

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 660

Short Title: Terms/Term Limits.

(Public)

Sponsors: Senator Kaplan.

Referred to: Constitution and Election Laws.

March 31, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE FOR FOUR-YEAR TERMS FOR MEMBERS OF THE LEGISLATURE AND LIMIT THEM TO THREE CONSECUTIVE TERMS IN A HOUSE, TO LIMIT MEMBERS OF THE COUNCIL OF STATE AND SHERIFFS TO THREE FOUR-YEAR TERMS, AND TO LIMIT PERSONS ELECTED TO CONGRESS AND TO OFFICES CREATED BY THE GENERAL ASSEMBLY TO TWELVE YEARS IN OFFICE.

The General Assembly of North Carolina enacts:

Section 1. Article II of the Constitution of North Carolina is amended by adding a new section to read:

"Sec. 25. Limitation of consecutive terms.

(1) No person shall be eligible for election to more than three consecutive terms as a member of the House of Representatives, nor to more than three consecutive terms as a member of the Senate. Service caused by filling of a vacancy shall be considered as a term for the purpose of this Section if the person takes office during the first two calendar years of the term.

(2) Terms of office beginning before January 1, 1995, shall not be considered for the purpose of this Section.

(3) A person disqualified by this Section from election to the next succeeding term as a member of the House of Representatives or Senate may not fill a vacancy in that succeeding term."

Sec. 2. Section 2 of Article II of the Constitution of North Carolina reads as rewritten:

1 **"Sec. 2. Number of Senators.** The Senate shall be composed of 50 Senators,
2 ~~biennially~~quadrennially chosen by ballot."

3 Sec. 3. Section 4 of Article II of the Constitution of North Carolina reads as
4 rewritten:

5 **"Sec. 4. Number of Representatives.** The House of Representatives shall be
6 composed of 120 Representatives, ~~biennially~~quadrennially chosen by ballot."

7 Sec. 4. Section 8 of Article II of the Constitution of North Carolina reads as
8 rewritten:

9 **"Sec. 8. Elections.** The election for members of the General Assembly shall be held
10 for the respective districts in ~~1972-1994~~ and every ~~two~~four years thereafter, at the places
11 and on the day prescribed by law."

12 Sec. 5. Section 14(1) of Article II of the Constitution of North Carolina reads
13 as rewritten:

14 **"(1) President Pro Tempore - succession to presidency.** The Senate shall elect
15 from its membership a President Pro Tempore, who shall become President of the
16 Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession
17 by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or
18 removal from office of the President of the Senate, and who shall serve ~~until the~~until:

19 (a) The expiration of his term of office as ~~Senator~~ Senator; or

20 (b) The qualification of a new Lieutenant Governor whichever comes first.

21 A President Pro Tempore becoming President of the Senate under this Section retains
22 the same right to vote as any other Senator, and does not have an additional right to vote
23 when the Senate is equally divided."

24 Sec. 6. Section 2(1) of Article III of the Constitution of North Carolina reads
25 as rewritten:

26 **"(1) Election and term.** The Governor and Lieutenant Governor shall be elected by
27 the qualified voters of the State in ~~1972-1992~~ and every four years thereafter, at the ~~same~~
28 ~~time and places as members of the General Assembly are elected~~at the places and on the day
29 prescribed by law. Their term of office shall be four years and shall commence on the
30 first day of January next after their election and continue until their successors are
31 elected and qualified."

32 Sec. 7. Section 7(1) of Article III of the Constitution of North Carolina reads
33 as rewritten:

34 **"Sec. 7. Other elective officers.**

35 (1) **Officers.** A Secretary of State, an Auditor, a Treasurer, a Superintendent of
36 Public Instruction, an Attorney General, a Commissioner of Agriculture, a
37 Commissioner of Labor, and a Commissioner of Insurance shall be elected by the
38 qualified voters of the State in ~~1972-1992~~ and every four years thereafter, at the same
39 time and places as ~~members of the General Assembly are~~the Governor is elected. Their
40 term of office shall be four years and shall commence on the first day of January next
41 after their election and continue until their successors are elected and qualified.

