

Article 2.

Emergency Interim Succession to Local Offices.

§ 162B-5. Short title.

This Article shall be known and may be cited as the North Carolina "Emergency Interim Local Government Executive Succession Act of 1959." (1959, c. 314, s. 1.)

§ 162B-6. Policy and purpose.

Because of the existing possibility of attack upon the State of North Carolina of unprecedented size and destructiveness, and in order, in the event of such an attack, to assure continuity of local government through legally constituted leadership, authority and responsibility in offices of political subdivisions of the State of North Carolina; to provide for the effective operation of local governments during an emergency; and to facilitate the early resumption of functions temporarily suspended, it is found and declared to be necessary to provide for emergency interim succession to governmental offices of political subdivisions in the event the incumbents thereof and their deputies, assistants or other subordinate officers authorized, pursuant to law, to exercise all of the powers and discharge the duties of such offices (hereinafter referred to as deputies) are unavailable to perform the duties and functions of such offices. (1959, c. 314, s. 2.)

§ 162B-7. Definitions.

Unless otherwise clearly required by the context, as used in this Article:

- (1) "Attack" means any attack or series of attacks by an enemy of the United States upon the State of North Carolina causing, or which may cause, substantial damage or injury to civilian property or persons in the State in any manner by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological or biological means or other weapons or processes.
- (2) "Emergency interim successor" means a person designated pursuant to this Article, in the event the officer is unavailable, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by the statutes, charters and ordinances or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.
- (3) "Office" includes all local offices, the powers and duties of which are defined by statutes, charters and ordinances.
- (4) "Political subdivision" includes counties, cities, towns, townships, districts, authorities and other municipal corporations and entities whether organized and existing under charter or general law.
- (5) "Unavailable" means either that a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the lawful incumbent of the office (including any deputy exercising the powers and discharging the duties of an office because of a vacancy) and his duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office. (1959, c. 314, s. 3.)

§ 162B-8. Enabling authority for emergency interim successors for local offices.

With respect to local offices for which the governing bodies of cities, towns, townships, and counties may enact resolutions or ordinances relative to the manner in which vacancies will be

filled or temporary appointments to office made, such governing bodies are hereby authorized to enact resolutions or ordinances providing for emergency interim successors to offices of the aforementioned governmental units. Such resolutions and ordinances shall not be inconsistent with the provisions of this Article. (1959, c. 314, s. 4.)

§ 162B-9. Emergency interim successors for local officers.

The provisions of this section shall be applicable to officers of political subdivisions (including, but not limited to counties, cities, towns and townships as well as school, fire, drainage and other municipal corporate districts) not included in G.S. 162B-8. Such governing bodies, pursuant to such regulations as they may adopt, shall upon approval of this Article, designate by title (if feasible) or by named person, emergency interim successors and specify their order of succession. The local governing body shall review and revise, as necessary, designations made pursuant to this Article to insure their current status. The governing body will designate a sufficient number of persons so that there will be not less than three, nor more than seven, deputies or emergency interim successors or combination thereof at any time. In the event that any officer of any political subdivision (or his deputy provided for pursuant to law) is unavailable, the powers of the office shall be exercised and duties shall be discharged by his designated emergency interim successors in the order specified. The emergency interim successor shall exercise the powers and discharge the duties of the office to which designated until such time as a vacancy which may exist shall be filled in accordance with the Constitution or statutes; or until the officer (or his deputy or a preceding emergency interim successor) again becomes available to exercise the powers and discharge the duties of his office. (1959, c. 314, s. 5.)

§ 162B-10. Formalities of taking office.

At the time of their assumption of office, emergency interim successors shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. Notwithstanding any other provision of law, no person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds, shall be required to comply with any other provision of law relative to taking office. (1959, c. 314, s. 6.)

§ 162B-11. Period in which authority may be exercised.

Emergency interim successors, authorized to act pursuant to this Article, are empowered to exercise the powers and discharge the duties of an office as herein authorized only after an attack upon the State of North Carolina, as defined herein, has occurred. The local governing body, by a duly adopted resolution, may at any time terminate the authority of said emergency interim successors to exercise the powers and discharge the duties of office as herein provided. (1959, c. 314, s. 7.)

§ 162B-12. Removal of designees.

Until such time as the persons designated as emergency interim successors are authorized to exercise the powers and discharge the duties of an office in accordance with this Article, including G.S. 162B-11 hereof, said persons shall serve in their designated capacities at the pleasure of the designating authority and may be removed or replaced by said designating authority at any time, with or without cause. (1959, c. 314, s. 8.)

§ 162B-13. Disputes.

Any dispute concerning a question of fact arising under this Article with respect to an office in any political subdivision shall be adjudicated by the local governing body and their decision shall be final. (1959, c. 314, s. 9.)