



S971, 1995 Session: Judicial Appt./Voter Retention Appellate Judges.

2017-2018 General Assembly

Committee:	Joint Select Committee on Judicial Reform and Redistricting	Date:	January 11, 2018
Introduced by:		Prepared by:	Augustus D. Willis Staff Attorney
Analysis of:	Senate Bill 971, 1995 Session		

OVERVIEW: *Senate Bill 971 from the 1995 Session of the North Carolina General Assembly would have, subject to voter approval, amended the North Carolina Constitution to provide for appointment of justices and judges of the North Carolina Supreme Court and Court of Appeals by the Governor upon confirmation by joint resolution of the General Assembly. Justices and judges seeking to continue service beyond their initial appointment would have been required to file notice with the State Board of Elections and stand for retention in a non-partisan retention election for an additional 8 year term.*

BILL ANALYSIS:

Senate Bill 971 from the 1995 Session of the North Carolina General Assembly would have, subject to voter approval, amended the North Carolina Constitution to set forth an appointment procedure and nonpartisan retention election process for justices of the North Carolina Supreme Court and judges of the North Carolina Court of Appeals as follows:

- Nomination of a candidate to fill a vacancy by the Governor.
 - The Governor may withdraw the nomination at any time.
- Confirmation by Joint Resolution of the General Assembly
 - The legislative committee to which confirmation is referred may conduct investigation of the nominee to include evaluation of any of the following with regard to the nominee:
 - Ethical conduct
 - Knowledge and application of the law
 - Management of the courts over which the nominee has presided
 - Work habits
 - Health
 - Judicial demeanor
 - The legislative committee may inspect files of the Judicial Standards Commission upon request of the committee chairperson.
 - Each house of the General Assembly must vote on confirmation within 60 calendar days of the nomination, except when the nomination is made when the General Assembly is not in regular session, in which case the Governor may call a one-day extra session

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during which only the nomination may be considered; the nomination may not be confirmed in any other extra session.

- Term of Office Upon Appointment
 - The term of office by appointment as Chief Justice, Associate Justice, or Judge would extend through June 30 after the next statewide election for members of the General Assembly that is held more than 18 months after the nomination is confirmed.
- Nonpartisan Retention Election
 - A justice or judge wishing to continue service beyond the initial term must file notice with the State Board of Elections (SBOE) by noon on the first business day of July in the year of the election.
 - The retention election must be conducted and canvassed in accordance with rules of the SBOE in the same general manner as general elections, except that the retention election is nonpartisan and must be placed at the top of the ballot above all other elections or matters for decision, whether partisan, nonpartisan, or otherwise.
 - Upon a majority of votes cast on the issue of retention, the regular term of a justice or judge is 8 years. If the voters fail to approve retention, the vacancy would be filled by nomination and confirmation as set forth above, but the Governor may only nominate a person of the same political affiliation as the justice or judge who has not been retained.
- Transition Provisions
 - The term of office for a judge or justice elected before January 1, 1996 for a term that extended beyond January 1, 1996, and would have been in office on January 1, 1996, would have been extended through June 30 of the year following the eighth year after such justice or judge was last elected to office. If that person continued to serve the remainder of that term, they could have stood for retention in the office for a succeeding regular term.

BACKGROUND: Senate Bill 971 passed the Senate on July 6, 1995 but failed to pass second reading in the House of Representatives on July 27, 1995. Provisions contained in the bill providing for election of superior court judges within their districts (instead of statewide, as was the law at that time) and for filling vacancies in certain superior court districts were enacted in 1996 via [S.L. 2016-9es2](#).

Overview of Senate Bill 971, 1995 Session

