

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS55037-LB-87 (02/04)

Short Title: Four-Year Term Implementing.

(Public)

Sponsors: Senator Weinstein.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT AN ACT TO AMEND THE NORTH CAROLINA
3 CONSTITUTION TO PROVIDE FOUR-YEAR TERMS FOR MEMBERS OF THE
4 GENERAL ASSEMBLY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 7A-140 reads as rewritten:

7 "§ 7A-140. Number; election; term; qualification; oath.

8 There shall be at least one district judge for each district. Each district judge shall be elected
9 by the qualified voters of the district court district in which he or she is to serve at the time of
10 ~~the election for members of the General Assembly specified by Chapter 163 of the General~~
11 ~~Statutes.~~ The number of judges for each district shall be determined by the General Assembly.
12 Each judge shall be a resident of the district for which elected, and shall serve a term of four
13 years, beginning on the first day in January next after election.

14 Each district judge shall devote his or her full time to the duties of the office. He or she
15 shall not practice law during the term, nor shall he or she during such term be the partner or
16 associate of any person engaged in the practice of law.

17 Before entering upon his or her duties, each district judge, in addition to other oaths
18 prescribed by law, shall take the oath of office prescribed for a judge of the General Court of
19 Justice."

20 SECTION 2. G.S. 120-11.1 reads as rewritten:

21 "§ 120-11.1. Time of meeting.

22 The regular session of the Senate and House of Representatives shall be held biennially
23 beginning at 12:00 noon on the third Wednesday after the second Monday in January ~~next after~~
24 ~~their election.~~ of each odd-numbered year."

25 SECTION 3. G.S. 147-4 reads as rewritten:

26 "§ 147-4. Executive officers – election; term; induction into office.

27 The executive department shall consist of a Governor, a Lieutenant Governor, a Secretary
28 of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a
29 Commissioner of Agriculture, a Commissioner of Insurance, and a Commissioner of Labor,
30 who shall be elected for a term of four years, by the qualified electors of the State, ~~at the same~~
31 ~~time and places, and in the same manner, as members of the General Assembly are elected.~~ as
32 provided by Chapter 163 of the General Statutes. Their term of office shall commence on the
33 first day of January next after their election and continue until their successors are elected and
34 qualified. The persons having the highest number of votes, respectively, shall be declared duly



1 elected, but if two or more be equal and highest in votes for the same office, then one of them
2 shall be chosen by joint ballot of both houses of the General Assembly. Contested elections
3 shall be determined by a joint ballot of both houses of the General Assembly in such manner as
4 shall be prescribed by law."

5 **SECTION 4.** G.S. 152-1 reads as rewritten:

6 "**§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

7 In each county a coroner shall be elected by the qualified voters thereof ~~in the same manner~~
8 ~~and at the same time as the election of members of the General Assembly as provided by~~
9 Chapter 163 of the General Statutes and shall hold office for a term of four years, or until his
10 successor is elected and qualified.

11 A vacancy in the office of coroner shall be filled by the county commissioners, and the
12 person so appointed shall, upon qualification, hold office until his successor is elected and
13 qualified. If the coroner were elected as the nominee of a political party, then the county
14 commissioners shall consult with the county executive committee of that political party before
15 filling the vacancy, and shall appoint the person recommended by that committee if the party
16 makes a recommendation within 30 days of the occurrence of the vacancy; this sentence shall
17 apply only to the counties of Alamance, Alleghany, Avery, Beaufort, Brunswick, Buncombe,
18 Burke, Cabarrus, Caldwell, Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford,
19 Haywood, Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover,
20 Polk, Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.

21 When the coroner shall be out of the county, or shall for any reason be unable to hold the
22 necessary inquest as provided by law, or there is a vacancy existing in the office of coroner
23 which has not been filled by the county commissioners and it is made to appear to the clerk of
24 the superior court by satisfactory evidence that a deceased person whose body has been found
25 within the county probably came to his death by the criminal act or default of some person, it is
26 the duty of the clerk to appoint some suitable person to act as coroner in such special case."

27 **SECTION 5.** G.S. 161-1, now superseded by G.S. 161-2, is repealed.

28 **SECTION 6.** G.S. 162-1 reads as rewritten:

29 "**§ 162-1. Election and term of office.**

30 In each county a sheriff shall be elected by the qualified voters thereof, as is prescribed ~~for~~
31 ~~members of the General Assembly by Chapter 163 of the General Statutes,~~ and shall hold his
32 office for four years."

33 **SECTION 7.** G.S. 163-1 is amended in the table by rewriting the "DATE OF
34 ELECTION" entries for State Senator and member of the State House of Representatives to
35 read: "Tuesday next after the first Monday in November 2008 and every four years thereafter."

36 **SECTION 8.** G.S. 163-1 is further amended in the table by rewriting the "TERM
37 OF OFFICE" entries for State Senator and member of the State House of Representatives to
38 read: "Four years."

39 **SECTION 9.** G.S. 163-1 is further amended in the table by rewriting the "DATE
40 OF ELECTION" entries for justices and judges of the Appellate Division, judges of the
41 superior courts, judges of the district courts, district attorney, county commissioners, clerk of
42 superior court, register of deeds, sheriff, and coroner to read: "At the next regular statewide
43 election for members of the United States House of Representatives, immediately preceding the
44 termination of each regular term."