42 (1a) No person elected to any office under this Section shall be eligible for
43 election to more than three consecutive terms of the same office. Election to fill a
44 vacancy under subsection (3) of this Section shall be considered as a term for the

1 purpose of this Section. Terms of office beginning before January 1, 1995, shall not be
2 considered for the purpose of this subsection. A person disqualified by this subsection
3 from election to the next succeeding term may not fill a vacancy in that succeeding
4 term.

5 (2) **Duties.** Their respective duties shall be prescribed by law.

6 (3) **Vacancies.** If the office of any of these officers is vacated by death,
7 resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve
8 until his successor is elected and qualified. Every such vacancy shall be filled by
9 election at the first election for members of the General Assembly or Governor,
10 whichever comes first, that occurs more than 60 days after the vacancy has taken place,
11 and the person chosen shall hold the office for the remainder of the unexpired term
12 fixed in this Section. When a vacancy occurs in the office of any of the officers named
13 in this Section and the term expires on the first day of January succeeding the next
14 election for members of the General Assembly, the Governor shall appoint to fill the
15 vacancy for the unexpired term of the office.

16 (4) **Interim officers.** Upon the occurrence of a vacancy in the office of any one
17 of these officers for any of the causes stated in the preceding paragraph, the Governor
18 may appoint an interim officer to perform the duties of that office until a person is
19 appointed or elected pursuant to this Section to fill the vacancy and is qualified.

20 (5) **Acting officers.** During the physical or mental incapacity of any one of these
21 officers to perform the duties of his office, as determined pursuant to this Section, the
22 duties of his office shall be performed by an acting officer who shall be appointed by
23 the Governor.

24 (6) **Determination of incapacity.** The General Assembly shall by law prescribe
25 with respect to those officers, other than the Governor, whose offices are created by this
26 Article, procedures for determining the physical or mental incapacity of any officer to
27 perform the duties of his office, and for determining whether an officer who has been
28 temporarily incapacitated has sufficiently recovered his physical or mental capacity to
29 perform the duties of his office. Removal of those officers from office for any other
30 cause shall be by impeachment.

31 (7) **Special qualifications for Attorney General.** Only persons duly authorized
32 to practice law in the courts of this State shall be eligible for appointment or election as
33 Attorney General."

34 Sec. 8. Section 9(3) of Article IV of the Constitution of North Carolina reads
35 as rewritten:

36 "(3) **Clerks.** A Clerk of the Superior Court for each county shall be elected for a
37 term of four years by the qualified voters thereof, at the same time and places as
38 members of the General Assembly or the Governor are elected. If the office of Clerk of
39 the Superior Court becomes vacant otherwise than by the expiration of the term, or if
40 the people fail to elect, the senior regular resident Judge of the Superior Court serving
41 the county shall appoint to fill the vacancy until an election can be regularly held."

42 Sec. 9. Section 18(1) of Article IV of the Constitution of North Carolina
43 reads as rewritten:

1 "(1) **District Attorneys.** The General Assembly shall, from time to time, divide the
2 State into a convenient number of prosecutorial districts, for each of which a District
3 Attorney shall be chosen for a term of four years by the qualified voters thereof, at the
4 same time and places as members of the General Assembly or the Governor are elected.
5 Only persons duly authorized to practice law in the courts of this State shall be eligible
6 for election or appointment as a District Attorney. The District Attorney shall advise
7 the officers of justice in his district, be responsible for the prosecution on behalf of the
8 State of all criminal actions in the Superior Courts of his district, perform such duties
9 related to appeals therefrom as the Attorney General may require, and perform such
10 other duties as the General Assembly may prescribe."

