

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 523  
Judiciary I Committee Substitute Adopted 5/31/05  
House Committee Substitute Favorable 8/23/05

Short Title: Judicial Appointment/Voter Confirmation/CJ.

(Public)

Sponsors:

Referred to:

March 15, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE FOR GUBERNATORIAL APPOINTMENT OF APPELLATE JUSTICES AND JUDGES AND CONFIRMATION BY VOTE OF THE PEOPLE, TO PROVIDE FOR THE SELECTION OF THE CHIEF JUSTICE OF THE SUPREME COURT FROM AMONG THE JUSTICES, TO MAKE STATUTORY CONFORMING CHANGES TO IMPLEMENT THE CONSTITUTIONAL AMENDMENTS, AND TO ALLOW ALL JUSTICES AND JUDGES IN THE GENERAL COURT OF JUSTICE WHO REACH THE AGE LIMIT FOR SERVICE TO CONTINUE IN OFFICE UNTIL THE END OF THE CALENDAR YEAR.

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) Appointment, confirmation election, and terms of Justices and Judges. On and after January 1, 2006, when a vacancy occurs in the office of Justice or Judge of the Appellate Division or upon the expiration of a term when the incumbent was not confirmed by the voters or when the incumbent did not stand for confirmation by the

1 voters, the Governor shall appoint a person to fill the office. Creation of a new  
2 judgeship within the Appellate Division creates a vacancy.

3 The term of office by appointment as Justice or Judge of the Appellate Division  
4 extends through the last day of February after the next general election for members of  
5 the General Assembly that is held more than 24 months after the appointment. At that  
6 election, a person holding by appointment the office of Justice or Judge of the Appellate  
7 Division who desires to continue in office shall be subject to confirmation by ballot, by  
8 a majority of the votes cast on the issue of whether the Justice or Judge should be  
9 confirmed and remain in office. A Justice or Judge of the Appellate Division confirmed  
10 by the voters serves a regular term beginning March 1 after the election.

11 The regular term of office of the Justices and Judges of the Appellate Division is  
12 eight years and expires on the last day of February.

13 A Justice or Judge of the Appellate Division who desires to continue in office after  
14 the conclusion of an eight-year term shall be subject to confirmation by ballot by a  
15 majority of the votes cast on the issue of the Justice's or Judge's confirmation during the  
16 general election next preceding the last day of February of the year that the Justice's or  
17 Judge's eight-year term would expire.

18 If the voters fail to confirm a Justice or Judge of the Appellate Division serving an  
19 appointed or regular term, the office shall become vacant at the end of the term of  
20 office, and it shall be filled by appointment as prescribed in this section. Any person  
21 whom the voters fail to confirm does not hold over at the expiration of the term and is  
22 not eligible to serve as a Justice or Judge of the Appellate Division during the  
23 succeeding eight years after the expiration of the term.

24 Voting in a confirmation election on Justices and Judges of the Appellate Division  
25 shall be the qualified voters of the whole State.

26 (3) Transition provisions. The term of office of a person who has been elected  
27 before January 1, 2006, to the office of Chief Justice, Associate Justice, or Judge of the  
28 Appellate Division for a term which extends beyond January 1, 2006, and who is in  
29 office on January 1, 2006, is extended through the last day of February of the year  
30 following the eighth year after the date any such Justice or Judge was last elected to the  
31 office. If the person so elected continues to serve for the remainder of the term, that  
32 person may stand for confirmation in the office for a succeeding regular term as  
33 provided in this section, subject to the provisions of general law. If the person continues  
34 to serve for the remainder of the term but does not stand for confirmation, a vacancy is  
35 created in the office upon expiration of the term, and this vacancy shall be filled by  
36 appointment as provided in this section.

37 The term of office of a person who has been appointed before January 1, 2006, to the  
38 office of Chief Justice, Associate Justice, or Judge of the Appellate Division for a term  
39 which extends beyond January 1, 2006, and who is in office on January 1, 2006, shall  
40 end on February 28, 2007. If the person so appointed continues to serve for the  
41 remainder of the term, that person may stand for confirmation to the office for a regular  
42 term as provided by this section at the general election for members of the General  
43 Assembly held in 2006.

