

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 883

Short Title: Judicial Appointment/Voter Retention. (Public)

Sponsors: Senators Clodfelter; Dannelly, Hagan, Hartsell, Hoyle, Odom, Purcell,  
Rand, and Weinstein.

Referred to: Judiciary I.

April 4, 2001

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

~~Justices of the Supreme Court, Judges of the Court of Appeals, and regular~~

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

(2) General principles. Justices and Judges of the Appellate Division should be  
selected for and continue to hold office solely upon the basis of personal and  
professional fitness to administer justice wisely, according to law, and without favor,  
denial, or delay, to all persons who come into the courts. While their continuation in  
office should be periodically subject to approval by the people, both their initial  
selection and continuation in office should be free from the influences and necessities of  
partisan political activity.

1       (3) Nomination, appointment, retention election, and terms of justices and  
2 judges. On and after January 1, 2003, when a vacancy occurs in the office of Chief  
3 Justice, Associate Justice, or Judge of the Appellate Division, the Governor shall  
4 appoint a person to fill the vacancy. For the purposes of this section, creation of a new  
5 judgeship within the Appellate Division creates a vacancy.

6       The term of office by appointment as Chief Justice, Associate Justice, or Judge of  
7 the Appellate Division extends through June 30 after the next statewide election for  
8 members of the General Assembly that is held more than 18 months after the  
9 appointment. At that election, a person holding by appointment the office of Chief  
10 Justice, Associate Justice, or Judge of the Appellate Division who desires to continue in  
11 office shall be subject to approval by nonpartisan ballot, by a majority of the votes cast  
12 on the issue of the Justice's or Judge's retention. A Chief Justice, Associate Justice, or  
13 Judge of the Appellate Division then approved for retention serves a regular term.

14       The regular term of office of the Chief Justice, Associate Justices, and Judges of the  
15 Appellate Division is eight years and expires on June 30.

16       A Chief Justice, Associate Justice, or Judge of the Appellate Division who desires to  
17 continue in office shall be subject to approval by nonpartisan ballot, by a majority of the  
18 votes cast on the issue of the Justice's or Judge's retention during the next general  
19 election preceding June 30 of the year that the Justice's or Judge's eight-year term would  
20 expire.

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

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

27       (4) Transition provisions. The term of office of a person who has been elected  
28 before January 1, 2003, to the office of Chief Justice, Associate Justice, or Judge of the  
29 Appellate Division for a term which extends beyond January 1, 2003, and who is in  
30 office on January 1, 2003, is extended through June 30 of the year following the eighth  
31 year after the date any such justice or judge was last elected to the office. If the person  
32 so elected continues to serve for the remainder of the term, that person may stand for  
33 retention in the office for a succeeding regular term as provided in this section, subject  
34 to the provisions of G.S. 7A-4.20. If the person continues to serve for the remainder of  
35 the term but does not stand for retention election, a vacancy is created in the office upon  
36 expiration of the term, and this vacancy shall be filled by nomination and appointment  
37 as provided in this section.

38       The term of office of a person who has been appointed before January 1, 2003, to the  
39 office of Chief Justice, Associate Justice, or Judge of the Appellate Division for a term  
40 which extends beyond January 1, 2003, and who is in office on January 1, 2003, shall  
41 end on June 30, 2005. If the person so appointed continues to serve for the remainder of  
42 the term, that person may stand for retention in the office for a regular term as provided  
43 by this section at the statewide election for members of the General Assembly held in  
44 2002.

1 Upon the death, resignation, removal, or retirement of any incumbent justice or  
2 judge on or after January 1, 2003, and before the expiration of the justice's or judge's  
3 term of office, the resulting vacancy shall be filled by nomination and appointment as  
4 provided in this section.

5 Vacancies in judicial offices in the Appellate Division occurring before January 1,  
6 2003, and not filled by that date, shall be filled by nomination and appointment as  
7 provided in this section.

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

12 (5) The General Assembly may implement this section by general law."

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

18 "[ ] FOR [ ] AGAINST

19 Constitutional amendment to replace the present practice of selecting justices  
20 and judges of the Appellate Division by gubernatorial appointment, followed by  
21 partisan elections, with a method by which justices and judges of the Appellate Division  
22 will be nominated by a nominating commission, appointed by the Governor, and then  
23 serve for limited terms after which the question of the justice's or judge's retention in  
24 office is regularly submitted for approval or disapproval by nonpartisan vote of the  
25 people at general elections, and to provide for election of superior court judges in their  
26 districts."

