

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1363
Select Committee on Government and Election Reform Committee Substitute
Adopted 5/22/07

Short Title: Nonpartisan Election of DAs.

(Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE NONPARTISAN ELECTION OF DISTRICT ATTORNEYS; AND TO PROVIDE THAT ANY CANDIDATE WHO RECEIVES A MAJORITY OF THE VOTE IN A NONPARTISAN PRIMARY FOR A DISTRICT ATTORNEY OR JUDICIAL SEAT IS THE SOLE NOMINEE AND WILL APPEAR AS THE SOLE CANDIDATE ON THE FINAL ELECTION BALLOT, SUBJECT ONLY TO WRITE-IN OPPOSITION.

The General Assembly of North Carolina enacts:

SECTION 1. The title of Subchapter X and Article 25 of Chapter 163 of the General Statutes reads as rewritten:

"SUBCHAPTER X. ELECTION OF DISTRICT ATTORNEYS AND APPELLATE, SUPERIOR, AND DISTRICT COURT JUDGES.

"Article 25.

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

"§ 163-321. Applicability.

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

"§ 163-322. Nonpartisan primary election method.

(a) General. – Except as provided in G.S. 163-329, there shall be a primary to narrow the field of candidates to two candidates for each position to be filled if, when the filing period closes, there are more than two candidates for a single office or the number of candidates for a group of offices exceeds twice the number of positions to be filled. If only one or two candidates file for a single office, no primary shall be held for that office and the candidates shall be declared nominated. If the number of candidates for a group of offices does not exceed twice the number of positions to be filled, no primary shall be held for those offices and the candidates shall be declared nominated.

(b) Determination of Nominees. – In the primary, the two candidates for a single office receiving the highest number of votes, but less than a majority, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, but less than a majority, shall be declared nominated. If two or more candidates receiving the highest number of votes each receive the same number of votes, the State Board of Elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the same date as the primary canvass fixed under G.S. 163-182.5. The canvass shall be conducted in accordance with Article 15A of this Chapter.

(b1) When One Candidate in Primary for Single Seat Receives a Majority. – If any candidate receives a majority of the votes in a primary for a single seat, that candidate alone shall be declared nominated. That candidate's name shall be placed on the ballot in the election, subject to write-in votes as provided in G.S. 163-123. For purposes of this subsection a "majority" means more than fifty percent (50%) of the votes.

(c) Determination of Election Winners. – In the election, the names of those candidates declared nominated without a primary and those candidates nominated in the primary shall be placed on the ballot. The candidate for a single office receiving the highest number of votes shall be elected. Those candidates for a group of offices receiving the highest number of votes, equal in number to the number of positions to be filled, shall be elected. If two candidates receiving the highest number of votes each received the same number of votes, the State Board of Elections shall determine the winner by lot.

"§ 163-323. Notice of candidacy.

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

Date _____:

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

Signed _____:

(Name of Candidate)

Witness: _____

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

1 ballot if another candidate with the same last name files a notice of candidacy for that
2 office.

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

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

9 Justices of the Supreme Court.

10 Judges of the Court of Appeals.

11 Judges of the superior courts.

12 Judges of the district courts.

13 District attorney.

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

18 (d) Certificate That Candidate Is Registered Voter. – Candidates shall file along
19 with their notice a certificate signed by the chairman of the board of elections or the
20 director of elections of the county in which they are registered to vote, stating that the
21 person is registered to vote in that county, and if the candidacy is for superior court
22 judge and the county contains more than one superior court district, stating the superior
23 court district of which the person is a resident. In issuing such certificate, the chairman
24 or director shall check the registration records of the county to verify such information.
25 During the period commencing 36 hours immediately preceding the filing deadline, the
26 State Board of Elections shall accept, on a conditional basis, the notice of candidacy of
27 a candidate who has failed to secure the verification ordered herein subject to receipt of
28 verification no later than three days following the filing deadline. The State Board of
29 Elections shall prescribe the form for such certificate, and distribute it to each county
30 board of elections no later than the last Monday in December of each odd-numbered
31 year.

32 (e) Candidacy for More Than One Office Prohibited. – No person may file a
33 notice of candidacy for more than one office or group of offices described in subsection
34 (b) of this section, or for an office or group of offices described in subsection (b) of this
35 section and an office described in G.S. 163-106(c), for any one election. If a person has
36 filed a notice of candidacy with a board of elections under this section or under
37 G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not
38 later be filed for any other office or group of offices under this section when the election
39 is on the same date unless the notice of candidacy for the first office is withdrawn under
40 subsection (c) of this section.