11 Sec. 10. Section 19 of Article IV of the Constitution of North Carolina reads
12 as rewritten:

13 "**Sec. 19. Vacancies.** Unless otherwise provided in this Article, all vacancies
14 occurring in the offices provided for by this Article shall be filled by appointment of the
15 Governor, and the appointees shall hold their places until the next election for members
16 of the General Assembly or Governor, whichever comes first, that is held more than 60
17 days after the vacancy occurs, when elections shall be held to fill the offices. When the
18 unexpired term of any of the offices named in this Article of the Constitution in which a
19 vacancy has occurred, and in which it is herein provided that the Governor shall fill the
20 vacancy, expires on the first day of January succeeding the next election for members of
21 the General Assembly or Governor, whichever comes first, the Governor shall appoint
22 to fill that vacancy for the unexpired term of the office. If any person elected or
23 appointed to any of these offices shall fail to qualify, the office shall be appointed to,
24 held and filled as provided in case of vacancies occurring therein. All incumbents of
25 these offices shall hold until their successors are qualified."

26 Sec. 11. Section 2 of Article VII of the Constitution of North Carolina reads
27 as rewritten:

28 "Sec. 2. Sheriffs.

29 (1) In each county a Sheriff shall be elected by the qualified voters thereof at the
30 same time and places as members of the General Assembly are elected and shall hold
31 his office for a period of four years, subject to removal for cause as provided by law.

32 (2) No person elected Sheriff shall be eligible for election to more than three
33 consecutive terms. Service caused by filling of a vacancy shall be considered as a term
34 for the purpose of this Section if the person takes office during the first two calendar
35 years of the term. Terms of office beginning before January 1, 1995, shall not be
36 considered for the purpose of this subsection. A person disqualified by this subsection
37 from election to the next succeeding term as Sheriff may not fill a vacancy in that
38 succeeding term."

39 Sec. 12. The amendments set forth in Sections 1 through 11 of this act shall
40 be submitted to the qualified voters of the State at the next statewide election, primary
41 election, or general election, whichever is earlier, which election shall be conducted
42 under the laws then governing elections in the State. At that election, each qualified
43 voter who desires to vote shall be provided a ballot on which shall be printed the
44 following:

1 "[] FOR constitutional amendment making the term of members of the
2 General Assembly four years, beginning with members elected in
3 1994, limiting members to three consecutive terms in the Senate or
4 House of Representatives, limiting members of the Council of State to
5 three consecutive four-year terms, limiting members of the United
6 State House of Representatives, United States Senate, sheriffs, and
7 local elected officials to 12 consecutive years of elected office, and
8 making conforming amendments concerning the election of other
9 officers and the filling of vacancies.

10 [] AGAINST constitutional amendment making the term of members of
11 the General Assembly four years, beginning with members elected in
12 1994, limiting members to three consecutive terms in the Senate or
13 House of Representatives, limiting members of the Council of State to
14 three consecutive four-year terms, limiting members of the United
15 State House of Representatives, United States Senate, sheriffs, and
16 local elected officials to 12 consecutive years of elected office, and
17 making conforming amendments concerning the election of other
18 officers and the filling of vacancies."

19 Those qualified voters favoring the amendments shall vote by marking an
20 "X" or a check mark in the square beside the statement beginning "FOR", and those
21 qualified voters opposed to the amendments shall vote by marking an "X" or a check
22 mark in the square beside the statement beginning "AGAINST".

23 Notwithstanding the foregoing provisions of this section, voting machines
24 may be used in accordance with rules and regulations prescribed by the State Board of
25 Elections.

26 Sec. 13. If a majority of votes cast thereon are in favor of the constitutional
27 amendments, the State Board of Elections shall certify the amendments to the Secretary
28 of State who shall enroll the amendments so certified among the permanent records of
29 his office. The constitutional amendments shall become effective January 1, 1994, and
30 shall apply to members of the General Assembly elected in the 1994 general election so
31 that they shall serve four-year terms.

