

§ 128-39.1. Leaves of absence for State officials for military or naval service.

(a) Any elective or appointive State official may obtain leave of absence from the official's duties when the official enters active duty in the Armed Forces of the United States or the North Carolina National Guard as a result of being voluntarily or involuntarily activated, drafted, or otherwise called to duty. The official shall receive no salary during the period of leave. No vacancy is created by a State official obtaining a leave of absence under this section.

(b) If the official will be on active duty for a period of at least 30 days, a leave of absence may be obtained, and a temporary replacement for the official may be appointed in the following manner:

- (1) If the official is not a member of the General Assembly:
 - a. Leave of absence shall be obtained by filing a copy of the official's active duty orders with the Office of the Governor.
 - b. G.S. 128-39 shall provide the procedure for selecting a temporary replacement official.
- (2) If the official is a member of the General Assembly:
 - a. Leave of absence shall be obtained by filing a copy of the official's active duty orders with the clerk of the house of the General Assembly of which the official is a member.
 - b. The Governor shall select a person to serve as the temporary replacement representative or senator. If the appropriate party executive committee recommends an eligible person within 14 days of the occurrence of the vacancy, the appointment shall be made under the same procedure as provided by G.S. 163-11. If a recommendation is not made on a timely basis, the Governor may appoint any person who is both:
 1. A resident of the legislative district represented by the legislator being temporarily replaced.
 2. A member of the same political party as the legislator being temporarily replaced.

In any case, the person appointed must be eligible to serve under Section 6 of Article II of the North Carolina Constitution if a senator or Section 7 of Article II of the North Carolina Constitution if a representative.

(c) If the official will be on active duty for a period of less than 30 days, a temporary replacement official shall not be appointed, even if a leave of absence is obtained.

(d) The Governor shall appoint the temporary replacement to begin service on the date specified in writing by the official being temporarily replaced as the date the official will enter active military service, or as soon as practicable thereafter. A temporary replacement official shall have all the authority, duties, perquisites, and emoluments of the official temporarily replaced.

(e) The term of the temporary replacement official appointed under this section shall terminate as soon as any of the following occurs:

- (1) On the third day after the last day of active duty status of the official who is temporarily replaced.
- (2) The clerk of the appropriate house of the General Assembly receives written notice from the official who is temporarily replaced that the official is ready and able to resume the duties of his or her office.
- (3) The term of office of the official who is temporarily replaced expires. (2007-432, s. 2; 2011-183, s. 98; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)