

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 709

Short Title: Election Director Dismissal Process. (Public)

Sponsors: Representative Clampitt.

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Election Law and Campaign Finance Reform, if favorable, Judiciary 1, if favorable, Rules, Calendar, and Operations of the House

April 19, 2023

1 A BILL TO BE ENTITLED  
2 AN ACT TO REVISE THE PROCESS BY WHICH A COUNTY BOARD OF ELECTIONS  
3 DIRECTOR MAY BE DISMISSED.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 163-35.1 reads as rewritten:

6 "**§ 163-35.1. ~~Termination-Dismissal~~ of county director of elections; suspension.**

7 (a) The county board of elections may, by petition signed by a majority of the board,  
8 recommend to the Executive Director ~~of the State Board of Elections~~ the ~~termination-dismissal~~  
9 of the employment of ~~the that county board of elections'~~ county board's director of elections. The  
10 petition shall clearly state the reasons for ~~termination-recommending~~ the dismissal. If the petition  
11 states as a reason for dismissal a violation of G.S. 163-35(a)(1) through (a)(7) or of Article 4A  
12 of this Chapter, the county director of elections shall be suspended until completion of the process  
13 set forth in this section. The decision to initiate a petition for dismissal of the employment of the  
14 county director of elections shall not be subject to Article 33C of Chapter 143 of the General  
15 Statutes, and the resulting petition shall not be a public record except as provided in this section.

16 (a1) Upon receipt of the petition, the Executive Director shall immediately notify the  
17 county director of elections in writing and forward a copy of the petition by certified mail, return  
18 receipt requested, to the county director of elections involved. ~~elections.~~ The county director of  
19 elections ~~may reply to the petition within 15 days of receipt thereof.~~ shall respond to the petition,  
20 if so desired, within 15 calendar days of initial notification by the Executive Director; such  
21 response shall not be a public record except as provided in this section.

22 (a2) Within 20 calendar days of receipt of the county director of elections' ~~reply-response~~  
23 or the expiration of the time period allowed for the filing of the ~~reply,~~ response, the State  
24 Executive Director shall render a decision as to the ~~termination-dismissal~~ or retention of the  
25 county director of elections. If the decision is to retain the county director of elections, the  
26 Executive Director shall so notify the county board of elections and the county director of  
27 elections; such notifications shall not be a public record. If the decision is to dismiss the county  
28 director of elections, the Executive Director shall so notify the county board of elections and the  
29 county director of elections; except as provided in G.S. 163-27.2, such notifications, and the  
30 petition for dismissal by the county board of elections, shall become a public record at the time  
31 the Executive Director notifies the county board.

32 (a3) The decision of the Executive Director ~~of the State Board of Elections~~ shall be final  
33 unless the decision is, within 20 calendar days from the official date on which it was made,  
34 deferred by the State ~~Board of Elections.~~ Board by vote of the State Board in an open meeting.



1 If the State Board defers the decision, then the State Board shall make a final decision on the  
2 ~~termination-dismissal~~ after giving the county director of elections and the county board an  
3 opportunity to be heard and to present witnesses and information to the State Board, ~~and then~~  
4 ~~notify the Executive Director of its decision in writing. Any one or more members of the State~~  
5 ~~Board designated by the remaining members of the State Board may conduct the hearing and~~  
6 ~~make a final determination on the termination. For the purposes of this section, the member(s)~~  
7 ~~designated by the remaining members of the State Board shall possess the same authority~~  
8 ~~conferred upon the chairman pursuant to G.S. 163-23. If the decision, rendered after the hearing,~~  
9 ~~results in concurrence with the decision entered by the Executive Director, the decision becomes~~  
10 ~~final. If the decision rendered after the hearing is contrary to that entered by the Executive~~  
11 ~~Director, then the Executive Director shall, within 15 days from the written notification, enter an~~  
12 ~~amended decision consistent with the results of the decision by the State Board or its designated~~  
13 ~~member(s). Board in an open meeting. The decision of the State Board as to retention or dismissal~~  
14 ~~of the county director of elections shall be final. Except as provided in G.S. 163-27.2, documents~~  
15 ~~related to dismissal of a county director of elections under this subsection shall be a public record.~~