32 Sec. 14. Article 1 of Chapter 128 of the General Statutes is amended by
33 adding the following new section to read:

34 **"§ 128-7.2. Term limits for elective offices created by statute.**

35 (a) No person elected to a public office shall be eligible for election to more than:

36 (1) Six consecutive two-year terms;

37 (2) Three consecutive four-year terms; or

38 (3) Two consecutive six-year terms

39 of the same office. Service caused by filling of a vacancy shall be considered as a term
40 for the purpose of this section if the person takes office during the

41 (1) First calendar year of a two-year term;

42 (2) First two calendar years of a four-year term; or

43 (3) First three calendar years of a six-year term;

1 Terms of office beginning before January 1, 1995, shall not be considered for the
2 purpose of this section. A person disqualified by this section from election to the next
3 succeeding term may not fill a vacancy in that succeeding term.

4 (b) If the term of office is changed, then for the purpose of determining whether
5 the maximum number of terms has been reached, a six-year term shall count as three
6 terms, a four-year term as two terms, and a two-year term as one term. In such case, no
7 person shall be eligible for election to more than six terms.

8 (c) On a board that has some members elected from districts and some at large,
9 or changes from district to at large or vice versa, all such offices shall be considered as
10 the same office. The office of:

11 (1) Mayor; or

12 (2) Chairman of the board of county commissioners,

13 if elected separately by the voters, is a different office."

14 Sec. 15. Article 1 of Chapter 128 of the General Statutes is amended by
15 adding the following new section to read:

16 "**§ 128-7.3. Term limits for members of Congress.**

17 (a) No United States Senator from North Carolina may serve more than two
18 terms in the United States Senate, and no United States Representative from North
19 Carolina may serve more than four terms in the United States House of Representatives.
20 This section applies only to terms beginning on or after the effective date of this section.
21 Any person appointed or elected to fill a vacancy in either such body and who serves
22 more than one-half of the term as a result of such appointment or election shall be
23 considered to have served a term for the purpose of this section.

24 (b) In the event that this section is held to be invalid, it is the intention of the
25 State of North Carolina that members of Congress elected from North Carolina will
26 voluntarily observe the provisions of this section.

27 (c) This section is effective when all of the states have enacted term limitations
28 for members of Congress."

29 Sec. 15.1. G.S. 7A-140 reads as rewritten:

30 "**§ 7A-140. Number; election; term; qualification; oath.**

31 There shall be at least one district judge for each district. Each district judge shall be
32 elected by the qualified voters of the district court district in which he is to serve at the
33 ~~time of the election for members of the General Assembly, specified by Chapter 163 of the~~
34 General Statutes. The number of judges for each district shall be determined by the
35 General Assembly. Each judge shall be a resident of the district for which elected, and
36 shall serve a term of four years, beginning on the first Monday in December following
37 his election.

38 Each district judge shall devote his full time to the duties of his office. He shall not
39 practice law during his term, nor shall he during such term be the partner or associate of
40 any person engaged in the practice of law.

41 Before entering upon his duties, each district judge, in addition to other oaths
42 prescribed by law, shall take the oath of office prescribed for a judge of the General
43 Court of Justice."

44 Sec. 15.2. G.S. 147-4 reads as rewritten:

1 **"§ 147-4. Executive officers – election; term; induction into office.**

2 The executive department shall consist of a Governor, a Lieutenant Governor, a
3 Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an
4 Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a
5 Commissioner of Labor, who shall be elected for a term of four years, by the qualified
6 electors of the State, ~~at the same time and places, and in the same manner, as members of the~~
7 ~~General Assembly are elected~~ as provided by Chapter 163 of the General Statutes. Their
8 term of office shall commence on the first day of January next after their election and
9 continue until their successors are elected and qualified. The persons having the highest
10 number of votes, respectively, shall be declared duly elected, but if two or more be
11 equal and highest in votes for the same office, then one of them shall be chosen by joint
12 ballot of both houses of the General Assembly. Contested elections shall be determined
13 by a joint ballot of both houses of the General Assembly in such manner as shall be
14 prescribed by law."

