

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 94

Short Title: Superior Court Division Elections.

(Public)

Sponsors: Representatives Michaux; and Luebke.

Referred to: Judiciary IV.

February 17, 1999

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO ALLOW
2 ELECTION OF SUPERIOR COURT BY DIVISION, AND TO IMPLEMENT
3 THAT AMENDMENT.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. Section 16 of Article IV of the Constitution of North Carolina reads
7 as rewritten:

8 "Sec. 16. Terms of office and election of Justices of the Supreme Court, Judges of the
9 Court of Appeals, and Judges of the Superior Court. Justices of the Supreme Court,
10 Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected
11 by the qualified voters and shall hold office for terms of eight years and until their
12 successors are elected and qualified. Justices of the Supreme Court and Judges of the
13 Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of
14 the Superior Court may be elected by the qualified voters of the ~~State-State~~, by the
15 qualified voters of their judicial division, or by the voters of their respective districts, as
16 the General Assembly may prescribe."

17 Section 2. Section 11 of Article IV of the Constitution of North Carolina reads
18 as rewritten:

19 "**Sec. 11. Assignment of Judges.** The Chief Justice of the Supreme Court, acting in
20 accordance with rules of the Supreme Court, shall make assignments of Judges of the

1 Superior Court and may transfer District Judges from one district to another for
2 temporary or specialized ~~duty~~ duty, but regular Judges of Superior Court may be
3 assigned outside of their judicial division only in the case of emergency. The principle of
4 rotating Superior Court Judges among the various districts of a division is a salutary one
5 and shall be observed. For this purpose the General Assembly ~~may~~ shall divide the State
6 into ~~a number of~~ not less than eight judicial divisions. Subject to the general supervision
7 of the Chief Justice of the Supreme Court, assignment of District Judges within each
8 local court district shall be made by the Chief District Judge."

9 Section 3. The amendments set out in Sections 1 and 2 of this act shall be
10 submitted to the qualified voters of the State at a statewide election on November 2,
11 1999, which election shall be conducted under the laws then governing elections in the
12 State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of
13 the General Statutes. The question to be used in the voting systems and ballots shall be:

14 "[] FOR [] AGAINST

15 Constitutional amendments allowing Judges of Superior Court to be elected by
16 the qualified voters of their judicial division."

17 Section 4. If a majority of the votes cast on the question are in favor of the
18 amendments set out in Sections 1 and 2 of this act, the State Board of Elections shall
19 certify the amendments to the Secretary of State. The amendments become effective
20 upon this certification. The Secretary of State shall enroll the amendments so certified
21 among the permanent records of that office.

22 Section 5. G.S. 7A-41.2 reads as rewritten:

23 "**§ 7A-41.2. Nomination and election of regular superior court judges.**

24 Candidates for the office of regular superior court judge shall be both nominated and
25 elected by the qualified voters of the superior court ~~district~~ division for which the election
26 is sought."

27 Section 6. G.S. 163-1 is amended in the table by deleting the words "Superior
28 Court District" in the column entitled "Jurisdiction" under the entry for "Judges of the
29 Superior Court".

30 Section 7. G.S. 163-140(b)(5) reads as rewritten:

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

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

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

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

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

40 On the bottom of the ballot shall be printed an identified facsimile of
41 the signature of the chairman of the county board of elections. If the
42 county ballot contains no multi-seat race, then the second sentence of
43 instruction b. shall not appear on the ballot."

Section 8(a). G.S. 163-192(a)(3a) reads as rewritten:

"(3a) For superior court judges for the several ~~superior court districts~~ judicial divisions in the State.

Section 8(b). G.S. 163-192(b)(4a) reads as rewritten:

"(4a) For superior court judges for the several superior court ~~districts~~ divisions in the State."

