§ 163-182.13A. Contested elections for Council of State offices.

(a) Application of Procedures. – A contested election for any elective office established by Article III of the Constitution shall be determined by joint ballot of both houses of the General Assembly under Article VI, Section 5 of the Constitution in accordance with the provisions of this section. Except as provided by this section, the provisions of Article 3 of Chapter 120 shall apply to contested elections under this section and shall govern standing, notice of intent to contest, answers, service of process, evidence, the petition, procedures, grounds, and relief except as provided in this section. All filings shall be with the Principal Clerk of the House of Representatives.

(b) Notice of Intent. – Notice of the intent to contest the election under this section shall be filed with the Principal Clerk of the House of Representatives as if it were a contested election for the House of Representatives as prescribed in Article 3 of Chapter 120.

(c) Jurisdiction. – When a contest arises out of the general election, the General Assembly elected at the same time shall hear and decide it. Any other contest shall be heard by the General Assembly sitting at the time of the election.

(d) Committee. – A contest filed under this section shall initially be heard before a select committee consisting of five Senators appointed by the President Pro Tempore and five Representatives appointed by the Speaker of the House of Representatives. Not more than three members of the Senate appointed by the President Pro Tempore shall be members of the same political party. Not more than three members of the House of Representatives appointed by the Speaker shall be members of the same political party. That committee shall have the same power as a committee under Article 3 of Chapter 120 and may adopt supplemental rules as necessary to govern its proceedings. The committee shall report its findings as to the law and the facts and make recommendations to the General Assembly for its action.

(e) Final Determination. – The final determination on the recommendations of the committee shall be made by the General Assembly, both houses sitting in joint session in the Hall of the House of Representatives, with the Speaker of the House of Representatives presiding. The vote shall be taken as provided by Article VI, Section 5 of the Constitution. In order to find for the contestant or contestee and order the contestant or contestee elected, the vote on the joint ballot must include the affirmative vote of a majority of the members of the General Assembly voting on the issue. The ballots shall be in writing and are subject to the provisions of G.S. 143-318.13(b).

(f) Basis for Decision. –

(1) If the contest is as to the eligibility or qualifications of the contestee, the General Assembly shall determine if the contestee is eligible and qualified. If it determines that the contestee is not eligible or not qualified, it shall order a new election.

(2) If the contest is as to the conduct or results of the election, the General Assembly shall determine which candidate received the highest number of votes. If it can determine which candidate received the highest number of votes, it shall declare that candidate to be elected. If it cannot determine which candidate received the highest number of votes, it may order a new election, or may order such other relief as may be necessary and proper. If it determines that two or more candidates shall be equal and highest in votes, the provisions of G.S. 147-4 shall apply.

(g) Final Determination. – A copy of the final determination of the General Assembly under this section shall be filed with the Secretary of State and with the State Board of Elections.

(h) Copies. – The Principal Clerk of the House of Representatives shall make copies of any filings and transmit them to the Principal Clerk for the Senate.

(i) Applicability. – This section applies only to a general or special election and does not apply to the primary or any other part of the nominating process.

(j) Judicial Proceedings Abated. – Notwithstanding any other provision of law, upon the initiation of a contest under this Article, any judicial proceedings involving either the contestant or the contestee encompassing the issues set forth in the notice of intent or an answer thereto concerning the election that is the subject of the contest shall abate. The clerk shall file a copy of the notice of intent and final determination with the court in any judicial proceeding pending prior to the filing of the notice of intent.

(k) General Assembly Determination Not Reviewable. – The decision of the General Assembly in determining the contest of the election pursuant to this section may not be reviewed by the General Court of Justice.

(*l*) Definition. – As used in this section, "contest" means a challenge to the apparent election for any elective office established by Article III of the Constitution or to request the decision of an undecided election to any elective office established by Article III of the Constitution, where the challenge or the request is filed in accordance with the timing and procedures of this section. (2005-3, s. 3(a); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)