41 (f) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any
42 election in which there are two or more vacancies for the office of justice of the
43 Supreme Court, judge of the Court of Appeals, or district court judge to be filled by
44 nominations, each candidate shall, at the time of filing notice of candidacy, file with the

1 State Board of Elections a written statement designating the vacancy to which the
2 candidate seeks election. Votes cast for a candidate shall be effective only for election
3 to the vacancy for which the candidate has given notice of candidacy as provided in this
4 subsection.

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

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

17 **"§ 163-324. Filing fees required of candidates; refunds.**

18 (a) Fee Schedule. – At the time of filing a notice of candidacy under this Article,
19 each candidate shall pay to the State Board of Elections a filing fee for the office he
20 seeks in the amount of one percent (1%) of the annual salary of the office sought.

21 (b) Refund of Fees. – If any person who has filed a notice of candidacy and paid
22 the filing fee prescribed in subsection (a) of this section withdraws his notice of
23 candidacy within the period prescribed in G.S. 163-323(c), he shall be entitled to have
24 the fee he paid refunded. The chairman of the State Board of Elections shall cause a
25 warrant to be drawn on the State Treasurer for the refund payment.

26 If any person who has filed a notice of candidacy and paid the filing fee prescribed
27 in subsection (a) of this section dies prior to the date of the election, the personal
28 representative of the estate shall be entitled to have the fee refunded if application is
29 made to the board of elections to which the fee was paid no later than one year after the
30 date of death, and refund shall be made in the same manner as in withdrawal of notice
31 of candidacy.

32 **"§ 163-325. Petition in lieu of payment of filing fee.**

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

36 (b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking
37 the office of justice of the Supreme Court, judge of the Court of Appeals, or superior or
38 district court judge, that individual shall file a written petition with the State Board of
39 Elections no later than 12:00 noon on Monday preceding the filing deadline before the
40 primary. If the office is justice of the Supreme Court or judge of the Court of Appeals,
41 the petition shall be signed by 10,000 registered voters in the State. If the office is
42 district attorney, superior court or district court judge, the petition shall be signed by ten
43 percent (10%) of the registered voters of the election area in which the office will be
44 voted for. The board of elections shall verify the names on the petition, and if the

1 petition and notice of candidacy are found to be sufficient, the candidate's name shall be
2 printed on the appropriate ballot. Petitions must be presented to the county board of
3 elections for verification at least 15 days before the petition is due to be filed with the
4 State Board of Elections. The State Board of Elections may adopt rules to implement
5 this section and to provide standard petition forms.

6 **"§ 163-326. Certification of notices of candidacy.**

7 (a) Names of Candidates Sent to Secretary of State. – Within three days after the
8 time for filing notices of candidacy with the State Board of Elections under the
9 provisions of G.S. 163-323(b) has expired, the chairman or secretary of that Board shall
10 certify to the Secretary of State the name and address of each person who has filed with
11 the State Board of Elections, indicating in each instance the office sought.

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

22 (c) Receipt of Notification by County Board. – Within two days after receipt of
23 each of the letters of certification from the chairman of the State Board of Elections
24 required by subsection (b) of this section, each county elections board chairman shall
25 acknowledge receipt by letter addressed to the chairman of the State Board of Elections.

26 **"§ 163-327: Repealed by Session Laws 2006-192, s. 9(a), effective August 3, 2006, and**
27 **applicable to vacancies occurring on or after August 3, 2006.**

28 **"§ 163-327.1. Rules when vacancies for superior court judge are to be voted on.**

29 If a vacancy occurs in a judicial district for any offices of superior court judge, and
30 on account of the occurrence of such vacancy, there is to be an election for one or more
31 terms in that district to fill the vacancy or vacancies, at that same election in accordance
32 with G.S. 163-9 and Article IV, Section 19 of the North Carolina Constitution, the
33 nomination and election shall be determined by the following special rules in addition to
34 any other provisions of law:

- 35 (1) If the vacancy occurs prior to the opening of the filing period under
36 G.S. 163-323(b), nominations shall be made by primary election as
37 provided by this Article, without designation as to the vacancy.
- 38 (2) If the vacancy occurs beginning on opening of the filing period under
39 G.S. 163-323(b), and ending on the sixtieth day before the general
40 election, candidate filing shall be as provided by G.S. 163-329 without
41 designation as to the vacancy.
- 42 (3) The general election ballot shall contain, without designation as to
43 vacancy, spaces for the election to fill the vacancy where nominations
44 were made or candidates filed under subdivision (1) or (2) of this

1 section. Except as provided in G.S. 163-329, the persons receiving the
2 highest numbers of votes equal to the term or terms to be filled shall be
3 elected to the term or terms.