Section 9. G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First <u>1A</u>	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
<u>1A</u>	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
<u>1A</u>	3A	Pitt	2
<u>1B</u>	3B	Carteret, Craven, Pamlico	2
<u>1B</u>	4A	Duplin, Jones, Sampson	1
<u>1B</u>	4B	Onslow	1
<u>1B</u>	5	New Hanover, Pender	3
<u>1A</u>	6A	Halifax	1
<u>1A</u>	6B	Bertie, Hertford, Northampton	1
<u>1A</u>	7A	Nash	1
<u>1A</u>	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
<u>1A</u>	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
<u>1B</u>	8A	Lenoir and Greene	1
<u>1B</u>	8B	Wayne	1

1	<u>Second</u> <u>2A</u>	9	Franklin, Granville,	2
2			Vance, Warren	
3	<u>2A</u>	9A	Person, Caswell	1
4	<u>2A</u>	10A	(part of Wake,	2
5			see subsection (b))	
6	<u>2A</u>	10B	(part of Wake,	2
7			see subsection (b))	
8	<u>2A</u>	10C	(part of Wake,	1
9			see subsection (b))	
10	<u>2A</u>	10D	(part of Wake,	1
11			see subsection (b))	
12	<u>2B</u>	11A	Harnett, Lee	1
13	<u>2B</u>	11B	Johnston	1
14	<u>2B</u>	12A	(part of Cumberland,	1
15			see subsection (b))	
16	<u>2B</u>	12B	(part of Cumberland,	1
17			see subsection (b))	
18	<u>2B</u>	12C	(part of Cumberland,	2
19			see subsection (b))	
20	<u>2B</u>	13	Bladen, Brunswick,	2
21			Columbus	
22	<u>2A</u>	14A	(part of Durham,	1
23			see subsection (b))	
24	<u>2A</u>	14B	(part of Durham,	3
25			see subsection (b))	
26	<u>2A</u>	15A	Alamance	2
27	<u>2A</u>	15B	Orange, Chatham	1
28	<u>2B</u>	16A	Scotland, Hoke	1
29	<u>2B</u>	16B	Robeson	2
30	Third <u>3A</u>	17A	Rockingham	2
31	<u>3A</u>	17B	Stokes, Surry	2
32	<u>3B</u>	18A	(part of Guilford,	1
33			see subsection (b))	
34	<u>3B</u>	18B	(part of Guilford,	1
35			see subsection (b))	
36	<u>3B</u>	18C	(part of Guilford,	1
37			see subsection (b))	
38	<u>3B</u>	18D	(part of Guilford,	1
39			see subsection (b))	
40	<u>3B</u>	18E	(part of Guilford,	1
41			see subsection (b))	
42	<u>3B</u>	19A	Cabarrus	1
43	<u>3B</u>	19B	Montgomery, Moore	2

1			Randolph	
2	<u>3B</u>	19C	Rowan	1
3	<u>3B</u>	20A	Anson, Richmond	12
4	<u>3B</u>	20B	Stanly, Union	2
5	<u>3A</u>	21A	(part of Forsyth,	1
6			see subsection (b))	
7	<u>3A</u>	21B	(part of Forsyth,	1
8			see subsection (b))	
9	<u>3A</u>	21C	(part of Forsyth,	1
10			see subsection (b))	
11	<u>3A</u>	21D	(part of Forsyth,	1
12			see subsection (b))	
13	<u>3A</u>	22	Alexander, Davidson,	2
14			Davie, Iredell	
15	<u>3A</u>	23	Alleghany, Ashe,	1
16			Wilkes, Yadkin	
17	Fourth <u>4A</u>	24	Avery, Madison,	1
18			Mitchell,	
19			Watauga, Yancey	
20	<u>4A</u>	25A	Burke, Caldwell	2
21	<u>4A</u>	25B	Catawba	2
22	<u>4B</u>	26A	(part of Mecklenburg,	2
23			see subsection (b))	
24	<u>4B</u>	26B	(part of Mecklenburg,	2
25			see subsection (b))	
26	<u>4B</u>	26C	(part of Mecklenburg,	2
27			see subsection (b))	
28	<u>4B</u>	27A	Gaston	2
29	<u>4B</u>	27B	Cleveland, Lincoln	2
30	<u>4A</u>	28	Buncombe	2
31	<u>4A</u>	29	Henderson,	2
32			McDowell, Polk,	
33			Rutherford,	
34			Transylvania	
35	<u>4A</u>	30A	Cherokee, Clay,	1
36			Graham, Macon,	
37			Swain	
38	<u>4A</u>	30B	Haywood, Jackson	1."

39 Section 10. Sections 5 through 9 of this act become effective only if the
40 qualified voters approve the constitutional amendments proposed by Sections 1 and 2 of
41 this act, and if they are so approved, Sections 5 through 9 of this act become effective
42 beginning with respect to the 2000 election, and Section 9 becomes effective January 1,
43 2001, for all other purposes.