1 Upon the death, resignation, removal, or retirement of any incumbent Justice or  
2 Judge in the Appellate Division on or after January 1, 2006, and before the expiration of  
3 the Justice's or Judge's term of office, the resulting vacancy shall be filled by  
4 appointment as provided in this section.

5 Vacancies in judicial offices in the Appellate Division occurring before January 1,  
6 2006, and not filled by that date, shall be filled by appointment as provided in this  
7 section.

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

9 **SECTION 2.** Section 6(1) of Article IV of the North Carolina Constitution  
10 reads as rewritten:

11 "(1) Membership. The Supreme Court shall consist of a ~~Chief Justice and six~~  
12 ~~Associate Justices, seven Justices, one of whom shall be designated as Chief Justice, but~~  
13 ~~the General Assembly may increase the number of Associate Justices to not more than~~  
14 ~~eight-nine.~~ In the event the Chief Justice is unable, on account of absence or temporary  
15 incapacity, to perform any of the duties placed upon him, the senior ~~Associate Justice~~  
16 available may discharge those duties. The General Assembly shall provide by law for  
17 the designation of a Chief Justice from among the Justices. The designation of a Justice  
18 as Chief Justice does not affect continuance as a Justice."

19 **SECTION 2.1.** The amendments set out in Sections 1 and 2 of this act shall  
20 be submitted to the qualified voters of the State at an election on November 8, 2005,  
21 which election shall be conducted under the laws then governing elections in the State.  
22 Ballots, voting systems, or both may be used in accordance with Chapter 163 of the  
23 General Statutes. The question on the ballot shall be:

24 "[ ] FOR [ ] AGAINST

25 Constitutional amendment to reform the process of selecting Justices of the  
26 Supreme Court and Judges of the Court of Appeals by providing for: (i) appointment by  
27 the Governor; (ii) accountability to the public through confirmation elections which will  
28 be held during the first general election after the Justice or Judge has served at least two  
29 years and every eight years thereafter; and (iii) the designation of the Chief Justice of  
30 the Supreme Court from among the Justices."

31 **SECTION 3.** If a majority of votes cast on the question are in favor of the  
32 amendment set out in Sections 1 and 2 of this act, the State Board of Elections shall  
33 certify the amendment to the Secretary of State. The amendment becomes effective  
34 January 1, 2006. The Secretary of State shall enroll the amendment so certified among  
35 the permanent records of that office.

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

38 "Article 1A.

39 "Appointment of Justices and Judges; Confirmation Elections.

40 "**§ 7A-4.1. Appointment of Justices and Judges by the Governor.**

41 When vacancies occur, or at the end of a term if the Justice or Judge does not stand  
42 in a confirmation election or is not confirmed in a confirmation election, the offices of  
43 Justice of the Supreme Court and Judge of the Court of Appeals are filled by

1 appointment by the Governor in accordance with Section 16 of Article IV of the North  
2 Carolina Constitution.

3 **"§ 7A-4.2. Governor to issue commissions to Justices and Judges.**

4 Every person duly appointed by the Governor as Justice of the Supreme Court or  
5 Judge of the Court of Appeals shall procure from the Governor a commission attesting  
6 that fact.

7 When a Justice or Judge is confirmed in office by vote of the people, the Governor  
8 shall issue a commission attesting that fact, which the Governor shall issue upon receipt  
9 of a certification by the Secretary of State of the results of the election.

10 **"§ 7A-4.3. No elections in 2006.**

11 No election as previously provided by Article 25 of Chapter 163 of the General  
12 Statutes for Chief Justice or Associate Justice of the Supreme Court or Judge of the  
13 Court of Appeals shall be held in 2006 or thereafter. In 2006, confirmation elections  
14 shall be held under this Article.

