

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 219  
Constitution Committee Substitute Adopted 4/18/89

Short Title: Appointive Judges Statute.

(Public)

Sponsors:

Referred to:

February 21, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR APPOINTMENT OF APPELLATE JUDGES BY THE  
3 GOVERNOR SUBJECT TO THE ADVICE AND CONSENT OF THE GENERAL  
4 ASSEMBLY, TO PROVIDE FOR THE RECONFIRMATION OF SITTING  
5 JUDGES BY THE GENERAL ASSEMBLY, AND TO PROVIDE FOR  
6 TRANSITIONAL AND OTHER PROVISIONS NECESSARY TO MOVE FROM  
7 AN ELECTIVE TO AN APPOINTIVE SYSTEM.

8 The General Assembly of North Carolina enacts:

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

11 **“ARTICLE 1A.**  
12 **"APPOINTMENT, CONFIRMATION, AND RECONFIRMATION**  
13 **OF JUSTICES AND JUDGES.**

14 **"§ 7A-4.1. Appointment of Justices and Judges by Governor and confirmation by**  
15 **General Assembly.**

16 (a) When a new judgeship on the Supreme Court or Court of Appeals is created,  
17 the Governor shall within 90 days after the act creating the judgeship becomes law  
18 nominate a person from the list of nominees provided pursuant to G.S. 7A-4.2 to serve  
19 in the judgeship. Unless otherwise provided, the nominee shall be subject to  
20 confirmation by the Senate and the House of Representatives in the first regular session  
21 held in an odd-numbered year convening after the judgeship is created.

22 (b) When a vacancy occurs in the office of Chief Justice of the Supreme Court,  
23 Associate Justice of the Supreme Court, or Judge of the Court of Appeals, the Governor

1 shall nominate a person to fill the vacancy from the list of nominees provided pursuant  
2 to G.S. 7A-4.2. If the vacancy occurs because the holder of the office indicates that he  
3 will not seek reconfirmation at the end of his term, the Governor shall submit his  
4 nomination to the General Assembly by February 1 of the year after that intention is  
5 made known. If the vacancy occurs for any other reason, the Governor shall submit his  
6 nomination to the General Assembly no later than 90 days after the vacancy is created.

7 (c) Nominees nominated pursuant to subsections (a) or (b) of this section are  
8 subject to confirmation as provided in this subsection. If the nomination is for a vacancy  
9 to be created at the end of a term and the nomination is the first such nomination for that  
10 office, the nomination shall be considered during the regular session held in the odd-  
11 numbered year in which the term of office of the judge vacating the office expires. All  
12 other nominations may be considered for confirmation at any regular or extra session of  
13 the General Assembly, but the nomination shall be considered at the first regular session  
14 conducted in an odd-numbered year after the nomination is submitted, unless it is  
15 submitted after April 1 during such a session. Nominations submitted during such a  
16 session and after April 1 may be considered by the General Assembly for confirmation  
17 in that session or any regular or extra session conducted thereafter, but the nomination  
18 shall be considered for confirmation, if it has not already been considered, at the first  
19 regular session in an odd-numbered year convening after the nomination is submitted.  
20 To be confirmed, a nominee shall receive a majority vote in the Senate and House of  
21 Representatives during the session in which the nomination is considered. Failure to  
22 receive a majority vote in both houses in a session in which a nomination is considered  
23 constitutes a failure to confirm and creates a vacancy in the office to be filled as  
24 provided by this section. A nominee confirmed by both the Senate and the House of  
25 Representatives shall be appointed by the Governor for a four-year term to begin on the  
26 next September 1 in an odd-numbered year. A person confirmed may begin service  
27 immediately upon being appointed, even though his term of office has not begun. For  
28 purposes of this subsection, a nomination is 'considered' if either house of the General  
29 Assembly votes on the nomination. For purposes of this subsection, a session ends when  
30 it adjourns or recesses for more than 30 days, or adjourns **sine die**, whichever comes  
31 first.

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

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

38 **§ 7A-4.2. Nomination procedure.**

39 (a) The Governor, in making a nomination to the office of Chief Justice, shall  
40 make the nomination from among a list of nominees as follows:

41 (1) All active trial judges in the General Court of Justice;

42 (2) All active Associate Justices and Court of Appeals Judges in the  
43 General Court of Justice;

- 1           (3) Not more than three nominees from each district bar, as defined by  
2 G.S. 84-19, who are residents of the district; and  
3           (4) Former appellate justices and judges in the General Court of Justice,  
4 except those who (i) have been impeached, (ii) have been removed  
5 from office, (iii) have failed to be confirmed or reconfirmed pursuant  
6 to Article 1A of Chapter 7A of the General Statutes, or (iv) are serving  
7 as emergency or recalled justices or judges pursuant to Article 6 of  
8 Chapter 7A of the General Statutes.

