

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 763
HOUSE BILL 169

AN ACT TO PROVIDE THAT WHEN VACANCIES OCCUR IN THE OFFICES OF COUNTY COMMISSIONER, SHERIFF, REGISTER OF DEEDS, CORONER, OR PARTISAN SCHOOL BOARD RACES, THE APPOINTING BOARD OR PERSON MUST APPOINT THE PERSON RECOMMENDED BY THE POLITICAL PARTY EXECUTIVE COMMITTEE OF THE VACATING OFFICER, AND BY REQUIRING A DISTRICT BAR TO NOMINATE CANDIDATES FOR DISTRICT COURT JUDGES OF THE SAME PARTY OF THE VACATING JUDGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-142 is amended by adding the following language immediately after the first sentence:

"If the district court judge was elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district who are duly authorized to practice law in the district and who are members of the same political party as the vacating judge; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence."

Sec. 2. G.S. 7A-142 is further amended in the last sentence by deleting the words "four weeks", and inserting in lieu thereof the words "thirty days".

Sec. 3. G.S. 163-9 is amended by deleting the last two sentences and inserting the following new language in its place:

"Vacancies in the office of district judge shall be filled in accordance with G.S. 7A-142."

Sec. 4. Chapter 115C of the General Statutes as enacted by Chapter 423, Session Laws of 1981, is amended by adding a new section to read:

"§ 115C-37.1. Vacancies in offices of county boards elected on a partisan basis.—(a) All vacancies in the membership of county boards of education which are elected by public or local act on a partisan basis shall be filled by appointment of the person, board, or commission specified in the act, except that if the act specifies that appointment shall be made by a party executive committee, then the appointment shall be made instead by the remaining members of the board.

(b) If the vacating member was elected as the nominee of a political party, then the person, board, or commission required to fill the vacancy shall consult with the county executive committee of that party and appoint the person recommended by that

party executive committee, if the party executive committee makes a recommendation within 30 days of the occurrence of the vacancy.

(c) Whenever only the qualified voters of less than the entire county were eligible to vote for the member whose seat is vacant (either because the county administrative unit was less than countywide or only residents of certain areas of the administrative unit could vote in the general election for a district seat), the appointing authority must accept the recommendation only if the county executive committee restricted voting to committee members who represent precincts all or part of which were within the territory of the vacating school board member."

Sec. 5. G.S. 152-1 is amended by adding the following new language at the end of the second paragraph:

"If the coroner were elected as the nominee of a political party, then the county commissioners shall consult with the county executive committee of that political party before filling the vacancy, and shall appoint the person recommended by that committee if the party makes a recommendation within 30 days of the occurrence of the vacancy."

Sec. 6. Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-27.1. Vacancies on the board of commissioners.—(a) If a vacancy occurs on the board of commissioners, the remaining members of the board shall appoint a qualified person to fill the vacancy. If the number of vacancies on the board is such that a quorum of the board cannot be obtained, the chairman of the board shall appoint enough members to make up a quorum, and the board shall then proceed to fill the remaining vacancies. If the number of vacancies on the board is such that a quorum of the board cannot be obtained and the office of chairman is vacant, the clerk of superior court of the county shall fill the vacancies upon the request of any remaining member of the board or upon the petition of any registered voters of the county.

(b) If the member being replaced was serving a two-year term, or if the member was serving a four-year term and the vacancy occurs later than 30 days before the general election held after the first two years of the term, the appointment to fill the vacancy is for the remainder of the unexpired term. Otherwise, the term of the person appointed to fill the vacancy extends to the first Monday in December next following the first general election held more than 30 days after the day the vacancy occurs; at that general election, a person shall be elected to the seat vacated for the remainder of the unexpired term.

(c) To be eligible for appointment to fill a vacancy, a person must (i) be a member of the same political party as the member being replaced, if that member was elected as the nominee of a political party, and (ii) be a resident of the same district as the member being replaced, if the county is divided into electoral districts.