15 **"§ 7A-4.4. Confirmation elections.**

16 (a) As provided by Section 16 of Article IV of the North Carolina Constitution, a  
17 Justice of the Supreme Court or Judge of the Court of Appeals desiring to continue in  
18 office beyond the end of the term for which that Justice or Judge has been appointed or  
19 confirmed shall be subject to confirmation by nonpartisan ballot, by a majority of votes  
20 cast on the issue of whether the Justice or Judge should be confirmed and remain in  
21 office.

22 (b) A person subject to subsection (a) of this section shall indicate the desire to  
23 continue in office by filing a notice to that effect with the State Board of Elections no  
24 later than 12:00 noon on the first business day of July in the year of the election. The  
25 notice shall be on a form approved by the State Board of Elections. Notice can be  
26 withdrawn at any time prior to the second Monday in August.

27 (c) Confirmation elections shall be conducted and canvassed in accordance with  
28 rules of the State Board of Elections in the same general manner as general elections  
29 under Chapter 163 of the General Statutes, except that the confirmation election is  
30 nonpartisan. The form of the ballot shall be determined by the State Board of Elections.

31 (d) If a person who has filed a notice calling a confirmation election dies or is  
32 removed from office prior to the time that the ballots are printed, the confirmation  
33 election is cancelled. If a person who has filed a notice calling a confirmation election  
34 dies or is removed from office after the ballots are printed, the State Board of Elections  
35 may cancel the election if it determines that the ballots can be reprinted without  
36 significant expense. If the ballots cannot be reprinted, then the results of the election  
37 shall be ineffective."

38 **SECTION 3.2.** G.S. 7A-10 reads as rewritten:

39 **"§ 7A-10. Organization; compensation of justices.**

40 (a) The Supreme Court shall consist of ~~six associate justices, elected by the~~  
41 ~~qualified voters of the State for terms of eight years.~~ seven justices, selected as provided  
42 by Article 1A of this Chapter. Before entering upon the duties of office, each justice  
43 shall take an oath of office. Four justices shall constitute a quorum for the transaction of  
44 the business of the court. Except as otherwise provided in this subsection, sessions of

1 the court shall be held in the city of Raleigh, and scheduled by rule of court so as to  
2 discharge expeditiously the court's business. The court may by rule hold sessions not  
3 more than twice annually in the Old Chowan County Courthouse (1767) in the Town of  
4 Edenton, which is a State-owned court facility that is designated as a National Historic  
5 Landmark by the United States Department of the Interior.

6 (a1) The Governor shall designate one of the Justices as Chief Justice to serve in  
7 such capacity until the expiration of the term of office that the Justice is holding at the  
8 time of designation.

9 (a2) As the Chief Justice is a designation, if the Chief Justice ceases for any  
10 reason to be a Justice, a new Chief Justice shall be designated.

11 (a3) A person designated as Chief Justice may resign that designation without  
12 resigning as a justice, in which case a new designation shall be made under subsection  
13 (a1) of this section.

14 (a4) If the person designated as Chief Justice is temporarily incapacitated under  
15 G.S. 7A-39.5, a justice may be temporarily designated as Chief Justice, to hold that  
16 designation during the temporary incapacity, but not beyond the end of the term of  
17 office of either Justice.

18 (a5) No emergency or retired justice recalled to the Supreme Court may be  
19 designated as Chief Justice.

20 (b) ~~The Chief Justice and each of the associate justices~~ shall receive the annual  
21 salary provided in Current Operations Appropriations Act. Each justice is entitled to  
22 reimbursement for travel and subsistence expenses at the rate allowed State employees  
23 generally.

24 (c) In lieu of merit and other increment raises paid to regular State employees,  
25 ~~the Chief Justice and each of the Associate Justices~~ justices shall receive as longevity  
26 pay an annual amount equal to four and eight-tenths percent (4.8%) of the annual salary  
27 set forth in the Current Operations Appropriations Act payable monthly after five years  
28 of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and  
29 four-tenths percent (14.4%) after 15 years of service, and nineteen and two-tenths  
30 percent (19.2%) after 20 years of service. "Service" means service as a justice or judge  
31 of the General Court of Justice or as a member of the Utilities Commission. Service  
32 shall also mean service as a district attorney or as a clerk of superior court."