9           (b) The Governor, in making a nomination to the office of Associate Justice,  
10 shall make the nomination from among a list of nominees as follows:

- 11           (1) All active trial judges in the General Court of Justice;  
12           (2) All active Court of Appeals Judges in the General Court of Justice;  
13           (3) Not more than three nominees from each district bar, as defined by  
14 G.S. 84-19, who are residents of the district; and  
15           (4) Former appellate justices and judges in the General Court of Justice,  
16 except those who (i) have been impeached, (ii) have been removed  
17 from office, (iii) have failed to be confirmed or reconfirmed pursuant  
18 to Article 1A of Chapter 7A of the General Statutes, or (iv) are serving  
19 as emergency or recalled justices or judges pursuant to Article 6 of  
20 Chapter 7A of the General Statutes.

21           (c) The Governor, in making a nomination to the office of Judge of the Court of  
22 Appeals, shall make the nomination from among a list of nominees as follows:

- 23           (1) All active trial judges in the General Court of Justice;  
24           (2) Not more than three nominees from each district bar, as defined by  
25 G.S. 84-19, who are residents of the district; and  
26           (3) Former appellate justices and judges in the General Court of Justice,  
27 except those who (i) have been impeached, (ii) have been removed  
28 from office, (iii) have failed to be confirmed or reconfirmed pursuant  
29 to Article 1A of Chapter 7A of the General Statutes, or (iv) are serving  
30 as emergency or recalled justices or judges pursuant to Article 6 of  
31 Chapter 7A of the General Statutes.

32           (d) The nominees of the district bars shall be submitted within 30 days of the date  
33 the bar is notified of the occurrence of the vacancy. If any district bar fails to submit a  
34 nomination within the 30-day period, the Governor shall make the nomination and  
35 appointment from among the nominations received before the expiration of the 30-day  
36 period. The Governor shall notify each district bar in writing of the occurrence of a  
37 vacancy in the office of Chief Justice, Associate Justice, or Court of Appeals Judge. If  
38 the Governor is informed of the creation of a vacancy to become effective on a future  
39 date certain, he may notify the district bars before the effective date of the vacancy, and  
40 the 30-day period shall begin to run from the date of the notice.

41 **"§ 7A-4.3. Reconfirmation procedure.**

42           (a) Any Chief Justice, Associate Justice, or Judge of the Court of Appeals, to be  
43 eligible to be reconfirmed, shall by November 1 in the year immediately preceding the  
44 year in which his term expires, file a written declaration of his intent to seek

1 reconfirmation. The declaration shall be filed with the Governor. The Governor shall  
2 promptly notify the General Assembly and the Judicial Retention Commission of his  
3 receipt of the declaration. Failure to file the declaration in a timely manner results in  
4 the creation of a vacancy in the office at the expiration of the term. A Justice or Judge  
5 may indicate in writing to the Governor that he does not intend to seek reconfirmation,  
6 and the filing of that intention creates a vacancy in the office at the expiration of the  
7 term, unless the Justice or Judge leaves office at an earlier date.

8 (b) The Judicial Retention Commission, upon receipt of a Justice's or Judge's  
9 written declaration of his intent to seek reconfirmation, shall investigate the Judge's  
10 performance as a Justice or Judge to determine if it should recommend that he be  
11 reconfirmed. The Commission shall conduct a public hearing to allow comment from  
12 interested persons on the Justice's or Judge's fitness to continue in office. Information  
13 received in the course of the investigation is confidential and shall not be disclosed  
14 unless specifically required by law or unless the Justice or Judge consents to the  
15 disclosure. Documents prepared or received in the course of the investigation are  
16 confidential and not subject to public inspection without the consent of the Justice or  
17 Judge, notwithstanding the provisions of Chapter 132 of the General Statutes. The  
18 investigation shall include an evaluation of the Justice's or Judge's ethical conduct, his  
19 knowledge of and application of the law, his management of the courts over which he  
20 has presided, his work habits, his health, his judicial demeanor, and any other matter  
21 that the Commission determines to be relevant to its inquiry. The Judge shall be given  
22 an opportunity to present to the Commission any information he determines to be  
23 appropriate. The Commission's recommendation shall be by majority vote.

