

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1258 and House Bill 1391

SHORT TITLE: Judicial Appointment / Voter Retention

SPONSOR(S): Senator Fountain Odom

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>
EXPENDITURES	\$4,706	--	--	--	--
POSITIONS: None					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Board of Elections				
EFFECTIVE DATE:	Upon Ratification				

BILL SUMMARY: *TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE FOR GUBERNATORIAL NOMINATION OF JUSTICES OF THE SUPREME COURT AND JUDGES OF THE COURT OF APPEALS, LEGISLATIVE CONFIRMATION, AND RETENTION BY VOTE OF THE PEOPLE.* Amends Art. IV, sec. 16 of the NC Constitution as title indicates. Provides for submission of constitutional amendment to the vote of the people in the November 1998 general election. Provides that regular superior court judges will be elected in districts. Nomination, confirmation, and retention process applies to vacancies and new judgeships on the Court of Appeals and Supreme Court occurring on and after Jan. 1, 1999. Governor nominates a person to fill vacancy. General Assembly must confirm nomination by vote of three-fifths of members of each house present and voting. General Assembly must vote on confirmation within 60 calendar days of the date of nomination; excludes some between-session days from this time period. Permits Governor to convene the General Assembly in extra session for purpose of considering confirmation of a nomination. Limits special session to a single day and this item of business.

A judge or justice who is nominated and confirmed is subject to voter retention on a nonpartisan ballot at the next statewide election for members of the General Assembly that is held more than 18 months after the nomination is confirmed. Upon retention, a judge or justice serves a regular term. A sitting judge or justice who desires to continue in office is subject to voter retention at the last statewide election for members of the General Assembly held before the expiration of the judge or justice's term of office. If voters do not approve retention, the

judge or justice's office becomes vacant at the end of the term of office, and the vacancy is filled by the nomination, confirmation, and retention process described above. The Governor may nominate only a person of the same political affiliation as the judge or justice who was not retained. The political affiliation of a nominee is determined as of 24 months preceding the date of the vacancy for which the nomination is made.

Includes the following transitional provisions. A judge or justice *elected* to one of these courts before Jan. 1, 1999 for a term extending beyond that date and who is in office on that date has his or her term extended through June 30 of the year following the eighth year after the date the judge or justice was elected to office. At that time, the judge or justice is subject to voter retention if he or she desires to continue in office. A judge or justice *appointed* to one of these courts before Jan. 1, 1999 for a term extending beyond that date and who is in office on that date has his or her term ended on June 30, 2001, and is subject to voter retention in 2000 if he or she desires to continue in office. Any vacancies created on or after Jan. 1, 1999, are filled by the nomination, confirmation, and retention process described above. Vacancies created, but not filled, before that date are also subject to this process.

Enacts new GS Ch. 7A, Art. 1A, subject to passage of constitutional amendment. This article provides greater detail about nomination, confirmation, and retention. Provides that confirmation is by joint resolution. Permits Governor to withdraw nominations. Permits legislature to investigate nominees and gives a legislative committee access to the files of the Judicial Standards Commission. Provides that Governor will provide commissions to judges and justices who are nominated and confirmed, as well as to those who are retained. Provides rules for retention elections, including requirement that retention elections be placed at the top of the ballot over all other elections or matters for decision, whether partisan, nonpartisan, or otherwise. Makes conforming changes in GS Ch. 163 and GS 7A-16.

ASSUMPTIONS AND METHODOLOGY:

Article XIII, Sections 3 and 4 of the Constitution of the State of North Carolina identifies the two mechanisms by which the State Constitution may be revised or amended. Specifically, the provisions of Section 4 (set out below) are applicable in the case of Senate Bill 1258 and House Bill 1391.

Sec.4. Revision or amendment by legislative initiation.

A proposal of a new or revised Constitution or an amendment or amendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection. The proposal shall be submitted at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast thereon are in favor of the proposed new or revised Constitution or constitutional amendment or amendments, it or they shall become effective January first next after ratification by the voters unless a different effective date is prescribed in the act submitting the proposal or proposals to the qualified voters.

In accordance with Article XIII, Sec. 4 of the State Constitution, Section 2 of Senate Bill 1258 (House Bill 1391) states that the Constitutional Amendment shall be submitted to the qualified voters of the State at the general election in November, 1998.

Assumption #1: The State Board of Elections would need to prepare ballots presenting the Constitutional Amendment to the qualified voters of the State.

- The State Board of Elections made 110,100 ballots available for the most recent primary elections.

Assumption #2: The 110,100 ballots used in the primary elections represent a good indicator of the number of ballots which the State Board of Elections would need to prepare for the Constitutional Amendment to be presented to voters in the November, 1998 regular elections.

- The State Board pays \$42.75 per 1,000 ballots.

COSTS

Two pieces of information allow for the calculation of the cost of providing the additional ballots as a result of the bill. They are:

1. Unit Costs – \$42.75 per 1,000 ballots.
2. Units – 110.1 (by dividing the total number of ballots required by 1,000).

Multiply 110.1 (110,100 ballots divided by 1,000) times \$42.75 (the cost per 1,000 ballots) for a cost of \$4,707.

The cost above represents a one-time cost for providing ballots in the November, 1998 regular elections. It does not represent the cost to include the names of those Justices and Judges up for retention vote in the out years. The State Board of Elections reports that these costs would be even more insignificant than the cost identified here.

TECHNICAL CONSIDERATIONS:

None

FISCAL RESEARCH DIVISION

733-4910

PREPARED BY: Dwayne Pinkney

APPROVED BY: Tom Covington

DATE: May 28, 1998



Signed Copy Located in the NCGA Principal Clerk's Offices