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

32 **SECTION 3.1.** Chapter 7A of the General Statutes is amended by adding a  
33 new Article to read:

34 "Article 1A.

35 Appointment of Justices and Judges;

36 Retention Elections.

37 **"§ 7A-4.1. Nomination of justices and judges by nominating commission and**  
38 **appointment by Governor.**

39 The offices of Chief Justice and Justice of the Supreme Court and Judge of the Court  
40 of Appeals are filled by nomination by the Judicial Nomination Commission and  
41 appointment by the Governor in accordance with Section 16 of Article IV of the North  
42 Carolina Constitution.

43 **"§ 7A-4.2. Judicial Nomination Commission – creation; membership; terms;**  
44 **administration.**

1       (a) The Judicial Nomination Commission is created within the Administrative  
2 Office of the Courts for budgetary purposes.

3       (b) The Commission shall consist of 18 members as follows:

4           (1) A district attorney chosen by the Conference of District Attorneys;

5           (2) A public defender chosen by the public defenders;

6           (3) A superior court judge chosen by the Conference of Superior Court  
7 Judges;

8           (4) A district court judge chosen by the Conference of District Court  
9 Judges;

10          (5) A clerk of superior court chosen by the Association of Clerks of  
11 Superior Court of North Carolina;

12          (6) Six attorneys appointed by the Council of the State Bar to include at  
13 least one attorney actively engaged in the practice of criminal defense  
14 law, one attorney actively engaged in a civil law practice representing  
15 plaintiffs, and one attorney actively engaged in a civil law practice  
16 representing defendants;

17          (7) A present or former dean of an accredited law school in North  
18 Carolina appointed by the Council of the State Bar;

19          (8) Two nonattorneys appointed by the Governor;

20          (9) Two nonattorneys appointed by the General Assembly upon the  
21 recommendation of the Speaker of the House of Representatives; and

22          (10) Two nonattorneys appointed by the General Assembly upon the  
23 recommendation of the President Pro Tempore of the Senate.

24       (c) Members of the Commission shall serve for staggered four-year terms. One-  
25 half of the appointees shall serve an initial term of two years, as determined by lot at the  
26 first meeting of the Commission. The remainder of the appointees shall serve an initial  
27 term of four years. Commission members may not serve more than two consecutive  
28 terms.

29       (d) All members of the Commission are voting members. The members shall  
30 elect a chair at the Commission's first meeting. The chair shall preside for the duration  
31 of the chair's term as a member. Vacancies in the appointed membership shall be filled  
32 by the appointing officer who made the initial appointment.

33       (e) Members, staff, and consultants of the Commission shall receive travel and  
34 subsistence expenses in accordance with the provisions of G.S. 120-3.1, paid from funds  
35 appropriated to implement this Article and within the limits of those funds.

36       (f) No member of the General Assembly shall serve concurrently as a member of  
37 the Commission.

38 **"§ 7A-4.3. Judicial Nomination Commission; duties.**

39       The Commission shall:

40           (1) Establish operating procedures for the Commission.

41           (2) Solicit judicial nominations from interested persons and members of  
42 the general public to fill appellate court vacancies.

43           (3) Establish and publicize the procedures for submitting a candidate to be  
44 considered by the Commission.

- 1           (4) Interview and investigate candidates for judicial appointment to the  
2           appellate courts.
- 3           (5) Nominate persons to the Governor for appointment to the appellate  
4           courts.
- 5           (6) Review and evaluate the tenure of justices and judges who must stand  
6           for a retention election.
- 7           (7) Issue a report on justices and judges standing for a retention election  
8           90 days before the retention election. The report shall include: (i)  
9           information the Commission believes would be helpful to the citizens  
10          of North Carolina; and (ii) information regarding any disciplinary  
11          action taken against a justice or judge during tenure. The report may  
12          include a recommendation by the Commission for or against the  
13          justice's or judge's retention.
- 14          (8) Perform any other duties the Commission deems necessary to carry out  
15          the mandate of this Article.

