

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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1

HOUSE BILL 20

Short Title: Superior Court Elect. by Division.

(Public)

Sponsors: Representatives Michaux; Hensley and Boyd-McIntyre.

Referred to: Judiciary I.

January 26, 1995

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 Sec. 2. Section 11 of Article IV of the Constitution of North Carolina reads as
18 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 Sec. 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 7,
11 1995, 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 Sec. 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 Sec. 5. Chapter 7A of the General Statutes is amended by adding a new
23 section to read:

24 "**§ 7A-41.2. Nomination and election of regular superior court judges.**

25 Candidates for the office of regular superior court judge shall be nominated by the
26 qualified voters of the superior court district of which the candidate is a resident, and
27 shall be elected by the qualified voters of the judicial division of which the candidate is a
28 resident."

29 Sec. 6. G.S. 163-1 is amended in the table by deleting the word "State" in the
30 column entitled "Jurisdiction" under the entry for "Judges of the superior courts", and
31 substituting "Judicial Division".

32 Sec. 7. G.S. 163-140(b)(4) reads as rewritten:

33 "(4) State Ballot: Beneath the title and general instructions set out in this
34 subsection, the ballot for single-seat contests for State officers, and for
35 all State officers where mechanical voting machines are used (~~including~~
36 ~~judges of the superior court~~)-shall be divided into parallel columns
37 separated by distinct black lines. The State Board of Elections shall
38 assign a separate column to each political party having candidates for
39 State offices and one to unaffiliated candidates, if any. At the head of
40 each party column the party's name shall be printed in large type, and at
41 the head of the column for unaffiliated candidates shall be printed in
42 large type the words 'Unaffiliated Candidates.' Below the party name in
43 each column shall be printed a circle, one-half inch in diameter, around

1 which shall be plainly printed the following instruction: 'For a straight
2 ticket, mark within this circle.' With distinct black lines, the State Board
3 of Elections shall divide the columns into horizontal sections and, in the
4 customary order of office, assign a separate section to each office or
5 group of offices to be filled. On a single line at the top of each section
6 shall be printed a direction as to the number of candidates for whom a
7 vote may be cast. If candidates are to be chosen for different terms to
8 the same office, the term in each instance shall be printed as part of the
9 title of the office.

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

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

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

36 On the bottom of the ballot shall be printed an identified facsimile of
37 the signature of the Chairman of the State Board of Elections. If the
38 State ballot contains no multi-seat race, then the second sentence of
39 instruction b. shall not appear on the ballot."

40 Sec. 8. G.S. 163-140(b)(5) reads as rewritten:

- 41 "(5) County Ballot: Beneath the title and general instructions set out in this
42 subsection, the ballot for single-seat contests for county officers
43 (including district attorney for the prosecutorial district in which the

1 county is situated, district judge for the district court district in which
2 the county is situated, regular resident superior court judge for the
3 judicial division in which the county is situated, and members of the
4 General Assembly in the senatorial and representative districts in which
5 the county is situated), and for all county offices where mechanical
6 voting machines are used, shall be divided into parallel columns
7 separated by distinct black lines. The county board of elections shall
8 assign a separate column to each political party having candidates for
9 the offices on the ballot and one to unaffiliated candidates, if any. At the
10 head of each party column the party's name shall be printed in large type
11 and at the head of the column for unaffiliated candidates shall be printed
12 in large type the words 'Unaffiliated Candidates.' Below the party name
13 in each column shall be printed a circle, one-half inch in diameter,
14 around which shall be plainly printed the following instruction: 'For a
15 straight ticket, mark within this circle.' With distinct black lines, the
16 county board of elections shall divide the columns into horizontal
17 sections and, in the customary order of office, assign a separate section
18 to each office or group of offices to be filled. On a single line at the top
19 of each section shall be printed the title of the office, and directly below
20 the title shall be printed a direction as to the number of candidates for
21 whom a vote may be cast. If candidates are to be chosen for different
22 terms to the same office, the term in each instance shall be printed as
23 part of the title of the office.

24 The name or names of each political party's candidate or candidates
25 for each office listed on the ballot shall be printed in the appropriate
26 office section of the proper party column, and the names of unaffiliated
27 candidates shall be printed in the appropriate office section of the
28 column headed 'Unaffiliated Candidates.' At the left of each name shall
29 be printed a voting square, and in each column all voting squares shall
30 be arranged in a perpendicular line.

