 elects."

24 Sec. 33. G.S. 163-140(b)(4) reads as rewritten:

25 "(4) State Ballot: Beneath the title and general instructions set out in this
26 subsection, the ballot for single-seat contests for State officers, and for
27 all State officers where mechanical voting machines are used (~~including~~
28 ~~judges of the superior court~~) shall be divided into parallel columns
29 separated by distinct black lines. The State Board of Elections shall
30 assign a separate column to each political party having candidates for
31 State offices and one to unaffiliated candidates, if any. At the head of
32 each party column the party's name shall be printed in large type, and at
33 the head of the column for unaffiliated candidates shall be printed in
34 large type the words 'Unaffiliated Candidates.' Below the party name in
35 each column shall be printed a circle, one-half inch in diameter, around
36 which shall be plainly printed the following instruction: 'For a straight
37 ticket, mark within this circle.' With distinct black lines, the State Board
38 of Elections shall divide the columns into horizontal sections and, in the
39 customary order of office, assign a separate section to each office or
40 group of offices to be filled. On a single line at the top of each section
41 shall be printed a direction as to the number of candidates for whom a
42 vote may be cast. If candidates are to be chosen for different terms to

1 the same office, the term in each instance shall be printed as part of the
2 title of the office.

3 The name or names of each political party's candidate or candidates
4 for each office listed on the ballot shall be printed in the appropriate
5 office section of the proper party column, and the names of unaffiliated
6 candidates shall be printed in the appropriate office section of the
7 column headed 'Unaffiliated Candidates.' At the left of each name shall
8 be printed a voting square, and in each column all voting squares shall
9 be arranged in a perpendicular line.

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

- 13 'a. To vote for all candidates of one party (a straight ticket), make a
14 cross (X) mark in the circle of the party for whose candidates you
15 wish to vote.
- 16 'b. You may vote a split ticket by not marking a cross (X) mark in
17 the party circle, but by making a cross (X) mark in the square
18 opposite the name of each candidate for whom you wish to vote.
- 19 'c. You may also vote a split ticket by marking a cross (X) mark in
20 the party circle and then making a cross (X) mark in the square
21 opposite the name of any candidate you choose of a different
22 party. In any multi-seat race where a party circle is marked and
23 you vote for candidates of another party, you must also make a
24 cross (X) mark opposite the name of any candidate you choose of
25 the party for which you marked the party circle to assure your
26 vote will count.
- 27 'd. If you tear or deface or wrongly mark this ballot, return it and get
28 another.'

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

33 Sec. 34. G.S. 163-140(b)(5) reads as rewritten:

- 34 "(5) County Ballot: Beneath the title and general instructions set out in this
35 subsection, the ballot for single-seat contests for county officers
36 (including district attorney for the prosecutorial district in which the
37 county is situated, ~~district judge for the district court district in which~~
38 ~~the county is situated~~, and members of the General Assembly in the
39 senatorial and representative districts in which the county is situated),
40 and for all county offices where mechanical voting machines are used,
41 shall be divided into parallel columns separated by distinct black lines.
42 The county board of elections shall assign a separate column to each
43 political party having candidates for the offices on the ballot and one to

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

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

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

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

41 On the bottom of the ballot shall be printed an identified facsimile of
42 the signature of the chairman of the county board of elections. If the

1 county ballot contains no multi-seat race, then the second sentence of
2 instruction b. shall not appear on the ballot."

3 Sec. 35. G.S. 163-140(b) is amended by adding a new subdivision to read:

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

13 Sec. 36. G.S. 163-140(c)(2) reads as rewritten:

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

22 Sec. 37. G.S. 163-191 reads as rewritten:

23 **"§ 163-191. Contested primaries and elections; how tie broken.**

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

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

34 Sec. 38. Sections 9 through 37 of this act shall become effective only if the
35 amendments to the Constitution of North Carolina proposed by Sections 1 through 6 of
36 this act are approved by the voters as provided by this act, and if so approved, those
37 sections become effective upon certification of the results of the election, unless approval
38 of any of those sections are required by section 5 of the Voting Rights Act of 1965, in
39 which case a section requiring approval becomes effective upon such approval if such
40 date is later than that of certification of the results of the election. This section and
41 Section 8.1 of this act are effective upon ratification.