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

34 **"§ 7A-16. Creation and organization.**

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

41 ~~The Governor on or after July 1, 1967, shall make temporary appointments to the six~~  
42 ~~initial judgeships. The appointees shall serve until January 1, 1989. Their successors~~  
43 ~~shall be elected at the general election for members of the General Assembly in~~

1 ~~November, 1968, and shall take office on January 1, 1969, to serve for the remainder of~~  
2 ~~the unexpired term which began on January 1, 1967.~~

3 The Court of Appeals shall consist of 15 judges, selected as provided in Article 1A  
4 of this Chapter. The Chief Justice of the Supreme Court shall designate one of the  
5 judges as Chief Judge to serve in such capacity at the pleasure of the Chief Justice.  
6 Before entering upon the duties of office, a judge of the Court of Appeals shall take the  
7 oath of office prescribed for a judge of the General Court of Justice.

8 ~~Upon the appointment of at least five judges, and the designation of a Chief Judge,~~  
9 ~~the~~ The court is authorized to convene, organize, and promulgate, subject to the  
10 approval of the Supreme Court, such supplementary rules as it deems necessary and  
11 appropriate for 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 sit in panels of three judges each. The Chief Judge  
27 insofar as practicable shall assign the members to panels in such fashion that each  
28 member sits a substantially equal number of times with each other member. He shall  
29 preside over the panel of which he is a member, and shall designate the presiding judge  
30 of the other panel or panels.

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

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

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

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

40 "**§ 163-9. Filling vacancies in State and district judicial offices.**

41 (a) Vacancies occurring in the ~~offices of Justice of the Supreme Court, judge of~~  
42 ~~the Court of Appeals, and office of judge of the superior court for causes other than~~  
43 ~~expiration of term shall be filled by appointment of the Governor. An appointee to the~~  
44 ~~office of Justice of the Supreme Court or judge of the Court of Appeals shall hold office~~

1 until January 1 next following the election for members of the General Assembly that is  
 2 held more than 60 days after the vacancy occurs, at which time an election shall be held  
 3 for an eight-year term and until a successor is elected and qualified.

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

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

- 10 (1) With only one resident judge; or
- 11 (2) In which no county is subject to section 5 of the Voting Rights Act of  
 12 1965, shall hold the office until the next election of members of the  
 13 General Assembly that is held more than 60 days after the vacancy  
 14 occurs, at which time an election shall be held to fill an eight-year  
 15 term.

16 (c) When the unexpired term of the office of superior court judge or district court  
 17 judge in which the vacancy has occurred expires on the first day of January succeeding  
 18 the next election for members of the General Assembly, the Governor shall appoint to  
 19 fill that vacancy for the unexpired term of the office.

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

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

25 **"SUBCHAPTER X. ELECTION OF APPELLATE, SUPERIOR, SUPERIOR**  
 26 **AND DISTRICT COURT JUDGES."**

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

29 "Article 25.

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

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

32 **"§ 163-321. Applicability.**

33 The nomination and election of ~~justices of the Supreme Court, judges of the Court of~~  
 34 ~~Appeals, and~~ superior and district court judges of the General Court of Justice shall be  
 35 as provided by this Article."

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

37 **"§ 163-323. Notice of candidacy.**

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

41  
 42 Date: \_\_\_\_\_  
 43

1 I hereby file notice that I am a candidate for election to the office of  
2 \_\_\_\_\_ in the regular election to be held \_\_\_\_\_, \_\_\_\_.

