

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1373

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

Sponsors: Representative Culpepper.

Referred to: Judiciary IV.

April 21, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE
2 FOR GUBERNATORIAL APPOINTMENT OF JUSTICES OF THE SUPREME
3 COURT AND JUDGES OF THE COURT OF APPEALS, AND RETENTION BY
4 VOTE OF THE PEOPLE.
5

6 The General Assembly of North Carolina enacts:

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

9 "~~Sec. 16. Terms of office and election of Justices of the Supreme Court, Judges of the~~
10 ~~Court of Appeals, and Judges of the Superior Court. Selection and tenure of Justices of~~
11 ~~the Supreme Court and Judges of the Court of Appeals; election of Judges of the~~
12 ~~Superior Court.~~

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

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

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

27 (3) Nomination, appointment, retention election, and terms of Justices and
28 Judges. On and after January 1, 2007, when a vacancy occurs in the office of Chief
29 Justice, Associate Justice, or Judge of the Appellate Division, the Governor shall

1 appoint a person to fill the vacancy. For the purposes of this section, creation of a new
2 judgeship within the Appellate Division creates a vacancy.

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

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

13 At the last statewide election for members of the General Assembly held before the
14 expiration of a regular term of office, a Chief Justice, Associate Justice, or Judge of the
15 Appellate Division who desires to continue in office shall be subject to approval by
16 nonpartisan ballot, by a majority of the votes cast on the issue of the Justice's or Judge's
17 retention.

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

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

24 (4) Transition provisions. The term of office of a person who has been elected
25 before January 1, 2007, to the office of Chief Justice, Associate Justice, or Judge of the
26 Appellate Division for a term which extends beyond January 1, 2007, and who is in
27 office on January 1, 2007, is extended through June 30 of the year following the eighth
28 year after the date any such Justice or Judge was last elected to the office. If the person
29 so elected continues to serve for the remainder of the term, that person may stand for
30 retention in the office for a succeeding regular term as provided in this section. If the
31 person continues to serve for the remainder of the term but does not stand for retention
32 election, a vacancy is created in the office upon expiration of the term, and this vacancy
33 shall be filled by nomination and appointment as provided in this section.

34 The term of office of a person who has been appointed before January 1, 2007, to the
35 office of Chief Justice, Associate Justice, or Judge of the Appellate Division to serve
36 until the 2008 election, and who is in office on January 1, 2007, shall end on June 30,
37 2009. If the person so appointed continues to serve for the remainder of the term, that
38 person may stand for retention in the office for a regular term as provided by this
39 section at the statewide election for members of the General Assembly held in 2008.

40 Upon the death, resignation, removal, or retirement of any incumbent Justice or
41 Judge on or after January 1, 2007, and before the expiration of the Justice's or Judge's
42 term of office, the resulting vacancy shall be filled by nomination and appointment as
43 provided in this section.

1 Vacancies in judicial offices in the Appellate Division occurring before January 1,
2 2007, and not filled by that date, shall be filled by nomination and appointment as
3 provided in this section.

4 From the date any incumbent described in this subsection is continued in office by
5 retention vote for a term next succeeding the term in progress on January 1, 2007, or is
6 succeeded in office by another person, the office is held subject to the provisions of this
7 section.

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

9 **SECTION 2.** The amendment set out in Section 1 of this act shall be
10 submitted to the qualified voters of the State at the general election in November of
11 2006, 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 on the ballot shall be:

14 "[] FOR [] AGAINST

15 Constitutional amendment to replace the present practice of selecting Justices
16 and Judges of the Appellate Division largely by gubernatorial appointment, followed by
17 nonpartisan elections, with a method by which Justices and Judges of the Appellate
18 Division will be appointed by the Governor, and then serve for limited terms after
19 which the question of the Justice's or Judge's retention in office is regularly submitted
20 for approval or disapproval by nonpartisan vote of the people at general elections, and
21 to provide for election of superior court judges in their districts."

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

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

29 "Article 1A.

30 "Appointment of Justices and Judges; Retention Elections."

31 **"§ 7A-4.1. Appointment of justices and judges by Governor.**

32 The offices of Chief Justice and Justice of the Supreme Court and Judge of the Court
33 of Appeals are filled by appointment by the Governor in accordance with Section 16 of
34 Article IV of the Constitution.

35 **"§ 7A-4.2. Governor to issue commissions to justices and judges.**

36 Every person duly appointed by the Governor as Chief Justice of the Supreme Court,
37 Associate Justice of the Supreme Court, or Judge of the Court of Appeals shall procure
38 from the Governor a commission attesting that fact.

