

§ 128-42. Leaves of absence for county or municipal officials for military or naval service.

(a) Any elective or appointive county or municipal 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 county or municipal 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) Leave of absence shall be obtained by placing a copy of the official's active duty orders with the clerk.
- (2) G.S. 128-41 shall govern the procedure for selecting a temporary replacement official if the official being temporarily replaced is a municipal official; otherwise, G.S. 128-40 shall govern.

(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 appropriate authority under G.S. 128-40 or G.S. 128-41 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. The appointee shall possess all the qualifications required by law for holding the office for which the temporary replacement official is appointed.

(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 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.

(f) As used in this section, the term "clerk" means the city clerk as defined in G.S. 160A-171 if the official being temporarily replaced is a municipal official and means the clerk to the board of county commissioners as defined in G.S. 153A-1(2) if the official being temporarily replaced is a county official. (2007-432, s. 5; 2011-183, s. 99.)