4 **"§ 163-328. Failure of candidates to file; death or other disqualification of a**
5 **candidate; no withdrawal from candidacy.**

6 (a) Insufficient Number of Candidates. – If when the filing period expires,
7 candidates have not filed for an office to be filled under this Article, the State Board of
8 Elections shall extend the filing period for five days for any such offices.

9 (a1) Death or Disqualification of Candidate Before Primary. – If a candidate for
10 nomination in a primary dies or becomes disqualified before the primary but after the
11 ballots have been printed, the State Board of Elections shall determine whether or not
12 there is time to reprint the ballots. If the Board determines that there is not enough time
13 to reprint the ballots, the deceased or disqualified candidate's name shall remain on the
14 ballots. If that candidate receives enough votes for nomination, such votes shall be
15 disregarded and the candidate receiving the next highest number of votes below the
16 number necessary for nomination shall be declared nominated. If the death or
17 disqualification of the candidate leaves only two candidates for each office to be filled,
18 the nonpartisan primary shall not be held and all candidates shall be declared nominees.

19 (b) Earlier Nonprimary Vacancies; Reopening Filing. – If there is no primary
20 because only one or two candidates have filed for a single office, or the number of
21 candidates filed for a group of offices does not exceed twice the number of positions to
22 be filled, or if a primary has occurred and eliminated candidates, and thereafter a
23 remaining candidate dies or otherwise becomes disqualified before the election and
24 before the ballots are printed, the State Board of Elections shall, upon notification of the
25 death or other disqualification, immediately reopen the filing period for an additional
26 five days during which time additional candidates shall be permitted to file for election.
27 If the ballots have been printed at the time the State Board of Elections receives notice
28 of the candidate's death or other disqualification, the Board shall determine whether
29 there will be sufficient time to reprint them before the election if the filing period is
30 reopened for three days. If the Board determines that there will be sufficient time to
31 reprint the ballots, it shall reopen the filing period for three days to allow other
32 candidates to file for election, and that election shall be conducted as provided in
33 G.S. 163-329(b1).

34 (c) Later Vacancies; Ballots Not Reprinted. – If the ballots have been printed at
35 the time the State Board of Elections receives notice of a candidate's death or other
36 disqualification, and if the Board determines that there is not enough time to reprint the
37 ballots before the election if the filing period is reopened for three days, then regardless
38 of the number of candidates remaining for the office or group of offices, the ballots shall
39 not be reprinted and the name of the vacated candidate shall remain on the ballots. If a
40 vacated candidate should poll the highest number of votes in the election for a single
41 office or enough votes to be elected to one of a group of offices, the State Board of
42 Elections shall declare the office vacant and it shall be filled in the manner provided by
43 law.

1 (d) No Withdrawal Permitted of Living, Qualified Candidate After Close of
2 Filing. – After the close of the candidate filing period, a candidate who has filed a notice
3 of candidacy for the office, who has not withdrawn notice before the close of filing as
4 permitted by G.S. 163-323(b), who remains alive, and has not become disqualified for
5 the office may not withdraw his or her candidacy. That candidate's name shall remain
6 on the ballot, any votes cast for the candidacy shall be counted in primary or election,
7 and if the candidate wins, the candidate may fail to qualify by refusing to take the oath
8 of office.

9 (e) Death, Disqualification, or Failure to Qualify After Election. – If a person
10 elected to the office of justice of the Supreme Court, judge of the Court of Appeals,
11 district attorney, or superior or district court judge dies or becomes disqualified on or
12 after election day and before ~~he~~that person has qualified by taking the oath of office, or
13 fails to qualify by refusing to take the oath of office, the office shall be deemed vacant
14 and shall be filled as provided by law.

15 **"§ 163-329. Elections to fill vacancy in office created after primary filing period**
16 **opens.**

17 (a) General. – If a vacancy is created in the office of justice of the Supreme
18 Court, judge of the Court of Appeals, or judge of superior court after the filing period
19 for the primary opens but more than 60 days before the general election, and under the
20 Constitution of North Carolina an election is to be held for that position, such that the
21 office shall be filled in the general election as provided in G.S. 163-9, the election to fill
22 the office for the remainder of the term shall be conducted without a primary using the
23 method provided in subsection (b1) of this section. If a vacancy is created in the office
24 of justice of the Supreme Court, judge of the Court of Appeals, or judge of superior
25 court before the filing period for the primary opens, and under the Constitution of North
26 Carolina an election is to be held for that position, such that the office shall be filled in
27 the general election as provided in G.S. 163-9, the election to fill the office for the
28 remainder of the term shall be conducted in accordance with G.S. 163-322.