16 **"§ 7A-4.4. Nomination procedures.**

17          (a) The Commission may conduct an investigation of a nominee. The  
18          investigation may include an evaluation of the nominee's ethical conduct, the nominee's  
19          knowledge of and application of the law, the nominee's management of the courts over  
20          which he has presided, the nominee's work habits, the nominee's health, and the  
21          nominee's judicial demeanor. The nominee or judge shall be given an opportunity to  
22          present to the Commission any information that the nominee determines to be  
23          appropriate.

24          (b) The Commission shall be allowed to inspect the files of the Judicial Standards  
25          Commission by request of the chair of the Commission. Notwithstanding the provisions  
26          of G.S. 7A-377, the files of the Judicial Standards Commission shall be made available  
27          to the Commission. Testimony and other evidence presented to the Commission are  
28          privileged in any action for defamation.

29          (c) The Commission shall nominate at least three and no more than five persons  
30          to be considered by the Governor for judicial appointment within 60 days of any  
31          vacancy in office that occurs because of death, resignation, retirement, failure to be  
32          retained, or any other reason. The Governor may appoint a person who was not  
33          nominated by the Commission.

34          (d) The internal files and information obtained by the Commission, during the  
35          examination of a potential judicial nominee, are not public records until such time as the  
36          candidate is recommended to the Governor for a judicial appointment. Nominations, the  
37          Commission's vote on judicial nominees, and reports made by the Commission are  
38          public records.

39 **"§ 7A-4.5. Governor to issue commissions to justices and judges.**

40          Every person duly nominated by the Judicial Nomination Commission and  
41          appointed by the Governor as Chief Justice of the Supreme Court, Associate Justice of  
42          the Supreme Court, or Judge of the Court of Appeals shall procure from the Governor a  
43          commission attesting that fact.

1 When a judge is retained in office by vote of the people, the Governor shall issue a  
2 commission attesting that fact, which the Governor shall issue upon receipt of a  
3 certification by the Secretary of State of the results of the election.

4 **"§ 7A-4.6. No elections in 2003.**

5 No partisan election as previously provided by law for Chief Justice or Associate  
6 Justice of the Supreme Court, or Judge of the Court of Appeals shall be held in 2003 or  
7 thereafter.

8 **"§ 7A-4.7. Retention elections.**

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

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

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

22 (d) Retention elections shall be placed at the top of the ballot above all other  
23 elections or matters for decision, whether partisan, nonpartisan, or otherwise.

24 (e) If a person who has filed a notice calling a retention election dies or is  
25 removed from office prior to the time that the ballots are printed, the retention election  
26 is cancelled. If a person who has filed a notice calling a retention election dies or is  
27 removed from office after the ballots are printed, the State Board of Elections may  
28 cancel the election if it determines that the ballots can be reprinted without significant  
29 expense. If the ballots cannot be reprinted, then the results of the election shall be  
30 ineffective."

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

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

- 34 (1) Ballot for presidential electors
- 35 (2) Ballot for United States Senator
- 36 (3) Ballot for member of the United States House of Representatives
- 37 (4) State ballot
- 38 (5) County ballot
- 39 (6) Repealed by Session Laws 1973, c. 793, s. 56.
- 40 (7) Ballot for constitutional amendments and other propositions submitted  
41 to the people
- 42 (8) Judicial ballot for superior court.

43 Use of official ballots shall be limited to the purposes indicated by their titles. The  
44 printing on all ballots shall be plain and legible but, unless large type is specified by this

1 section, type larger than 10-point shall not be used in printing ballots. All general  
2 election ballots shall be prepared in such a way as to leave sufficient blank space  
3 beneath each name printed thereon in which a voter may conveniently write the name of  
4 any person for whom he may desire to vote.

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

11 Contests in the general election for seats in the State House of Representatives and  
12 State Senate shall be on ballots that are separate from ballots containing non-legislative  
13 contests, except where the voting system used makes separation of ballots impractical.  
14 State House and State Senate contests shall be on the same ballot, unless one is a  
15 single-seat contest and the other a multi-seat contest.

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

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

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

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

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

32 **"§ 7A-16. Creation and organization.**

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

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

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

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

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

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

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

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

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

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

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

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

Governor



- 1 Lieutenant Governor
- 2 All State executive officers
- 3 ~~Justices of the Supreme Court, Judges of the Court of Appeals~~
- 4 Judges of the district courts
- 5 United States Senators
- 6 Members of the House of Representatives of the United States
- 7 District attorneys

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

- 12 State Senators
- 13 Members of the State House of Representatives
- 14 All county offices."