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

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

41 **"§ 7A-4.4. Judicial Retention Commission.**

42 (a) The Judicial Retention Commission consists of:

- 1           (1) Four members appointed by the Governor, none of whom may be  
2 licensed attorneys, with one member from each judicial division as  
3 those divisions were constituted on January 1, 1989;
- 4           (2) Four members appointed by the State Bar from its membership with  
5 one member from each judicial division as those divisions were  
6 constituted on January 1, 1989;
- 7           (3) One member appointed by the General Assembly on recommendation  
8 of the Speaker of the House of Representatives, as provided by G.S.  
9 120-121;
- 10          (4) One member appointed by the General Assembly on recommendation  
11 of the President Pro Tempore of the Senate, as provided by G.S. 120-  
12 121; and
- 13          (5) One member appointed by the Chief Justice of the Supreme Court who  
14 shall serve as chairman of the Commission.

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

17       (b) The members appointed by the Governor, the State Bar, and the Chief Justice  
18 shall serve four-year terms of office, except that two of the initial appointees of the  
19 Governor and two of the initial appointees of the State Bar shall serve initial two-year  
20 terms to provide for subsequent staggering of terms. The appointees of the General  
21 Assembly shall serve two-year terms. Members who have served a full term may be  
22 reappointed to one additional full term. The initial term of office of all appointees shall  
23 begin July 1, 1991.

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

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

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

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

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

43       (a) Any Chief Justice, Associate Justice, or Judge of the Court of Appeals  
44 holding a judgeship on January 15, 1991, that on January 14, 1991, is required by law to

1 be filled by election shall be subject to the reconfirmation procedures in G.S. 7A-4.4  
2 and to the provisions of subsections (b) and (c) of this section to retain his office.

3 (b) A Justice or Judge covered by the provisions of subsection (a) who, at the end  
4 of his term of office has at least four years of service in the office he is holding on  
5 January 15, 1991, shall be subject to the reconfirmation process during the first regular  
6 session convening in an odd-numbered year after the term expires. Terms of such  
7 Justices and Judges are extended until August 31 of the year following the year in which  
8 the term would have normally expired.

9 (c) A Justice or Judge covered by the provisions of subsection (a) who, at the end  
10 of his term of office has less than four years in the office he is holding on January 15,  
11 1991, shall be subject to the reconfirmation process in the first regular session  
12 convening in an odd-numbered year after he would have four years in service in that  
13 office, if continued in office past the expiration of his term. Terms of office of such  
14 Justices and Judges shall be extended until August 31 of the year in which a  
15 reconfirmation decision is made by the General Assembly."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 **"§ 163-106. Notices of candidacy; pledge; with whom filed; date for filing;**  
27 **withdrawal.**

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

34 'Date

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

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

41 Signed

Name of candidate

42 Witness:

43 .....

1 .....  
2 (Title of witness)'

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

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

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

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

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

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

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

- 38 Governor
- 39 Lieutenant Governor
- 40 All State executive officers
- 41 ~~Justices of the Supreme Court, Judges of the Court of Appeals~~
- 42 Judges of the superior courts
- 43 Judges of the district courts
- 44 United States Senators



1 Members of the House of Representatives of the United States  
2 District attorneys

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

7 State Senators  
8 Members of the State House of Representatives  
9 All county offices.

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

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

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

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

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

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

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

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

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

Office Sought	Amount of Filing Fee
Governor	
One percent (1%) of the annual	
Lieutenant Governor salary of the office	
sought	
All State executive offices	One percent (1%) of the annual
salary of the office	
All Justices, Judges, and sought	

1 Superior and District One percent (1%) of the annual  
2 Court Judges and District salary of the office  
3 Attorneys of the General sought  
4 Court of Justice One percent (1%) of the annual  
5 United States Senator salary of the office  
6 sought  
7 Members of the United States  
8 House of Representatives  
9 State Senator One percent (1%) of the annual  
10 salary of the office  
11 Member of the State House of sought  
12 Representatives One percent (1%) of the annual  
13 All county offices not salary of the office  
14 compensated by fees sought  
15 County commissioners, if One percent (1%) of the annual  
16 compensated entirely by salary of the office  
17 fees sought  
18 Members of county board of One percent (1%) of the annual  
19 education, if compensated salary of the office  
20 entirely by fees sought  
21 Sheriff, if compensated One percent (1%) of the annual  
22 entirely by fees salary of the office  
23 sought  
24 Ten dollars (\$10.00)  
25 Clerk of superior court, if  
26 compensated entirely by Five dollars (\$5.00)  
27 fees  
28  
29 Forty dollars (\$40.00), plus  
30 Register of deeds, if one percent (1%) of the  
31 compensated entirely by income of the office above  
32 fees four thousand dollars  
33 (\$4,000)  
34 Forty dollars (\$40.00), plus  
35 Any other county office, if one percent (1%) of the  
36 compensated entirely by income of the office above  
37 fees four thousand dollars  
38 (\$4,000)  
39 Forty dollars (\$40.00), plus  
40 All county offices one percent (1%) of the  
41 compensated partly by income of the office above  
42 salary and partly by fees four thousand dollars  
43 (\$4,000)  
44 Twenty dollars (\$20.00), plus