29 (b) Repealed by Session Laws 2006-192, s. 8(a), effective August 3, 2006, and
30 applicable to vacancies occurring on or after that date.

31 (b1) Method for Vacancy Election. – If a vacancy for the office of justice of the
32 Supreme Court, judge of the Court of Appeals, or judge of the superior court occurs
33 more than 60 days before the general election and after the opening of the filing period
34 for the primary, then the State Board of Elections shall designate a special filing period
35 of one week for candidates for the office. If more than two candidates file and qualify
36 for the office in accordance with G.S. 163-323, then the Board shall conduct the
37 election for the office as follows:

- 38 (1) When the vacancy described in this section occurs more than 63 days
39 before the date of the second primary for members of the General
40 Assembly, a special primary shall be held on the same day as the
41 second primary. The two candidates with the most votes in the special
42 primary shall have their names placed on the ballot for the general
43 election held on the same day as the general election for members of
44 the General Assembly.

1 (2) When the vacancy described in this section occurs less than 64 days
2 before the date of the second primary, a general election for all the
3 candidates shall be held on the same day as the general election for
4 members of the General Assembly and the "instant runoff voting"
5 method shall be used to determine the winner. Under "instant runoff
6 voting," voters rank up to three of the candidates by order of
7 preference, first, second, or third. If the candidate with the greatest
8 number of first-choice votes receives more than fifty percent (50%) of
9 the first-choice votes, that candidate wins. If no candidate receives that
10 minimum number, the two candidates with the greatest number of
11 first-choice votes advance to a second round of counting. In this round,
12 each ballot counts as a vote for whichever of the two final candidates
13 is ranked highest by the voter. The candidate with the most votes in the
14 second round wins the election. If more than one seat is to be filled in
15 the same race, the voter votes the same way as if one seat were to be
16 filled. The counting is the same as when one seat is to be filled, with
17 one or two rounds as needed, except that counting is done separately
18 for each seat to be filled. The first count results in the first winner.
19 Then the second count proceeds without the name of the first winner.
20 This process results in the second winner. For each additional seat to
21 be filled, an additional count is done without the names of the
22 candidates who have already won. In multi-seat contests, the State
23 Board of Elections may give the voter more than three choices.

24 (3) If two or more candidates receiving the highest number of votes each
25 receive the same number of votes, the board of elections shall resolve
26 the tie in accordance with G.S. 163-182.8.

27 (c) Applicable Provisions. – Except as provided in this section, the provisions of
28 this Article apply to elections conducted under this section.

29 (d) Rules. – The State Board of Elections shall adopt rules for the
30 implementation of this section. The rules are not subject to Article 2A of Chapter 150B
31 of the General Statutes. The rules shall include the following:

32 (1) If after the first-choice candidate is eliminated, a ballot does not
33 indicate one of the uneliminated candidates as an alternative choice,
34 the ballot is exhausted and shall not be counted after the initial round.

35 (2) The fact that the voter does not designate a second or third choice does
36 not invalidate the voter's higher choice or choices.

37 (3) The fact that the voter gives more than one ranking to the same
38 candidate shall not invalidate the vote. The highest ranking given a
39 particular candidate shall count as long as the candidate is not
40 eliminated.

41 (4) In case of a tie between candidates such that two or more candidates
42 have an equal number of first choices and more than two candidates
43 qualify for the second round, instant runoff voting shall be used to
44 determine which two candidates shall advance to the second round.

1 **"§ 163-330. Voting in primary.**

2 Any person who will become qualified by age or residence to register and vote in the
3 general election for which the primary is held, even though not so qualified by the date
4 of the primary, shall be entitled to register for the primary and general election prior to
5 the primary and then to vote in the primary after being registered. Such person may
6 register not earlier than 60 days nor later than the last day for making application to
7 register under G.S. 163-82.6(c) prior to the primary.

8 **"§ 163-331. Date of primary.**

9 The primary shall be held on the same date as established for primary elections
10 under G.S. 163-1(b).

11 **"§ 163-332. Ballots.**

12 (a) General. – In elections there shall be official ballots. The ballots shall be
13 printed to conform to the requirement of G.S. 163-165.6(c) and to show the name of
14 each person who has filed notice of candidacy, and the office for which each aspirant is
15 a candidate.