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

- 34 'a. To vote for all candidates of one party (a straight ticket), make a
35 cross (X) mark in the circle of the party for whose candidates you
36 wish to vote.
- 37 b. You may vote a split ticket by not marking a cross (X) mark in
38 the party circle, but by making a cross (X) mark in the square
39 opposite the name of each candidate for whom you wish to vote.
- 40 c. You may also vote a split ticket by marking a cross (X) mark in
41 the party circle and then making a cross (X) mark in the square
42 opposite the name of any candidate you choose of a different
43 party. In any multi-seat race where a party circle is marked and

1 you vote for candidates of another party, you must also make a
2 cross (X) mark opposite the name of any candidate you choose of
3 the party for which you marked the party circle to assure your
4 vote will count.

- 5 d. If you tear or deface or wrongly mark this ballot, return it and get
6 another.'

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

11 Sec. 9. G.S. 163-192 reads as rewritten:

12 **"§ 163-192. State Board of Elections to prepare abstracts and declare results of**
13 **primaries and elections.**

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

- 16 (1) For Governor and all State officers, justices of the Supreme Court,
17 judges of the Court of Appeals, ~~judges of the superior court,~~ and United
18 States Senators.
19 (2) For members of the United States House of Representatives for the
20 several congressional districts in the State.
21 (3) For district court judges for the several district court districts in the
22 State.
23 (3a) For superior court judges for the several judicial divisions in the State.
24 (4) For district attorney in the several prosecutorial districts in the State.
25 (5) For State Senators in the several senatorial districts in the State
26 composed of more than one county.
27 (6) For members of the State House of Representatives in the several
28 representative districts in the State composed of more than one county.

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

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

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

- 39 (1) For President and Vice-President of the United States, when an election
40 is held for those offices.
41 (2) For Governor and all State officers, justices of the Supreme Court,
42 judges of the Court of Appeals, ~~judges of the superior court,~~ and United
43 States Senators.

- 1 (3) For members of the United States House of Representatives for the
- 2 several congressional districts in the State.
- 3 (4) For district court judges for the several district court districts as defined
- 4 in G.S. 7A-133 in the State.
- 5 (4a) For superior court judges for the several superior court divisions in the
- 6 State.
- 7 (5) For district attorney in the several prosecutorial districts in the State.
- 8 (6) For State Senators in the several senatorial districts in the State
- 9 composed of more than one county.
- 10 (7) For members of the State House of Representatives in the several
- 11 representative districts in the State composed of more than one county.
- 12 (8) For and against any constitutional amendments or propositions
- 13 submitted to the people.

14 Abstracts prepared by the State Board of Elections under this subsection shall state
 15 the names of all persons voted for, the office for which each received votes, and the
 16 number of legal ballots cast for each candidate for each office canvassed by the State
 17 Board of Elections. They shall also state the name or names of the person or persons
 18 whom the State Board of Elections shall ascertain and judicially determine by the count
 19 to be elected to each office.

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

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

29 Sec. 10. G.S. 7A-41(a) reads as rewritten:

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

Judicial Division	Superior Court District	Counties	No. of Resident Judges
<u>First 1A</u>	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
<u>1A</u>	2	Beaufort, Hyde,	1