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

42 **"§ 7A-4.3. No elections in 2007 and thereafter.**

1 No election as previously provided by Subchapter X of Chapter 163 of the General
2 Statutes for Chief Justice or Associate Justice of the Supreme Court, or Judge of the
3 Court of Appeals shall be held in 2007 or thereafter.

4 **"§ 7A-4.4. Retention elections.**

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

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

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

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

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

28 **SECTION 3.2.** G.S. 7A-10(a) reads as rewritten:

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

39 **SECTION 3.3.** G.S. 7A-16 reads as rewritten:

40 **"§ 7A-16. Creation and organization.**

41 ~~The Court of Appeals is created effective January 1, 1967. It shall consist initially of~~
42 ~~six judges, elected by the qualified voters of the State for terms of eight years. The~~
43 ~~Chief Justice of the Supreme Court shall designate one of the judges as Chief Judge, to~~
44 ~~serve in such capacity at the pleasure of the Chief Justice. Before entering upon the~~

1 ~~duties of his office, a judge of the Court of Appeals shall take the oath of office~~
2 ~~prescribed for a judge of the General Court of Justice.~~

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

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

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

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

24 ~~On or after December 15, 2000, the Governor shall appoint three additional judges~~
25 ~~to increase the number of judges to 15.~~

26 The Court of Appeals shall consist of 15 judges, selected as provided in Article 1A
27 of this Chapter. The Chief Justice of the Supreme Court shall designate one of the
28 judges as Chief Judge to serve in such capacity at the pleasure of the Chief Justice.
29 Before entering upon the duties of his office, a Judge of the Court of Appeals shall take
30 the oath of office prescribed for a Judge of the General Court of Justice.

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

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

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

42 **SECTION 3.4.** G.S. 163-1 is amended in the table by deleting the entries for
43 "Justices and Judges of the Appellate Division".

44 **SECTION 3.5.** G.S. 163-9 reads as rewritten:

1 **"§ 163-9. Filling vacancies in State and district judicial offices.**

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

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

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

15 (1) With only one resident judge; or

16 (2) In which no county is subject to section 5 of the Voting Rights Act of
17 1965,

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

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

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

28 **SECTION 3.6.** The title of Subchapter X of Chapter 163 of the General
29 Statutes reads as rewritten:

30 **"SUBCHAPTER X. ELECTION OF APPELLATE, SUPERIOR, SUPERIOR**
31 **AND DISTRICT COURT JUDGES."**

32 **SECTION 3.7.** The title of Article 25 of Chapter 163 of the General Statutes
33 reads as rewritten:

34 "Article 25.

35 Nomination and Election of Appellate, Superior, Superior and District Court Judges."

36 **SECTION 3.8.** G.S. 163-321 reads as rewritten:

37 **"§ 163-321. Applicability.**

38 The nomination and election of justices of the Supreme Court, judges of the Court of
39 Appeals, and superior and district court judges of the General Court of Justice shall be
40 as provided by this Article."

41 **SECTION 3.9.** G.S. 163-323 reads as rewritten:

42 **"§ 163-323. Notice of candidacy.**

1 (a) Form of Notice. – Each person offering to be a candidate for election shall do
 2 so by filing a notice of candidacy with the State Board of Elections in the following
 3 form, inserting the words in parentheses when appropriate:

4
 5 Date: _____

6
 7 I hereby file notice that I am a candidate for election to the office of
 8 _____ in the regular election to be held _____, ____.

9
 10 Signed: _____
 11 (Name of Candidate)

12
 13 Witness: _____

14
 15 The notice of candidacy shall be either signed in the presence of the chairman or
 16 secretary of the State Board of Elections, or signed and acknowledged before an officer
 17 authorized to take acknowledgments who shall certify the notice under seal. An
 18 acknowledged and certified notice may be mailed to the State Board of Elections. In
 19 signing a notice of candidacy, the candidate shall use only the candidate's legal name
 20 and, in his discretion, any nickname by which commonly known. A candidate may also,
 21 in lieu of that candidate's first name and legal middle initial or middle name, if any, sign
 22 that candidate's nickname, provided the candidate appends to the notice of candidacy an
 23 affidavit that the candidate has been commonly known by that nickname for at least five
 24 years prior to the date of making the affidavit. The candidate shall also include with the
 25 affidavit the way the candidate's name (as permitted by law) should be listed on the
 26 ballot if another candidate with the same last name files a notice of candidacy for that
 27 office.