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

9

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

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

27

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

28

"(c) Procedure for Requesting Second Primary. –

29

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

44

Governor,

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

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

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

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

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

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

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

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

43 Unless prohibited by this section, the board of elections, State or county, charged by  
 44 law with printing ballots may, in its discretion, combine any two or more official

1 ballots. Whenever two or more ballots are combined, the voting instructions for the  
2 State ballot set out in subsection (b)(4) of this section shall be used, except that if the  
3 two ballots being combined do not contain a multi-seat race, then the second sentence of  
4 instruction b. shall not appear on the ballot.

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

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

12 **"§ 163-177. Disposition of duplicate abstracts.**

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

19 President and Vice-President of the United States

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

21 United States Senators

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

23 ~~Justices, Judges, and Superior and District Court Judges and District Attorneys~~  
24 of the General Court of Justice

25 State Senators in multi-county senatorial districts

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

28 Constitutional amendments and propositions submitted to the voters of the  
29 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  
35 set 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  
39 representative 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  
42 duplicate abstracts to the chairman of the State Board of Elections within the time  
43 prescribed in this section, he shall be guilty of a misdemeanor. Provided, that the  
44 penalty shall not apply if the chairman was prevented from performing the prescribed

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

4 Sec. 10. 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, the  
8 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, judges~~  
10 ~~of the Court of Appeals,~~ judges of the superior court, and United States  
11 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 (4) For district attorney in the several prosecutorial districts in the State.
- 17 (5) For State Senators in the several senatorial districts in the State  
18 composed of more than one county.
- 19 (6) For members of the State House of Representatives in the several  
20 representative districts in the State composed of more than one county.

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

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

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

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

1 (8) For and against any constitutional amendments or propositions  
2 submitted to the people.

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

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

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

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

18 **"§ 163-194. Governor to issue commissions to certain elected officials.**

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

24 Members of the United States House of Representatives,

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

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

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

30 **"§ 163-9. Filling vacancies in State and district judicial offices.**

31 Vacancies occurring in the offices of ~~Justice of the Supreme Court, judge of the Court of~~  
32 ~~Appeals, and judge of the superior court~~ for causes other than expiration of term shall be  
33 filled by appointment of the Governor from a list of nominees composed of all active  
34 district court judges who reside in the superior court district in which the vacancy  
35 occurs and nominations submitted by the district bar in which the vacancy occurs. For  
36 purposes of this section the definition of 'district bar' in G.S. 84-19 applies, but only  
37 those members of the district bar residing in the 'district or set of districts' as defined in  
38 G.S. 7A-41.1 in which the vacancy occurs shall be allowed to participate in the district  
39 bar nomination process. If the district bar fails to submit nominations within 30 days  
40 from the date the vacancy occurs, the Governor may appoint to fill the vacancy without  
41 waiting for nominations and may appoint any person otherwise qualified to hold the  
42 position of superior court judge. An appointee shall hold his place until the next election  
43 for members of the General Assembly that is held more than 60 days after the vacancy  
44 occurs, at which time an election shall be held to fill the unexpired term of the office:



1 Provided, that when the unexpired term of the office in which the vacancy has occurred  
2 expires on the first day of January succeeding the next election for members of the  
3 General Assembly, the Governor shall appoint to fill that vacancy for the unexpired  
4 term of the office.

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

8 Sec. 14. This act shall become effective only if the amendments to the  
9 Constitution of North Carolina proposed by "AN ACT TO AMEND THE NORTH  
10 CAROLINA CONSTITUTION TO PROVIDE FOR APPOINTMENT OF  
11 APPELLATE JUDGES BY THE GOVERNOR, WITH THE ADVICE AND  
12 CONSENT OF THE GENERAL ASSEMBLY, TO AUTHORIZE THE GENERAL  
13 ASSEMBLY TO PROVIDE FOR SIMILAR APPOINTMENTS OF TRIAL JUDGES,  
14 AND TO AUTHORIZE THE GENERAL ASSEMBLY TO PROVIDE A  
15 PROCEDURE TO DETERMINE IF JUDGES SO APPOINTED SHOULD BE  
16 RETAINED IN OFFICE"are approved by the voters, and if so approved, this act shall  
17 become effective January 15, 1991.