3  
4 Signed: \_\_\_\_\_  
5 (Name of Candidate)  
6

7 Witness: \_\_\_\_\_

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

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

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

27 ~~Justices of the Supreme Court.~~

28 ~~Judges of the Court of Appeals.~~

29 Judges of the superior courts.

30 Judges of the district courts.

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

35 (d) Certificate That Candidate Is Registered Voter. – Candidates shall file along  
36 with their notice a certificate signed by the chairman of the board of elections or the  
37 supervisor of elections of the county in which they are registered to vote, stating that the  
38 person is registered to vote in that county, and if the candidacy is for superior court  
39 judge and the county contains more than one superior court district, stating the superior  
40 court district of which the person is a resident. In issuing such certificate, the chairman  
41 or supervisor shall check the registration records of the county to verify such  
42 information. During the period commencing 36 hours immediately preceding the filing  
43 deadline, the State Board of Elections shall accept, on a conditional basis, the notice of  
44 candidacy of a candidate who has failed to secure the verification ordered herein subject



1 to receipt of verification no later than three days following the filing deadline. The State  
2 Board of Elections shall prescribe the form for such certificate, and distribute it to each  
3 county board of elections no later than the last Monday in December of each  
4 odd-numbered year.

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

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

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

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

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

35 **"§ 163-325. Petition in lieu of payment of filing fee.**

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

39 (b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking  
40 the office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ superior or  
41 district court judge, that individual shall file a written petition with the State Board of  
42 Elections no later than 12:00 noon on Monday preceding the filing deadline before the  
43 primary. ~~If the office is justice of the Supreme Court or judge of the Court of Appeals,~~  
44 ~~the petition shall be signed by 10,000 registered voters in the State.~~ If the office is

1 superior court or district court judge, the petition shall be signed by ten percent (10%) of  
2 the registered voters of the election area in which the office will be voted for. The board  
3 of elections shall verify the names on the petition, and if the petition and notice of  
4 candidacy are found to be sufficient, the candidate's name shall be printed on the  
5 appropriate ballot. Petitions must be presented to the county board of elections for  
6 verification at least 15 days before the petition is due to be filed with the State Board of  
7 Elections. The State Board of Elections may adopt rules to implement this section and  
8 to provide standard petition forms."

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

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

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

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

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

27 "**§ 163-329. Elections to fill vacancy created after primary filing period to use**  
28 **plurality method.**

29 (a) General. – If a vacancy is created in the office of ~~justice of the Supreme~~  
30 ~~Court, judge of the Court of Appeals, or~~ judge of superior court after the filing period  
31 for the primary opens but more than 60 days before the general election, and under the  
32 Constitution of North Carolina an election is to be held for that position, such that the  
33 office shall be filled in the general election as provided in G.S. 163-9, the election to fill  
34 the office for the remainder of the term shall be conducted without a primary using the  
35 plurality method as provided in subsection (b) of this section. If a vacancy is created in  
36 the office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ judge of  
37 superior court before the filing period for the primary opens, and under the Constitution  
38 of North Carolina an election is to be held for that position, such that the office shall be  
39 filled in the general election as provided in G.S. 163-9, the election to fill the office for  
40 the remainder of the term shall be conducted in accordance with G.S. 163-322.

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

43 (1) The filing period shall be prescribed by the State Board of Elections,  
44 but in no event may it be less than five working days. If a vacancy

1 occurs in a second office in the same superior court district after the  
2 first filing period established under the section has closed, the State  
3 Board of Elections shall reopen filing for a period of not less than five  
4 working days for the office of ~~justice of the Supreme Court, judge of~~  
5 ~~the Court of Appeals, or~~ superior court judge. All persons filing in  
6 either filing period shall run as a group and the election results shall be  
7 determined by subdivision (3) of this subsection.

8 (2) When more than one person is seeking election to a single office, the  
9 candidate who receives the highest number of votes shall be declared  
10 elected.

11 (3) When more persons are seeking election to two or more offices  
12 (constituting a group) than there are offices to be filled, those  
13 candidates receiving the highest number of votes, equal in number to  
14 the number of offices to be filled, shall be declared elected.

15 (4) If two or more candidates receiving the highest number of votes each  
16 receive the same number of votes, the board of elections shall resolve  
17 the tie in accordance with G.S. 163-182.8.

18 (5) Except as provided in this section, the provisions of this Article apply  
19 to elections conducted under this section."