1			Martin,	
2			Tyrrell, Washington	
3	<u>1A</u>	3A	Pitt	2
4	<u>1B</u>	3B	Carteret, Craven,	2
5			Pamlico	
6	<u>1B</u>	4A	Duplin, Jones,	1
7			Sampson	
8	<u>1B</u>	4B	Onslow	1
9	<u>1B</u>	5	New Hanover,	3
10			Pender	
11	<u>1A</u>	6A	Halifax	1
12	<u>1A</u>	6B	Bertie, Hertford,	1
13			Northampton	
14	<u>1A</u>	7A	Nash	1
15	<u>1A</u>	7B	(part of Wilson,	1
16			part of Edgecombe,	
17			see subsection (b))	
18	<u>1A</u>	7C	(part of Wilson,	1
19			part of Edgecombe,	
20			see subsection (b))	
21	<u>1B</u>	8A	Lenoir and Greene	1
22	<u>1B</u>	8B	Wayne	1
23	Second <u>2A</u>	9	Franklin, Granville,	2
24			Vance, Warren	
25	<u>2A</u>	9A	Person, Caswell	1
26	<u>2A</u>	10A	(part of Wake,	2
27			see subsection (b))	
28	<u>2A</u>	10B	(part of Wake,	2
29			see subsection (b))	
30	<u>2A</u>	10C	(part of Wake,	1
31			see subsection (b))	
32	<u>2A</u>	10D	(part of Wake,	1
33			see subsection (b))	
34	<u>2B</u>	11	Harnett, Johnston,	2
35			Lee	
36	<u>2B</u>	12A	(part of Cumberland,	1
37			see subsection (b))	
38	<u>2B</u>	12B	(part of Cumberland,	1
39			see subsection (b))	
40	<u>2B</u>	12C	(part of Cumberland,	2
41			see subsection (b))	
42	<u>2B</u>	13	Bladen, Brunswick,	2
43			Columbus	

1	<u>2A</u>	14A	(part of Durham, see subsection (b))	1
2				
3	<u>2A</u>	14B	(part of Durham, see subsection (b))	3
4				
5	<u>2A</u>	15A	Alamance	2
6	<u>2A</u>	15B	Orange, Chatham	1
7	<u>2B</u>	16A	Scotland, Hoke	1
8	<u>2B</u>	16B	Robeson	2
9	Third <u>3A</u>	17A	Rockingham	2
10	<u>3A</u>	17B	Stokes, Surry	2
11	<u>3B</u>	18A	(part of Guilford, see subsection (b))	1
12				
13	<u>3B</u>	18B	(part of Guilford, see subsection (b))	1
14				
15	<u>3B</u>	18C	(part of Guilford, see subsection (b))	1
16				
17	<u>3B</u>	18D	(part of Guilford, see subsection (b))	1
18				
19	<u>3B</u>	18E	(part of Guilford, see subsection (b))	1
20				
21	<u>3B</u>	19A	Cabarrus	1
22	<u>3B</u>	19B	Montgomery, Randolph	1
23				
24	<u>3B</u>	19C	Rowan	1
25	<u>3B</u>	20A	Anson, Moore, Richmond	2
26				
27	<u>3B</u>	20B	Stanly, Union	2
28	<u>3A</u>	21A	(part of Forsyth, see subsection (b))	1
29				
30	<u>3A</u>	21B	(part of Forsyth, see subsection (b))	1
31				
32	<u>3A</u>	21C	(part of Forsyth, see subsection (b))	1
33				
34	<u>3A</u>	21D	(part of Forsyth, see subsection (b))	1
35				
36	<u>3A</u>	22	Alexander, Davidson, Davie, Iredell	2
37				
38	<u>3A</u>	23	Alleghany, Ashe, Wilkes, Yadkin	1
39				
40	Fourth <u>4A</u>	24	Avery, Madison, Mitchell, Watauga, Yancey	1
41				
42				
43	<u>4A</u>	25A	Burke, Caldwell	2

1	<u>4A</u>	25B	Catawba	2
2	<u>4B</u>	26A	(part of Mecklenburg,	2
3			see subsection (b))	
4	<u>4B</u>	26B	(part of Mecklenburg,	2
5			see subsection (b))	
6	<u>4B</u>	26C	(part of Mecklenburg,	2
7			see subsection (b))	
8	<u>4B</u>	27A	Gaston	2
9	<u>4B</u>	27B	Cleveland, Lincoln	2
10	<u>4A</u>	28	Buncombe	2
11	<u>4A</u>	29	Henderson,	2
12			McDowell, Polk,	
13			Rutherford,	
14			Transylvania	
15	<u>4A</u>	30A	Cherokee, Clay,	1
16			Graham, Macon,	
17			Swain	
18	<u>4A</u>	30B	Haywood, Jackson	1.

19 Sec. 11. Sections 5 through 10 of this act become effective only if the
20 qualified voters approve the constitutional amendments proposed by Sections 1 and 2 of
21 this act, and if they are so approved, Sections 5 through 10 of this act become effective
22 beginning with respect to the 1996 election, and Section 10 becomes effective January 1,
23 1997, for all other purposes.