15 Sec. 15.3. G.S. 152-1 reads as rewritten:

16 **"§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

17 In each county a coroner shall be elected by the qualified voters thereof ~~in the same~~
18 ~~manner and at the same time as the election of members of the General Assembly~~ as provided
19 by Chapter 163 of the General Statutes, and shall hold office for a term of four years, or
20 until his successor is elected and qualified.

21 A vacancy in the office of coroner shall be filled by the county commissioners, and
22 the person so appointed shall, upon qualification, hold office until his successor is
23 elected and qualified. If the coroner were elected as the nominee of a political party,
24 then the county commissioners shall consult with the county executive committee of
25 that political party before filling the vacancy, and shall appoint the person
26 recommended by that committee if the party makes a recommendation within 30 days
27 of the occurrence of the vacancy; this sentence shall apply only to the counties of
28 Alamance, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus,
29 Caldwell, Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood,
30 Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk,
31 Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.

32 When the coroner shall be out of the county, or shall for any reason be unable to
33 hold the necessary inquest as provided by law, or there is a vacancy existing in the
34 office of coroner which has not been filled by the county commissioners and it is made
35 to appear to the clerk of the superior court by satisfactory evidence that a deceased
36 person whose body has been found within the county probably came to his death by the
37 criminal act or default of some person, it is the duty of the clerk to appoint some
38 suitable person to act as coroner in such special case."

39 Sec. 15.4. G.S. 161-1 reads as rewritten:

40 **"§ 161-1. Election and term of office.**

41 In each county there shall be elected biennially by the qualified voters thereof, as
42 provided ~~for the election of members of the General Assembly~~ by Chapter 163 of the
43 General Statutes, a register of deeds."

44 Sec. 15.5. G.S. 162-1 reads as rewritten:

1 **"§ 162-1. Election and term of office.**

2 In each county a sheriff shall be elected by the qualified voters thereof, as is
3 prescribed ~~for members of the General Assembly~~ by Chapter 163 of the General Statutes,
4 and shall hold his office for four years."

5 Sec. 16. G.S. 163-1 is amended in the table by rewriting the "DATE OF
6 ELECTION" entries for State Senator and member of the State House of
7 Representatives to read: "Tuesday next after the first Monday in November 1994 and
8 every four years thereafter".

9 Sec. 17. G.S. 163-1 is further amended in the table by rewriting the "TERM
10 OF OFFICE" entries for State Senator and member of the State House of
11 Representatives to read: "Four years".

12 Sec. 18. G.S. 163-1 is further amended in the table by rewriting the "DATE
13 OF ELECTION" entries for justices and judges of the Appellate Division, judges of the
14 superior courts, judges of the district courts, district attorney, county commissioners,
15 clerk of superior court, register of deeds, sheriff, and coroner, to read: "At the next
16 regular statewide election for Governor or for members of the General Assembly,
17 whichever comes first, immediately preceding the termination of each regular term."

18 Sec. 19. G.S. 163-8 reads as rewritten:

19 **"§ 163-8. Filling vacancies in State executive offices.**

20 If the office of Governor or Lieutenant Governor shall become vacant, the
21 provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers
22 shall be vacated by death, resignation, or otherwise than by expiration of term, it shall
23 be the duty of the Governor to appoint another to serve until his successor is elected and
24 qualified: Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction,
25 Attorney General, Commissioner of Agriculture, Commissioner of Labor, and
26 Commissioner of Insurance. Each such vacancy shall be filled by election at the first
27 election for members of the General Assembly or Governor, whichever occurs first, that
28 occurs more than 60 days after the vacancy has taken place, and the person chosen shall
29 hold the office for the remainder of the unexpired four-year term: Provided, that when a
30 vacancy occurs in any of the offices named in this section and the term expires on the
31 first day of January succeeding the next election for members of the General Assembly
32 or Governor, whichever comes first, the Governor shall appoint to fill the vacancy for
33 the unexpired term of the office.