16 (b) Upon majority vote by the State Board in an open meeting on the recommendation of  
17 the Executive Director, the State Board of Elections may initiate proceedings for the ~~termination~~  
18 ~~dismissal~~ of a county director of elections for just cause. ~~If the State Board votes to initiate~~  
19 ~~proceedings for termination, the State Board shall state cause, stating the reasons for the~~  
20 ~~termination-dismissal in writing and send writing, immediately notifying the county director of~~  
21 ~~elections, and forwarding a copy by certified mail, return receipt requested, to the county director~~  
22 ~~of elections. If the petition states as a reason for dismissal a violation of G.S. 163-35(a)(1)~~  
23 ~~through (a)(7) or of Article 4A of this Chapter, the county director of elections shall be suspended~~  
24 ~~until completion of the process set forth in this section. The county director of elections has 15~~  
25 ~~calendar days to reply in writing to the notice. The State Board of Elections shall also notify the~~  
26 ~~chair of the county board of elections and the chair of the county board of commissioners that~~  
27 ~~the State Board has initiated termination-dismissal proceedings. The State Board shall make a~~  
28 ~~final decision on the termination-dismissal after giving the county director of elections and the~~  
29 ~~county board of elections an opportunity to be heard, present witnesses, and provide information~~  
30 ~~to the State Board. Any one or more members of the State Board designated by the remaining~~  
31 ~~members of the State Board may conduct the hearing and make a final decision. For the purposes~~  
32 ~~of this section, the member(s) designated by the remaining members of the State Board shall~~  
33 ~~possess the same authority conferred upon the chairman pursuant to G.S. 163-23. Except as~~  
34 ~~provided in G.S. 163-27.2, documents related to dismissal of a county director of elections under~~  
35 ~~this subsection shall be a public record.~~

36 (c) A county director of elections may be suspended, with pay, without warning for  
37 causes relating to personal conduct detrimental to service to the county or to the State Board of  
38 Elections, Board, pending the giving of written reasons, in order to avoid the undue disruption of  
39 work or to protect the safety of persons or property or for other serious reasons. Any suspension  
40 ~~may be~~ initiated by the Executive Director but may under this subsection shall not be for more  
41 than five business days. Upon placing a county director of elections on suspension, the Executive  
42 Director shall, as soon as possible, reduce to writing the reasons for the suspension and forward  
43 copies to the county director of elections, the members of the county board of elections, the chair  
44 of the county board of commissioners, and the State Board of Elections. Board. ~~If no action for~~  
45 ~~termination to dismiss has been taken under this section~~ within five business days, the county  
46 director of elections shall be fully reinstated.

47 (d) ~~Termination-Dismissal~~ of any county director of elections shall comply with this  
48 section.

49 (e) In the event the Executive Director is recused due to an actual or apparent conflict of  
50 interest from rendering a decision under this section, the chair and vice-chair of the State Board  
51 shall designate a member of staff to fulfill those duties."

1           **SECTION 2.** G.S. 163-35 reads as rewritten:

2   "**§ 163-35. Director of elections to county board of elections; appointment; compensation;**  
3   **~~duties; dismissal.~~duties.**

4       (a)   County Director of Elections. – In the event a vacancy occurs in the office of county  
5   director of elections in any of the county boards of elections in this State, the county board of  
6   elections shall submit the name of the person it recommends to fill the vacancy, in accordance  
7   with provisions specified in this section, to the Executive Director ~~of the State Board of Elections~~  
8   who shall issue a letter of appointment. A person shall not serve as a county director of elections  
9   if ~~he~~ that person does any of the following:

- 10           (1)   Holds any elective public ~~office;~~office.  
11           (2)   Is a candidate for any office in a primary or ~~election;~~election.  
12           (3)   Holds any office in a political party or committee ~~thereof;~~thereof.  
13           (4)   Is a campaign ~~chairman~~ chair or finance ~~chairman~~ chair for any candidate for  
14   public office or serves on any campaign committee for any  
15   ~~candidate;~~candidate.  
16           (5)   Has been convicted of a felony in any court unless ~~his~~ the rights of citizenship  
17   have been restored pursuant to the provisions of Chapter 13 of the General  
18   Statutes of North ~~Carolina;~~Carolina.  
19           (6)   Has been removed at any time by the State Board ~~of Elections~~ following a  
20   public ~~hearing;~~ hearing.  
21           (7)   Is a member or a spouse, child, spouse of child, parent, sister, or brother of a  
22   member of the county board of elections by whom ~~he~~ the person would be  
23   employed.