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

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

24 ~~Justice of the Supreme Court.~~

25 ~~Judge of the Court of Appeals.~~

26 Superior court judge.

27 District court judge.

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

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

36 **SECTION 3.15.** All provisions of Article 22D of Chapter 163 of the General  
37 Statutes are repealed except for G.S. 163-278.69. The caption of Article 22D is  
38 rewritten to be "Judicial Voter Guide." Any remaining funds in the North Carolina  
39 Public Campaign Financing Fund shall be allocated to the State Board of Elections to  
40 prepare, print, and distribute the Judicial Voter Guide provided by G.S. 163-278.69.  
41 Those funds shall not revert and are available until expended.

42 **SECTION 3.16.(a)** G.S. 163-278.69(a) reads as rewritten:

43 "(a) Judicial Voter Guide. – The Board shall publish a Judicial Voter Guide that  
44 explains the functions of the appellate ~~courts and~~ courts, the laws concerning the

1 ~~election appointment and confirmation of appellate judges, the purpose and function of~~  
2 ~~the Public Campaign Financing Fund, and the laws concerning voter registration. The~~  
3 Board shall distribute the Guide to as many voting-age individuals in the State as  
4 practical, through a mailing to all residences or other means it deems effective. The  
5 distribution shall occur ~~no more than 28 days nor fewer than seven days before the~~  
6 ~~primary and no more than 28 days nor fewer than seven days before~~ so that the guides  
7 are available to voters no later than the beginning of one-stop absentee voting for the  
8 general election."

9 **SECTION 3.16.(b)** G.S. 163-278.69(b) reads as rewritten:

10 "(b) Candidate Information. – The Judicial Voter Guide shall include information  
11 concerning all candidates for confirmation to the Supreme Court and the Court of  
12 Appeals, as provided by those candidates according to a format provided to the  
13 candidates by the Board. The Judicial Voter Guide shall also include information on any  
14 negative disciplinary actions recommended by the Judicial Standards Commission or  
15 imposed by the Supreme Court as to conduct by that candidate, including types of  
16 negative disciplinary actions such as admonishment that might not otherwise have been  
17 disclosed by the Commission, except if the Supreme Court has rejected the  
18 recommendations. The Board shall request information for the Guide from each  
19 candidate according to the following format:

- 20 (1) Place of residence.
- 21 (2) Education.
- 22 (3) Occupation.
- 23 (4) ~~Employer.~~
- 24 (5) Date admitted to the bar.
- 25 (6) Legal/judicial experience.
- 26 (7) Candidate statement, limited to 150 words. Concerning that statement,  
27 the Board shall send to the candidates instructions as follows: "Your  
28 statement may include information such as your qualifications, your  
29 endorsements, your ratings, why you are seeking judicial office, why  
30 you would make a good judge, ~~what distinguishes you from your~~  
31 ~~opponent(s), your acceptance of spending and fund raising limits to~~  
32 ~~qualify to receive funds from the Public Campaign Financing Fund,~~  
33 and any other information relevant to your candidacy. The State Board  
34 of Elections will reject any portion of any statement which it  
35 determines contains obscene, profane, or defamatory language. The  
36 candidate shall have three days to resubmit the candidate statement if  
37 the Board rejects a portion of the statement."

38 **SECTION 3.16.(c)** If House Bill 1128, 2005 Regular Session, becomes law,  
39 then Section 6 of that act amending G.S. 163-278.69(a) is repealed.

40 **SECTION 3.17.** G.S. 105-159.2 is repealed.

41 **SECTION 3.18.** Sections 3.1 through 3.17 of this act are effective only if the  
42 constitutional amendment proposed by Sections 1 and 2 of this act are approved by the  
43 qualified voters in accordance with Section 2.1 of this act.

44 **SECTION 4.** G.S. 7A-4.20 reads as rewritten:

1 **"§ 7A-4.20. Age limit for service as justice or judge: exception.**

2 No justice or judge of the General Court of Justice may continue in office beyond  
3 the last day of the ~~month~~calendar year in which he attains his seventy-second birthday,  
4 but justices and judges so retired may be recalled for periods of temporary service as  
5 provided in Subchapters II and III of this ~~chapter~~Chapter."

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