34 Upon the occurrence of a vacancy in the office of any one of these officers for any
35 of the causes stated in the preceding paragraph, the Governor may appoint an acting
36 officer to perform the duties of that office until a person is appointed or elected pursuant
37 to this section and Article III, Section 7 of the State Constitution, to fill the vacancy and
38 is qualified."

39 Sec. 20. G.S. 163-9 reads as rewritten:

40 **"§ 163-9. Filling vacancies in State and district judicial offices.**

41 Vacancies occurring in the offices of Justice of the Supreme Court, judge of the
42 Court of Appeals, and judge of the superior court for causes other than expiration of
43 term shall be filled by appointment of the Governor. An appointee shall hold his place
44 until the next election for members of the General ~~Assembly~~ Assembly, whichever

1 comes first, that is held more than 60 days after the vacancy occurs, at which time an
2 election shall be held to fill the unexpired term of the office: Provided, that when the
3 unexpired term of the office in which the vacancy has occurred expires on the first day
4 of January succeeding the next election for members of the General Assembly, or
5 Governor, whichever comes first, the Governor shall appoint to fill that vacancy for the
6 unexpired term of the office.

7 Vacancies in the office of district judge which occur before the expiration of a term
8 shall not be filled by election. Vacancies in the office of district judge shall be filled in
9 accordance with G.S. 7A-142."

10 Sec. 21. G.S. 163-10 reads as rewritten:

11 **"§ 163-10. Filling vacancy in office of district attorney.**

12 Any vacancy occurring in the office of district attorney for causes other than
13 expiration of term shall be filled by appointment of the Governor. An appointee shall
14 hold his place until the next election for members of the General Assembly-Assembly, or
15 Governor, whichever comes first, that is held more than 60 days after the vacancy
16 occurs, at which time an election shall be held to fill the unexpired term of the office:
17 Provided, that when the unexpired term of the office in which the vacancy has occurred
18 expires on the first day of January succeeding the next election for members of the
19 General Assembly or Governor, whichever comes first, the Governor shall appoint to
20 fill that vacancy for the unexpired term of the office."

21 Sec. 22. G.S. 163-12 reads as rewritten:

22 **"§ 163-12. Filling vacancy in United States Senate.**

23 Whenever there shall be a vacancy in the office of United States Senator from this
24 State, whether caused by death, resignation, or otherwise than by expiration of term, the
25 Governor shall appoint to fill the vacancy until an election shall be held to fill the office.
26 The Governor shall issue his writ for the election of a Senator to be held at the time of
27 the first election for members of the General Assembly or Governor, whichever comes
28 first, that is held more than 60 days after the vacancy occurs. The person elected shall
29 hold the office for the remainder of the unexpired term. The election shall take effect
30 from the date of the canvassing of the returns."

31 Sec. 23. Each statute and each local act which states that a vacancy in an
32 elected office shall be filled until the next election for members of the General
33 Assembly, or similarly relies on the date of General Assembly elections as determining
34 when an event is to take place or the duration of an appointment, shall be considered
35 instead to use the date of the next statewide election for Governor or General Assembly,
36 whichever comes first, as the determining date for whatever purpose the date of the
37 General Assembly election is now used.

38 Sec. 24. Sections 14 through 23 of this act shall take effect only upon
39 approval of the voters of the constitutional amendments set forth in Sections 1 through
40 11 of this act. If the constitutional amendments proposed in those sections are approved
41 by the voters, Sections 14 through 23 of this act shall become effective at the same time
42 as the constitutional amendments.

43 Sec. 25. This act is effective upon ratification.