

Official Explanation

(Session Law 2018-132)

Question as it will appear on the ballot:

For **Against**

Constitutional amendment to change the process for filling judicial vacancies that occur between judicial elections from a process in which the Governor has sole appointment power to a process in which the people of the State nominate individuals to fill vacancies by way of a commission comprised of appointees made by the judicial, executive, and legislative branches charged with making recommendations to the legislature as to which nominees are deemed qualified; then the legislature will recommend at least two nominees to the Governor via legislative action not subject to gubernatorial veto; and the Governor will appoint judges from among these nominees.

Legislature to Control Judicial Appointments

This proposed constitutional amendment would create a new process for filling judicial vacancies. The Legislature would play the dominant role in this process.

In North Carolina, the people have a constitutional right to elect judges. Currently, when a judge leaves office before the end of his or her term, the Governor appoints a new judge. In most instances, the person who is appointed by the Governor holds office for less than 2 years, until the next general election.

This proposed amendment would take away the Governor's current authority to select a replacement judge. The amendment would give the Legislature most of the control over judicial appointments.

Under the amendment, the Legislature chooses 2 or more finalists after they are reviewed by a commission to determine if they are qualified. A person is qualified to hold the office of Justice or Judge if the person is an attorney who is licensed to practice law in North Carolina, is registered to vote, and has not yet reached mandatory retirement age.

The Governor then must choose one of the 2 or more finalists that the Legislature selected. If the Governor does not appoint someone from the Legislature's approved list within 10 days, the Legislature elects someone to fill the vacancy.

Under the amendment, the Governor cannot veto any bill that recommends or selects the person to fill a judicial vacancy.

This proposed amendment weakens voters' constitutional right to elect judges by lengthening how long an appointed judge will serve before an election is held. Today, appointed judges serve until the next election. If the amendment passes, appointed judges would serve up to 4 years before voters could elect or replace them.

The amendment applies to judges on the State Supreme Court, Court of Appeals, and trial courts in each county.

The Legislature has the constitutional authority to add 2 additional seats to the Supreme Court. If this amendment passes, then the Legislature could use this newly-granted power to choose unelected Supreme Court Justices for 2 newly created vacant seats. These legislatively-chosen judges would serve for up to 4 years before voters could elect or replace them.

This is just a short summary of the amendment. To see the actual amendment before voting on it, go to: <https://tinyurl.com/ncsos132>.

Adopted September 6, 2018, by the NC Constitutional Amendments Publication Commission.

Elaine F. Marshall, Secretary of State, Commission Chair
Josh Stein, Attorney General, Member
Paul Y. Coble, Legislative Services Officer, Member