

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

2

HOUSE BILL 1428  
Committee Substitute Favorable 5/26/05

Short Title: District Judge Retention Elections.

(Public)

---

Sponsors:

---

Referred to:

---

April 21, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE  
2 THAT WHEN A DISTRICT COURT JUDGE IS COMPLETING A FOUR-YEAR  
3 ELECTIVE TERM OF OFFICE AND WISHES TO CONTINUE IN OFFICE, THE  
4 NEXT ELECTION SHALL BE BY VOTE OF THE PEOPLE FOR RETENTION  
5 FOR AN EIGHT-YEAR TERM, AND TO MAKE CONFORMING CHANGES.  
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Section 10 of Article IV of the North Carolina Constitution  
9 reads as rewritten:

10 "**Sec. 10. District Courts.**

11 (1) The General Assembly shall, from time to time, divide the State into a  
12 convenient number of local court districts and shall prescribe where the District Courts  
13 shall sit, but a District Court must sit in at least one place in each county. ~~District Judges~~  
14 ~~shall be elected for each district for a term of four years, in a manner prescribed by law.~~  
15 When more than one District Judge is authorized and elected for a district, the Chief  
16 Justice of the Supreme Court shall designate one of the judges as Chief District Judge.  
17 Every District Judge shall reside in the district for which he is elected.

18 (2) District Judges shall be elected for each district for a term of four years,  
19 except that a judge who has been elected to a four-year term or who has been retained  
20 for an eight-year term, who desires to continue in office shall be subject to approval by  
21 nonpartisan ballot by a majority of the votes cast on the issue of the District Judge's  
22 retention. A District Judge approved for retention is elected to an eight-year term. If the  
23 voters fail to approve the retention in office of a District Judge, the office shall become  
24 vacant at the end of the term of office, the Governor shall appoint a person to serve until  
25 the next election for members of the General Assembly, at which time it shall be filled  
26 by election for a four-year term, and the person defeated for retention may not be  
27 appointed to a vacancy in that office until the expiration of four years from the end of  
28 the term. If a District Judge does not seek retention, the General Assembly shall provide  
29 by law for the procedure for choosing a successor.



1 deadline, then a regular election for a full four-year term shall be conducted under this  
2 Article.

3 (c) Retention elections shall be conducted and canvassed in accordance with  
4 rules of the State Board of Elections in the same general manner as general elections  
5 under this Article. The form of the ballot shall be determined by the State Board of  
6 Elections.

7 (d) If a person who has filed a notice calling a retention election dies or is  
8 removed from office prior to the deadline to file notice under this section, the retention  
9 election is cancelled and a regular election for a full four-year term shall be conducted  
10 under this Article.

11 If a person who has filed a notice calling a retention election dies or is removed from  
12 office after the deadline to file notice under this section but no later than 60 days before  
13 the general election, an election on a plurality basis for a full four-year term shall be  
14 held in the district under the procedures of G.S. 163-329. If a person who has filed a  
15 notice calling a retention election dies or is removed from office less than 60 days  
16 before the election, the State Board of Elections may cancel the retention election if it  
17 determines that the ballots can be reprinted without significant expense, or if the ballots  
18 cannot be reprinted, then the results of the election shall be ineffective, and in either  
19 case the Governor shall appoint a person to serve beginning the first Monday in  
20 December until a person can be elected for a four-year term at the next general  
21 election."

22 **SECTION 5.** G.S. 163-1(d) is amended under the column "Term of Office"  
23 for Judges of District Court by deleting "Four years, from the first Monday in December  
24 next after election" and substituting "Four years or eight years, from the first Monday in  
25 December next after election, as provided by G.S. 7A-140".

26 **SECTION 6.** G.S. 7A-140 reads as rewritten:  
27 "**§ 7A-140. Number; election; term; qualification; oath.**

28 There shall be at least one district judge for each district. Each district judge shall be  
29 elected or retained by the qualified voters of the district court district in which ~~he~~ that  
30 judge is to serve at the time of the election for members of the General Assembly. The  
31 number of judges for each district shall be determined by the General Assembly. Each  
32 judge shall be a resident of the district for which elected, and shall serve a term of four  
33 years from initial election, or eight years from retention, beginning on the first Monday  
34 in December following ~~his election.~~ election or retention.

35 Each district judge shall devote ~~his~~ full time to the duties of ~~his~~ office. ~~He~~ A district  
36 judge shall not practice law during ~~his~~ the term, nor shall ~~he~~ during such term be the  
37 partner or associate of any person engaged in the practice of law.

38 Before entering upon his duties, each district judge, in addition to other oaths  
39 prescribed by law, shall take the oath of office prescribed for a judge of the General  
40 Court of Justice."

41 **SECTION 7.** Sections 4 through 6 of this act become effective only if the  
42 constitutional amendment proposed by Section 1 of this act is approved by the qualified  
43 voters as provided by Section 2 of this act. Sections 4 through 6 of this act apply with  
44 respect to elections held in 2008 or thereafter.

1

**SECTION 8.** This act is effective when it becomes law.