16 Only those who have filed the required notice of candidacy with the proper board of
17 elections, and who have paid the required filing fee or qualified by petition, shall have
18 their names printed on the official primary ballots. Only those candidates properly
19 nominated shall have their names appear on the official general election ballots.

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

23 Justice of the Supreme Court.

24 Judge of the Court of Appeals.

25 Superior court judge.

26 District court judge.

27 District attorney.

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 **"§ 163-333:** Repealed by Session Laws 2001-398, s. 15.

37 **"§ 163-334. Counting of ballots.**

38 Counting of ballots in primaries and elections held under this Article shall be under
39 the same rules as for counting of ballots in nonpartisan municipal elections under
40 Article 24 of this Chapter.

41 **"§ 163-335. Other rules.**

42 Except as provided by this Article, the conduct of elections shall be governed by
43 Subchapter VI of this Chapter."

44 **SECTION 2.** G.S. 163-106(c) reads as rewritten:

"(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the primary:

- Governor
- Lieutenant Governor
- All State executive officers
- United States Senators
- Members of the House of Representatives of the United States

~~District attorneys~~

Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the county board of elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the primary:

- State Senators
- Members of the State House of Representatives
- All county offices."

SECTION 3. G.S. 163-107(a) reads as rewritten:

"(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate shall pay to the board of elections with which he files under the provisions of G.S. 163-106 a filing fee for the office he seeks in the amount specified in the following tabulation:

Office Sought	Amount of Filing Fee
Governor	One percent (1%) of the annual salary of the office sought
Lieutenant Governor	One percent (1%) of the annual salary of the office sought
All State executive offices	One percent (1%) of the annual salary of the office sought
All District Attorneys of the General Court of Justice	One percent (1%) of the annual salary of the office sought
United States Senator	One percent (1%) of the annual salary of the office sought
Members of the United States House of Representatives	One percent (1%) of the annual salary of the office sought
State Senator	One percent (1%) of the annual salary of the office sought
Member of the State House of Representatives	One percent (1%) of the annual salary of the office sought
All county offices not compensated by fees	One percent (1%) of the annual salary of the office sought
All county offices compensated partly	One percent (1%) of the first annual

1 by salary and partly by fees salary to be received (exclusive of
2 fees)

3 The salary of any office that is the basis for calculating the filing fee is the starting
4 salary for the office, rather than the salary received by the incumbent, if different. If no
5 starting salary can be determined for the office, then the salary used for calculation is
6 the salary of the incumbent, as of January 1 of the election year."

7 **SECTION 4.** G.S. 163-111(c)(1) reads as rewritten:

8 "(1) A candidate who is apparently entitled to demand a second primary,
9 according to the unofficial results, for one of the offices listed below,
10 and desiring to do so, shall file a request for a second primary in
11 writing with the Executive Director of the State Board of Elections no
12 later than 12:00 noon on the ninth day (including Saturdays and
13 Sundays) following the date on which the primary was conducted, and
14 such request shall be subject to the certification of the official results
15 by the State Board of Elections. If the vote certification by the State
16 Board of Elections determines that a candidate who was not originally
17 thought to be eligible to call for a second primary is in fact eligible to
18 call for a second primary, the Executive Director of the State Board of
19 Elections shall immediately notify such candidate and permit him to
20 exercise any options available to him within a 48-hour period
21 following the notification:

22 Governor,
23 Lieutenant Governor,
24 All State executive officers,
25 ~~District Attorneys of the General Court of Justice,~~
26 United States Senators,
27 Members of the United States House of Representatives,
28 State Senators in multi-county senatorial districts, and
29 Members of the State House of Representatives in multi-county
30 representative districts."