(d) If the member who vacated the seat was elected as a nominee of a political party, the board of commissioners, the chairman of the board, or the clerk of superior court, as the case may be, shall consult the county executive committee of the appropriate political party before filling the vacancy, and shall appoint the person recommended by the county executive committee of the political party of which the

commissioner being replaced was a member, if the party makes a recommendation within 30 days of the occurrence of the vacancy.

(e) Whenever because of G.S. 153A-58(3)b. or because of any local act, only the qualified voters of an area which is less than the entire county were eligible to vote in the general election for the member whose seat is vacant, the appointing authority must accept the recommendation only if the county executive committee restricted voting to committee members who represent precincts all or part of which were within the territorial area of the district of the county commissioner.

(f) The provisions of any local act which provides that a county executive committee of a political party shall fill any vacancy on a board of county commissioners are repealed.

(g) Counties subject to this section are not subject to G.S. 153A-27."

Sec. 7. (a) Chapter 267, Session Laws of 1979, is repealed.

(b) Section 3 of Chapter 202, Session Laws of 1975, is repealed.

Sec. 8. G.S. 161-5 is amended by adding a new subsection to read:

"(a1) When a vacancy occurs from any cause in the office of register of deeds, the board of county commissioners shall fill such vacancy by the appointment of a successor for the unexpired term, who shall qualify and give bond as required by law. If the register of deeds were elected as the nominee of a political party, the board of county commissioners shall consult the county executive committee of that political party before filling the vacancy and shall appoint the person recommended by that committee, if the party makes a recommendation within 30 days of the occurrence of the vacancy. Counties subject to this subsection are not subject to subsection (a)."

Sec. 9. (a) Chapter 868, Session Laws of 1975, is repealed.

(b) Section 2 of Chapter 202, Session Laws of 1975, is repealed.

Sec. 10. G.S. 162-5 is amended by deleting the words, "the first meeting of the county commissioners next succeeding such vacancy", and is further amended by adding the following new sentence immediately following the first sentence:

"If the sheriff were elected as a nominee of a political party, the board of commissioners shall consult the county executive committee of that political party before filling the vacancy, and shall elect the person recommended by the county executive committee of that party, if the party makes a recommendation within 30 days of the occurrence of the vacancy."

Sec. 11. (a) Chapter 405, Session Laws of 1969, is repealed.

(b) Section 1 of Chapter 202, Session Laws of 1975, is repealed.

Sec. 12. (a) When a vacancy occurs in the office of Wake County Commissioner more than one year prior to the next general election after election to a four-year term, or after that general election but more than one year prior to the next general election, the Wake County Board of Commissioners may reject the nomination of a party to fill the vacancy made under Section 6 of this act (G.S. 153A-27.1). If it does so, it must call a special primary election for the purpose of allowing the members of that party to make a recommendation. The special primary election shall be conducted in accordance with Article 10 of Chapter 163 of the General Statutes, except that the Wake County Board of Elections may, with the approval of the State Board of

Elections set deadlines for filing notices of candidacy and for absentee voting in the special primary election. Only persons who are affiliated with the party may vote.

The Wake County Board of Commissioners shall immediately upon the certification of the primary returns appoint the winner to serve until the first Monday in December following the next general election which occurs after the date of the vacancy. The date of the special primary election shall be set by the Wake County Board of Commissioners.

(b) When a vacancy occurs in the office of Wake County Commissioner at any other time than the two one-year periods described in subsection (a) of this section, G.S. 153A-27.1 as amended by Section 6 of this act shall apply.

(c) This section applies to vacancies occurring after the effective date of this act.

Sec. 13. All local acts in conflict with this act are repealed to the extent of the conflict.

Sec. 14. Sections 4 through 11, and Section 13, of this act shall apply only in the following counties: Alamance, Alleghany, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood, Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk, Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.

Sec. 15. This act shall become effective July 1, 1981, and applies to vacancies occurring on or after that date.

In the General Assembly read three times and ratified, this the 1st day of July, 1981.