24       (b)   ~~Appointment, Duties; Termination.~~ Appointment. – Upon receipt of a nomination  
25   from the county board of elections stating that the nominee for county director of elections is  
26   submitted for appointment upon majority selection by the county board of ~~elections~~ elections,  
27   the Executive Director shall issue a letter of appointment of such nominee to the ~~chairman~~ chair  
28   of the county board of elections within 10 days after receipt of the nomination, unless good cause  
29   exists to decline the appointment. The Executive Director may delay the issuance of appointment  
30   for a reasonable time if necessary to obtain a criminal history records check sought under  
31   G.S. 143B-968. The Executive Director shall apply the standards provided in G.S. 163-27.2 in  
32   determining whether a nominee with a criminal history shall be selected. If the Executive  
33   Director determines a nominee shall not be selected and does not issue a letter of appointment,  
34   the decision of the Executive Director ~~of the State Board~~ shall be final unless the decision is,  
35   within 10 days from the official date on which it was made, deferred by the State Board. If the  
36   State Board defers the decision, then the State Board shall make a final decision on appointment  
37   of the county director of elections and may direct the Executive Director to issue a letter of  
38   appointment. If an Executive Director issues a letter of appointment, the county board of elections  
39   shall enter in its official minutes the specified duties, responsibilities and designated authority  
40   assigned to the director by the county board of elections. The specified duties and responsibilities  
41   shall include adherence to the duties delegated to the county board of elections pursuant to  
42   G.S. 163-33. A copy of the specified duties, responsibilities and designated authority assigned to  
43   the director shall be filed with the State ~~Board of Elections.~~ Board. In the event the Executive  
44   Director is recused due to an actual or apparent conflict of interest from rendering a decision  
45   under this section, the chair and vice-chair of the State Board shall designate a member of staff  
46   to fulfill those duties.

47       (c)   ~~Compensation of Directors of Elections.~~ Compensation. – Compensation paid to  
48   county directors of elections in all counties maintaining full-time registration (five days per  
49   week) shall be in the form of a salary in an amount recommended by the county board of elections  
50   and approved by the Board of County Commissioners and shall be commensurate with the salary

1 paid to directors in counties similarly situated and similar in population and number of registered  
2 voters.

3 The Board of County Commissioners in each county, whether or not the county maintains  
4 full-time or modified full-time registration, shall compensate the county director of elections at  
5 a minimum rate of twelve dollars (\$12.00) per hour for hours worked in attendance to his or her  
6 duties as prescribed by law, including rules and regulations adopted by the State ~~Board of~~  
7 ~~Elections-Board~~. In addition, the county shall pay to the director an hourly wage of at least twelve  
8 dollars (\$12.00) per hour for all hours worked in excess of those prescribed in rules and  
9 regulations adopted by the State ~~Board of Elections, Board~~, when such additional hours have  
10 been approved by the county board of elections and such approval has been recorded in the  
11 official minutes of the county board of elections.

12 In addition to the compensation provided for herein, the county director of elections ~~to the~~  
13 ~~county board of elections~~ shall be granted the same vacation leave, sick leave, and petty leave as  
14 granted to all other county employees. It shall also be the responsibility of the Board of County  
15 Commissioners to appropriate sufficient funds to compensate a replacement for the director of  
16 elections when authorized leave is taken.

17 (d) Duties. – The county director of elections may be empowered by the county board of  
18 elections to perform such administrative duties as might be assigned by the board and the  
19 ~~chairman-chair~~. In addition, the director of elections may be authorized by the ~~chairman-chair~~  
20 to execute the responsibilities devolving upon the ~~chairman-chair~~ provided such authorization by  
21 any ~~chairman-chair~~ shall in no way transfer the responsibility for compliance with the law. The  
22 ~~chairman-chair~~ shall remain liable for proper execution of all matters specifically assigned to ~~him~~  
23 the chair by law.

24 The county board of elections shall have authority, by resolution adopted by majority vote,  
25 to delegate to its county director of elections so much of the administrative detail of the election  
26 functions, duties, and work of the board, its officers and members, as is now, or may hereafter  
27 be vested in the board or its members as the county board of elections may see fit: Provided, that  
28 the board shall not delegate to a county director of elections any of its quasi-judicial or  
29 policy-making duties and authority. Such a resolution shall require adherence to the duties  
30 delegated to the county board of elections pursuant to G.S. 163-33. Within the limitations  
31 imposed upon the county director of elections by the resolution of the county board of ~~elections~~  
32 elections, the acts of a properly appointed county director of elections shall be deemed to be the  
33 acts of the county board of elections, its officers and members.

34 (e) Training and Certification. – The State Board ~~of Elections~~ shall conduct a training  
35 program consisting of four weeks for each new county director of elections. ~~The Each county~~  
36 ~~director of elections~~ shall complete that program. Each county director ~~appointed after May 1995~~  
37 of elections shall successfully complete a certification program as provided in G.S. 163-82.24(b)  
38 within three years after ~~appointment or by January 1, 2003, whichever occurs later.~~ appointment."

39 **SECTION 3.** This act becomes effective October 1, 2023, and applies to dismissals  
40 or suspensions initiated on or after that date.