31 **SECTION 5.** G.S. 163-107.1(c) reads as rewritten:

32 "(c) County, Municipal and District Primaries. – If the candidate is seeking one of
33 the offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this
34 section, or a municipal or any other office requiring a partisan primary which is not set
35 forth in G.S. 163-106(c) or (d), he shall file a written petition with the appropriate board
36 of elections no later than 12:00 noon on Monday preceding the filing deadline before
37 the primary. The petition shall be signed by ten percent (10%) of the registered voters of
38 the election area in which the office will be voted for, who are affiliated with the same
39 political party in whose primary the candidate desires to run, or in the alternative, the
40 petition shall be signed by no less than 200 registered voters regardless of said voter's
41 political party affiliation, whichever requirement is greater. The board of elections shall
42 verify the names on the petition, and if the petition is found to be sufficient, the
43 candidate's name shall be printed on the appropriate primary ballot. Petitions for
44 candidates for member of the U.S. House of ~~Representatives, District Attorney,~~

1 Representatives and members of the State House of Representatives from multi-county
 2 districts or members of the State Senate from multi-county districts must be presented to
 3 the county board of elections for verification at least 15 days before the petition is due
 4 to be filed with the State Board of Elections, and such petition must be filed with the
 5 State Board of Elections no later than 12:00 noon on Monday preceding the filing
 6 deadline. The State Board of Elections may adopt rules to implement this section and to
 7 provide standard petition forms."

8 **SECTION 6.** G.S. 163-114 reads as rewritten:

9 **"§ 163-114. Filling vacancies among party nominees occurring after nomination**
 10 **and before election.**

11 If any person nominated as a candidate of a political party for one of the offices
 12 listed below (either in a primary or convention or by virtue of having no opposition in a
 13 primary) dies, resigns, or for any reason becomes ineligible or disqualified before the
 14 date of the ensuing general election, the vacancy shall be filled by appointment
 15 according to the following instructions:

16		
17	Position	
18	President	Vacancy is to be filled by appointment of
19	Vice President	national executive committee of
20		political party in which vacancy occurs
21		
22	Presidential elector or alternate elector	Vacancy is to be filled by appointment of
23	Any elective State office	State executive committee of political
24	United States Senator	party in which vacancy occurs
25		
26	A district office, including:	Appropriate district executive committee of
27	Member of the United States House	political party in which vacancy occurs
28	of Representatives	
29	District Attorney	
30	State Senator in a multi-county	
31	senatorial district	
32	Member of State House of	
33	Representatives in a multi-county	
34	representative district	
35		
36	State Senator in a single-county	County executive committee of political
37	senatorial district	party in which vacancy occurs,
38	Member of State House of	provided, in the case of the State
39	Representatives in a single-county	Senator or State Representative in a
40	representative district	single-county district where not all the
41	Any elective county office	county is located in that district, then in
42		voting, only those members of the
43		county executive committee who reside
44		within the district shall vote

1
2 The party executive making a nomination in accordance with the provisions of this
3 section shall certify the name of its nominee to the chairman of the board of elections,
4 State or county, that has jurisdiction over the ballot item under G.S. 163-182.4. If at the
5 time a nomination is made under this section the general election ballots have already
6 been printed, the provisions of G.S.163-165.3(c) shall apply. If a vacancy occurs in a
7 nomination of a political party and that vacancy arises from a cause other than death and
8 the vacancy in nomination occurs more than 120 days before the general election, the
9 vacancy in nomination may be filled under this section only if the appropriate executive
10 committee certifies the name of the nominee in accordance with this paragraph at least
11 75 days before the general election.

12 In a county not all of which is located in one congressional district, in choosing the
13 congressional district executive committee member or members from that area of the
14 county, only the county convention delegates or county executive committee members
15 who reside within the area of the county which is within the congressional district may
16 vote.

17 In a county which is partly in a multi-county senatorial district or which is partly in a
18 multi-county House of Representatives district, in choosing that county's member or
19 members of the senatorial district executive committee or House of Representatives
20 district executive committee for the multi-county district, only the county convention
21 delegates or county executive committee members who reside within the area of the
22 county which is within that multi-county district may vote.

23 An individual whose name appeared on the ballot in a primary election preliminary
24 to the general election shall not be eligible to be nominated to fill a vacancy in the
25 nomination of another party for the same office in the same year."

26 **SECTION 7.** G.S. 163-278.65(a) reads as rewritten:

27 "(a) Timing of Fund Distribution. – The Board shall distribute to a certified
28 candidate revenue from the Fund in an amount determined under subdivision (b)(4) of
29 this section within five business days after the certified candidate's name is approved to
30 appear on the ballot in a contested general election, but no earlier than five business
31 days after the primary. In the case of a candidate who receives a majority in a primary
32 as set forth in G.S. 163-322(b1), the Board shall not distribute revenue from the Fund,
33 except as provided in G.S. 163-278.67, unless and until a write-in opponent of that
34 candidate qualifies under G.S. 163-123."

35 **SECTION 8.** This act becomes effective January 1, 2008, and applies to all
36 primaries and elections conducted on or after that date.