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

30 (b) Time for Filing Notice of Candidacy. – Candidates seeking election to the
 31 following offices shall file their notice of candidacy with the State Board of Elections
 32 no earlier than 12:00 noon on the second Monday in February and no later than 12:00
 33 noon on the last business day in February preceding the election:

- 34 ~~Justices of the Supreme Court.~~
- 35 ~~Judges of the Court of Appeals.~~
- 36 Judges of the superior courts.
- 37 Judges of the district courts.

38 (c) Withdrawal of Notice of Candidacy. – Any person who has filed a notice of
 39 candidacy for an office shall have the right to withdraw it at any time prior to the date
 40 on which the right to file for that office expires under the terms of subsection (b) of this
 41 section.

42 (d) Certificate That Candidate Is Registered Voter. – Candidates shall file along
 43 with their notice a certificate signed by the chairman of the board of elections or the
 44 supervisor of elections of the county in which they are registered to vote, stating that the

1 person is registered to vote in that county, and if the candidacy is for superior court
2 judge and the county contains more than one superior court district, stating the superior
3 court district of which the person is a resident. In issuing such certificate, the chairman
4 or supervisor shall check the registration records of the county to verify such
5 information. During the period commencing 36 hours immediately preceding the filing
6 deadline, the State Board of Elections shall accept, on a conditional basis, the notice of
7 candidacy of a candidate who has failed to secure the verification ordered herein subject
8 to receipt of verification no later than three days following the filing deadline. The State
9 Board of Elections shall prescribe the form for such certificate, and distribute it to each
10 county board of elections no later than the last Monday in December of each
11 odd-numbered year.

12 (e) Candidacy for More Than One Office Prohibited. – No person may file a
13 notice of candidacy for more than one office or group of offices described in subsection
14 (b) of this section, or for an office or group of offices described in subsection (b) of this
15 section and an office described in G.S. 163-106(c), for any one election. If a person has
16 filed a notice of candidacy with a board of elections under this section or under
17 G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not
18 later be filed for any other office or group of offices under this section when the election
19 is on the same date unless the notice of candidacy for the first office is withdrawn under
20 subsection (c) of this section.

21 (f) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any
22 election in which there are two or more vacancies for the office of ~~justice of the~~
23 ~~Supreme Court, judge of the Court of Appeals, or~~ district court judge to be filled by
24 nominations, each candidate shall, at the time of filing notice of candidacy, file with the
25 State Board of Elections a written statement designating the vacancy to which the
26 candidate seeks election. Votes cast for a candidate shall be effective only for election
27 to the vacancy for which the candidate has given notice of candidacy as provided in this
28 subsection.

29 A person seeking election for a specialized district judgeship established under
30 G.S. 7A-147 shall, at the time of filing notice of candidacy, file with the State Board of
31 Elections a written statement designating the specialized judgeship to which the person
32 seeks nomination.

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

41 **SECTION 3.10.** G.S. 163-325 reads as rewritten:

42 "**§ 163-325. Petition in lieu of payment of filing fee.**

1 (a) General. – Any qualified voter who seeks election under this Article may, in
2 lieu of payment of any filing fee required for the office he seeks, file a written petition
3 requesting him to be a candidate for a specified office with the State Board of Elections.

4 (b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking
5 the office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ superior or
6 district court judge, that individual shall file a written petition with the State Board of
7 Elections no later than 12:00 noon on Monday preceding the filing deadline before the
8 primary. ~~If the office is justice of the Supreme Court or judge of the Court of Appeals,~~
9 ~~the petition shall be signed by 10,000 registered voters in the State.~~ If the office is
10 superior court or district court judge, the petition shall be signed by ten percent (10%) of
11 the registered voters of the election area in which the office will be voted for. The board
12 of elections shall verify the names on the petition, and if the petition and notice of
13 candidacy are found to be sufficient, the candidate's name shall be printed on the
14 appropriate ballot. Petitions must be presented to the county board of elections for
15 verification at least 15 days before the petition is due to be filed with the State Board of
16 Elections. The State Board of Elections may adopt rules to implement this section and
17 to provide standard petition forms."