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

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

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

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

30 "(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate  
 31 shall pay to the board of elections with which he files under the provisions of G.S.  
 32 163-106 a filing fee for the office he seeks in the amount specified in the following  
 33 tabulation:

34 Office Sought	Amount of Filing Fee
35	
36 Governor	One percent (1%) of the annual
37	salary of the office sought
38 Lieutenant Governor	One percent (1%) of the annual
39	salary of the office sought
40 All State executive offices	One percent (1%) of the annual
41	salary of the office sought
42 <del>All Justices, Judges, and</del>	One percent (1%) of the annual
43 <u>District Court Judges,</u>	salary of the office sought
44 District Attorneys of the	

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

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

"(b) If the candidate is seeking the office of United States Senator, Governor, Lieutenant Governor, or any State executive officer, ~~Justice of the Supreme Court or Judge of the Court of Appeals~~, the petition must be signed by 10,000 registered voters who are members of the political party in whose primary the candidate desires to run, except that in the case of a political party as defined by G.S. 163-96(a)(2) which will be making nominations by primary election, the petition must be signed by ten percent (10%) of the registered voters of the State who are affiliated with the same political

1 party in whose primary the candidate desires to run, or in the alternative, the petition  
2 shall be signed by no less than 10,000 registered voters regardless of the voter's political  
3 party affiliation, whichever requirement is greater. The petition must be filed with the  
4 State Board of Elections not later than 12:00 noon on Monday preceding the filing  
5 deadline before the primary in which he seeks to run. The names on the petition shall be  
6 verified by the board of elections of the county where the signer is registered, and the  
7 petition must be presented to the county board of elections at least 15 days before the  
8 petition is due to be filed with the State Board of Elections. When a proper petition has  
9 been filed, the candidate's name shall be printed on the primary ballot."

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

11 "(1) A candidate who is apparently entitled to demand a second primary,  
12 according to the unofficial results, for one of the offices listed below,  
13 and desiring to do so, shall file a request for a second primary in  
14 writing or by telegram with the Executive Secretary-Director of the  
15 State Board of Elections no later than 12:00 noon on the seventh day  
16 (including Saturdays and Sundays) following the date on which the  
17 primary was conducted, and such request shall be subject to the  
18 certification of the official results by the State Board of Elections. If  
19 the vote certification by the State Board of Elections determines that a  
20 candidate who was not originally thought to be eligible to call for a  
21 second primary is in fact eligible to call for a second primary, the  
22 Executive Secretary-Director of the State Board of Elections shall  
23 immediately notify such candidate and permit him to exercise any  
24 options available to him within a 48-hour period following the  
25 notification:

26 Governor,

27 Lieutenant Governor,

28 All State executive officers,

29 ~~Justices, Judges, or District Court Judges~~ or District Attorneys  
30 of the General Court of Justice, other than superior court  
31 judge,

32 United States Senators,

33 Members of the United States House of Representatives,

34 State Senators in multi-county senatorial districts, and

35 Members of the State House of Representatives in multi-county  
36 representative districts."

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

38 "**§ 163-177. Disposition of duplicate abstracts.**

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

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

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

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

17 All county offices

18 State Senators in single-county senatorial districts

19 Members of the State House of Representatives in single-county representative  
20 districts

21 Propositions submitted to the voters of one county.

22 If the chairman of the county board of elections fails or neglects to transmit  
23 duplicate abstracts to the chairman of the State Board of Elections within the time  
24 prescribed in this section, he shall be guilty of a misdemeanor. Provided, that the  
25 penalty shall not apply if the chairman was prevented from performing the prescribed  
26 duty because of sickness or other unavoidable delay, but the burden of proof shall be on  
27 the chairman to show that his failure to perform was due to sickness or unavoidable  
28 delay."

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

30 **"§ 163-192. State Board of Elections to prepare abstracts and declare results of**  
31 **primaries and elections.**

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

34 (1) For Governor and all State officers, ~~justices of the Supreme Court,~~  
35 ~~judges of the Court of Appeals,~~ and United States Senators.

36 (2) For members of the United States House of Representatives for the  
37 several congressional districts in the State.

38 (3) For district court judges for the several district court districts in the  
39 State.

40 (3a) For superior court judges for the several superior court districts in the  
41 State.

42 (4) For district attorney in the several prosecutorial districts in the State.