45 **SECTION 10.** G.S. 163-8 reads as rewritten:

46 "**§ 163-8. Filling vacancies in State executive offices.**

47 If the office of Governor or Lieutenant Governor shall become vacant, the provisions of
48 G.S. 147-11.1 shall apply. If the office of any of the following officers shall be vacated by
49 death, resignation, or otherwise than by expiration of term, it shall be the duty of the Governor
50 to appoint another to serve until his successor is elected and qualified: Secretary of State,
51 Auditor, Treasurer, Superintendent of Public Instruction, Attorney General, Commissioner of

1 Agriculture, Commissioner of Labor, and Commissioner of Insurance. Each such vacancy shall
2 be filled by election at the first statewide election for members of the ~~General Assembly~~ United
3 States House of Representatives that occurs more than 60 days after the vacancy has taken
4 place, and the person chosen shall hold the office for the remainder of the unexpired four-year
5 term: Provided, that when a vacancy occurs in any of the offices named in this section and the
6 term expires on the first day of January succeeding ~~the next election for members of the~~
7 ~~General Assembly~~, the next statewide election for members of the United States House of
8 Representatives, the Governor shall appoint to fill the vacancy for the unexpired term of the
9 office.

10 Upon the occurrence of a vacancy in the office of any one of these officers for any of the
11 causes stated in the preceding paragraph, the Governor may appoint an acting officer to
12 perform the duties of that office until a person is appointed or elected pursuant to this section
13 and Article III, Section 7 of the State Constitution, to fill the vacancy and is qualified."

14 **SECTION 11.** G.S. 163-9 reads as rewritten:

15 **"§ 163-9. Filling vacancies in State and district judicial offices.**

16 (a) Vacancies occurring in the offices of Justice of the Supreme Court, judge of the
17 Court of Appeals, and judge of the superior court for causes other than expiration of term shall
18 be filled by appointment of the Governor. An appointee to the office of Justice of the Supreme
19 Court or judge of the Court of Appeals shall hold office until January 1 next following the next
20 statewide election for members of the ~~General Assembly~~ United States House of
21 Representatives that is held more than 60 days after the vacancy occurs, at which time an
22 election shall be held for an eight-year term and until a successor is elected and qualified.

23 (b) Except for judges specified in the next paragraph of this subsection, an appointee to
24 the office of judge of superior court shall hold his place until the next statewide election for
25 members of the ~~General Assembly~~ United States House of Representatives that is held more
26 than 60 days after the vacancy occurs, at which time an election shall be held to fill the
27 unexpired term of the office.

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

29 (1) With only one resident judge; or

30 (2) In which no county is subject to section 5 of the Voting Rights Act of 1965,
31 shall hold the office until the next statewide election of members of the
32 ~~General Assembly~~ United States House of Representatives that is held more
33 than 60 days after the vacancy occurs, at which time an election shall be held
34 to fill an eight-year term.

35 (c) When the unexpired term of the office in which the vacancy has occurred expires on
36 the first day of January succeeding the next statewide election for members of the ~~General~~
37 ~~Assembly~~, United States House of Representatives, the Governor shall appoint to fill that
38 vacancy for the unexpired term of the office.

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

42 **SECTION 12.** G.S. 163-10 reads as rewritten:

43 **"§ 163-10. Filling vacancy in office of district attorney.**

44 Any vacancy occurring in the office of district attorney for causes other than expiration of
45 term shall be filled by appointment of the Governor. An appointee shall hold his place until the
46 next statewide election for members of the ~~General Assembly~~ United States House of
47 Representatives that is held more than 60 days after the vacancy occurs, at which time an
48 election shall be held to fill the unexpired term of the office: Provided, that when the unexpired
49 term of the office in which the vacancy has occurred expires on the first day of January
50 succeeding the next statewide election for members of the ~~General Assembly~~, United States

1 House of Representatives, the Governor shall appoint to fill that vacancy for the unexpired term
2 of the office."

3 **SECTION 13.** G.S. 163-12 reads as rewritten:

4 "**§ 163-12. Filling vacancy in United States Senate.**

5 Whenever there shall be a vacancy in the office of United States Senator from this State,
6 whether caused by death, resignation, or otherwise than by expiration of term, the Governor
7 shall appoint to fill the vacancy until an election shall be held to fill the office. The Governor
8 shall issue his writ for the election of a Senator to be held at the time of the first statewide
9 election for members of the ~~General Assembly~~ United States House of Representatives that is
10 held more than 60 days after the vacancy occurs. The person elected shall hold the office for
11 the remainder of the unexpired term. The election shall take effect from the date of the
12 canvassing of the returns."

13 **SECTION 14.** Each statute and each local act which states that a vacancy in an
14 elected office shall be filled until the next election for members of the General Assembly, or
15 similarly relies on the date of General Assembly elections as determining when an event is to
16 take place or the duration of an appointment, shall be considered instead to use the date of the
17 next statewide election of members of the United States House of Representatives as the
18 determining date for whatever purpose the date of the General Assembly election is now used.

19 **SECTION 15.** Sections 1 through 14 of this act shall take effect only upon
20 approval of the voters of the constitutional amendments set forth in AN ACT TO AMEND
21 THE NORTH CAROLINA CONSTITUTION TO PROVIDE FOUR-YEAR TERMS FOR
22 MEMBERS OF THE GENERAL ASSEMBLY. If the constitutional amendments proposed in
23 those sections are approved by the voters, Sections 1 through 14 of this act shall become
24 effective at the same time as the constitutional amendments.

25 **SECTION 16.** This act is effective when it becomes law.