18 **SECTION 3.11.** G.S. 163-326(b) reads as rewritten:

19 "(b) Notification of Local Boards. – No later than 10 days after the time for filing
20 notices of candidacy under the provisions of G.S. 163-323(b) has expired, the chairman
21 of the State Board of Elections shall certify to the chairman of the county board of
22 elections in each county in the appropriate district the names of candidates for
23 nomination to the offices of ~~justice of the Supreme Court, judge of the Court of~~
24 ~~Appeals, and~~ superior and district court judge who have filed the required notice and
25 paid the required filing fee or presented the required petition to the State Board of
26 Elections, so that their names may be printed on the official ~~judicial ballot for justice of~~
27 ~~the Supreme Court, judge of the Court of Appeals, and superior and district court~~
28 ballot."

29 **SECTION 3.12.** G.S. 163-327(b) reads as rewritten:

30 "(b) Death, Disqualification, or Resignation of Official After Election. – If a
31 person elected to the office of ~~justice of the Supreme Court, judge of the Court of~~
32 ~~Appeals, or~~ superior or district court judge dies, becomes disqualified, or resigns on or
33 after election day and before he has qualified by taking the oath of office, the office
34 shall be deemed vacant and shall be filled as provided by law."

35 **SECTION 3.13.** G.S. 163-329 reads as rewritten:

36 "**§ 163-329. Elections to fill vacancy created after primary filing period to use**
37 **plurality method.**

38 (a) General. – If a vacancy is created in the office of ~~justice of the Supreme~~
39 ~~Court, judge of the Court of Appeals, or~~ judge of superior court after the filing period
40 for the primary opens but more than 60 days before the general election, and under the
41 Constitution of North Carolina an election is to be held for that position, such that the
42 office shall be filled in the general election as provided in G.S. 163-9, the election to fill
43 the office for the remainder of the term shall be conducted without a primary using the
44 plurality method as provided in subsection (b) of this section. If a vacancy is created in

1 the office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ judge of
2 superior court before the filing period for the primary opens, and under the Constitution
3 of North Carolina an election is to be held for that position, such that the office shall be
4 filled in the general election as provided in G.S. 163-9, the election to fill the office for
5 the remainder of the term shall be conducted in accordance with G.S. 163-322.

6 (b) Plurality Election Rules. – Elections under this section shall be conducted
7 using the following rules:

- 8 (1) The filing period shall be prescribed by the State Board of Elections,
9 but in no event may it be less than five working days. If a vacancy
10 occurs in a second office in the same superior court district after the
11 first filing period established under the section has closed, the State
12 Board of Elections shall reopen filing for a period of not less than five
13 working days for the office of ~~justice of the Supreme Court, judge of~~
14 ~~the Court of Appeals, or~~ superior court judge. All persons filing in
15 either filing period shall run as a group and the election results shall be
16 determined by subdivision (3) of this subsection.
- 17 (2) When more than one person is seeking election to a single office, the
18 candidate who receives the highest number of votes shall be declared
19 elected.
- 20 (3) When more persons are seeking election to two or more offices
21 (constituting a group) than there are offices to be filled, those
22 candidates receiving the highest number of votes, equal in number to
23 the number of offices to be filled, shall be declared elected.
- 24 (4) If two or more candidates receiving the highest number of votes each
25 receive the same number of votes, the board of elections shall resolve
26 the tie in accordance with G.S. 163-182.8.
- 27 (5) Except as provided in this section, the provisions of this Article apply
28 to elections conducted under this section."

29 **SECTION 3.14.** G.S. 163-332(b) reads as rewritten:

30 "(b) Ballots to Be Furnished by County Board of Elections. – It shall be the duty
31 of the county board of elections to print official ballots for the following offices to be
32 voted for in the primary:

33 ~~Justice of the Supreme Court.~~

34 ~~Judge of the Court of Appeals.~~

35 Superior court judge.

36 District court judge.

37 In printing ballots, the county board of elections shall be governed by instructions of
38 the State Board of Elections with regard to width, color, kind of paper, form, and size of
39 type.

40 Three days before the election, the chairman of the county board of elections shall
41 distribute official ballots to the chief judge of each precinct in his county, and the chief
42 judge shall give a receipt for the ballots received. On the day of the primary, it shall be
43 the chief judge's duty to have all the ballots so delivered available for use at the precinct
44 voting place."

1 **SECTION 3.15.** Sections 3.1 through 3.14 of this act are effective only if the
2 constitutional amendment proposed by Section 1 of this act is approved by the qualified
3 voters in accordance with Section 2 of this act.

4 **SECTION 4.** Except as otherwise provided for, this act is effective when it
5 becomes law.