43 (5) For State Senators in the several senatorial districts in the State  
44 composed of more than one county.

1 (6) For members of the State House of Representatives in the several  
2 representative districts in the State composed of more than one county.

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

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

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

13 (1) For President and Vice-President of the United States, when an  
14 election is held for those offices.

15 (2) For Governor and all State ~~officers, officers~~ ~~justices of the Supreme~~  
16 ~~Court, judges of the Court of Appeals, and~~ United States Senators.

17 (3) For members of the United States House of Representatives for the  
18 several congressional districts in the State.

19 (4) For district court judges for the several district court districts as  
20 defined in G.S. 7A-133 in the State.

21 (4a) For superior court judges for the several superior court districts in the  
22 State.

23 (5) For district attorney in the several prosecutorial districts in the State.

24 (6) For State Senators in the several senatorial districts in the State  
25 composed of more than one county.

26 (7) For members of the State House of Representatives in the several  
27 representative districts in the State composed of more than one county.

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

30 Abstracts prepared by the State Board of Elections under this subsection shall state  
31 the names of all persons voted for, the office for which each received votes, and the  
32 number of legal ballots cast for each candidate for each office canvassed by the State  
33 Board of Elections. They shall also state the name or names of the person or persons  
34 whom the State Board of Elections shall ascertain and judicially determine by the count  
35 to be elected to each office.

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

39 (c) Disposition of Abstracts of Returns. – The State Board of Elections shall file  
40 with the Secretary of State the original abstracts of returns prepared by it under the  
41 provisions of subsections (a) and (b) of this section, and also the duplicate county  
42 abstracts transmitted to the State Board of Elections under the provisions of G.S.  
43 163-177. Upon the request of the Legislative Services Office, the Secretary of State  
44 shall submit a copy of the original abstracts to that Office."

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

2   "**§ 163-194. Governor to issue commissions to certain elected officials.**

3       Every person duly elected to one of the offices listed below, upon obtaining a  
4 certificate of his election from the Secretary of State under the provisions of G.S.  
5 163-193, shall procure from the Governor a commission attesting his election to the  
6 specified office, which the Governor shall issue upon production of the Secretary of  
7 State's certificate:

8       Members of the United States House of Representatives,  
9       ~~Justices, Judges, and Superior Court Judges, District Court Judges, and District~~  
10       Attorneys of the General Court of Justice."

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

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

14   "**§ 163-9. Filling vacancies in State and district judicial offices.**

15       (a) Vacancies occurring in the ~~offices of Justice of the Supreme Court, judge of~~  
16 ~~the Court of Appeals, and office of~~ judge of the superior court for causes other than  
17 expiration of term shall be filled by appointment of the Governor. An appointee to the  
18 office of Justice of the Supreme Court or judge of the Court of Appeals shall hold office  
19 until January 1 next following the election for members of the General Assembly that is  
20 held more than 60 days after the vacancy occurs, at which time an election shall be held  
21 for an eight-year term and until a successor is elected and qualified.

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

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

28           (1) With only one resident judge; or

29           (2) In which no county is subject to section 5 of the Voting Rights Act of  
30           1965,

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

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

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

41           **SECTION 3.16.** G.S. 143-318.11(a) is amended by adding the following  
42 new subdivision:

1           "(8) To consider the qualifications, competence, performance, character,  
2           and fitness of a candidate who is seeking a judicial nomination to the  
3           Governor by the Judicial Nomination Commission."

4           **SECTION 3.17.** The General Assembly recognizes the importance of having  
5 a well-qualified and diverse group of justices and judges to serve on the State's appellate  
6 courts. In selecting persons to serve on the Judicial Nomination Commission, the  
7 appointing authority should select, from among the most qualified persons, those  
8 persons whose appointment would promote gender, ethnic, racial, and geographical  
9 diversity in the membership of the Commission. When appointing nonattorneys to the  
10 Commission, the Governor, Speaker of the House of Representatives, and the President  
11 Pro Tempore of the Senate are encouraged to consider individuals with experience in  
12 alternative dispute resolution, individuals with experience working with victim  
13 assistance programs, and individuals with an interest in children's and family issues.

14           **SECTION 3.18.** Sections 3.1 through 3.17 of this act are effective only if the  
15 constitutional amendment proposed by Section 1 of this act is approved by the qualified  
16 voters in accordance with Section 2 of this act.

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