



HOUSE BILL 222: Retention Elections/Appellate Division

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2015-2016 General Assembly

Committee:	House Judiciary I	Date:	April 19, 2015
Introduced by:	Reps. Bryan, Daughtry, Stevens	Prepared by:	R. Erika Churchill Committee Counsel
Analysis of:	PCS to First Edition H222-CSST-23		

SUMMARY: *The proposed committee substitute for House Bill 222 would provide for the initial election and subsequent retention election of justices and judges of the North Carolina Appellate Courts.*

CURRENT LAW: The North Carolina Court System is comprised of the Trial Division and the Appellate Division. The Trial Division includes the Superior and District courts. The Appellate Division consists of the Supreme Court and the Court of Appeals.

Under Section 16 of Article IV of the State Constitution, Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court are elected by the qualified voters of the State and serve 8 year terms. The Constitution does not specifically call for, or authorize, retention elections for any elected office mentioned in the Constitution. The Courts have, however, consistently held that the Constitution contains the qualifications for elected office, and the General Assembly cannot adopt additional qualifications.

The General Assembly is to set a mandatory retirement age for justices and judges (Article IV, Section 8), which has been set as the last day of the month in which the justice or judge reaches age 72 (G.S. 7A-4.20).

The Supreme Court consists of a Chief Justice and 6 Associate Justices; the General Assembly is authorized to increase the number of Associate Justices to not more than eight. Article IV, Section 6. The Court of Appeals structure, organization and composition is to be determined by the General Assembly, with no less than 5 members. Article IV, Section 7. Currently, the Court of Appeals consists of a total of 15 members, sitting in panels of 3 judges each. G.S. 7A-16.

Vacancies occurring in the offices are filled by appointment of the Governor, but the appointee serves until the next election for which members of the General Assembly are on the ballot that is held more than 60 days after the vacancy occurs, at which time an election is to be held to fill the vacancy. Section 19 of Article IV.

BILL ANALYSIS: Section 1 of the PCS would enact a new Article 1A of Chapter 7A of the General Statutes to establish a process by which a justice of the Supreme Court or a judge of Court of Appeals may opt to stand for retention election after having won an election under Article 25 of Chapter 163 of the General Statutes. The justice or judge seeking retention would have to file a notice of retention no later than July 1 of the year preceding the end of the term of office. A filing fee of 1% of the salary would have to be paid at the time of the filing, as would happen now with the filing of a notice of candidacy. The retention election would be conducted at the time of the general election the following

O. Walker Reagan
Director



Research Division
(919) 733-2578

* H 2 2 2 - S M S T - 4 4 C S S T - 2 3 - V 3 *

House Bill 222

Page 2

year. If the majority of the voters cast for, the justice or judge would be retained. If not, the vacancy would be filled in accordance with law.

Sections 2-9 of the PCS would make conforming changes as noted:

- Sections 2 and 3. – Would amend the organizational statutes of the Supreme Court and Court of Appeals to acknowledge retention election as method to take office.
- Sections 4, 6, 7, and 8. – Would amend the election administration statutes to acknowledge retention election as a method to take office.
- Section 5. – Would specify ballot placement for the retention election as grouped with like races, but at the end of those races.
- Section 9. – Would amend the campaign finance statutes to acknowledge retention election as a method to take office.

EFFECTIVE DATE: Effective when it becomes law.