

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 36

Short Title: Veto/Confirmation.

(Public)

Sponsors: Representative McLaughlin.

Referred to: Judiciary I.

January 30, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A REFERENDUM TO AMEND THE CONSTITUTION TO ESTABLISH A GUBERNATORIAL VETO WITH ONE-HOUSE OVERRIDE, TO MAKE STATUTORY CHANGES IN THE APPOINTMENT OF THE BOARD OF TRANSPORTATION, AND TO PROVIDE FOR LEGISLATIVE CONFIRMATION OF CERTAIN GUBERNATORIAL APPOINTMENTS.

The General Assembly of North Carolina enacts:

PART I – VETO.

Section 1. Section 22 of Article II of the Constitution of North Carolina reads as rewritten:

"Sec. 22. Action on bills. All bills and resolutions of a legislative nature shall be read three times in each house before they become laws, and shall be signed by the presiding officers of both houses.

(1) Amendments to the Constitution of North Carolina. Every bill proposing a new or revised Constitution or an amendment or amendments to this Constitution or calling a convention of the people of this State, and containing no other matter, shall be submitted to the qualified voters of this State after it shall have been read three times in each house and signed by the presiding officers of both houses.

(2) Amendments to the Constitution of the United States. Every bill approving an amendment to the Constitution of the United States, or applying for a convention to

1 propose amendments to the Constitution of the United States, and containing no other  
2 matter, shall be read three times in each house before it becomes law and shall be signed  
3 by the presiding officers of both houses.

4 (3) **Appointments by the General Assembly.** Every bill in which the General  
5 Assembly makes an appointment or appointments to public office and which contains no  
6 other matter, shall be read three times in each house before it becomes law and shall be  
7 signed by the presiding officers of both houses.

8 (4) **Joint resolutions.** Every joint resolution shall be read three times in each  
9 house before it becomes effective and shall be signed by the presiding officers of both  
10 houses.

11 (5) **Local bills.** Every bill that applies in fewer than 15 counties shall be read  
12 three times in each house before it becomes law and shall be signed by the presiding  
13 officers of both houses. The exemption from veto by the Governor provided in this  
14 subsection does not apply if the bill, at the time it is signed by the presiding officers:

15 (a) Would extend the application of a law so that the law would apply in  
16 more than half the counties in the State, or

17 (b) Would enact a law so similar in effect to another law or laws that the  
18 result would be a law applying in more than half the counties in the  
19 State.

20 Notwithstanding the previous sentence, a bill is exempt from veto if by its terms it  
21 applies to the government of only one named county, city, town, school administrative  
22 unit, or other unit of local government and contains no other matter. Notwithstanding any  
23 other language in this subsection, the exemption from veto provided by this subsection  
24 does not apply to any bill to enact a general law classified by population or other criteria,  
25 or to any bill that contains an appropriation from the State treasury.

26 (6) **State Senate redistricting.** Every bill revising the Senate districts and the  
27 apportionment of Senators among those districts, and containing no other matter, shall be  
28 read three times in each house before it becomes law and shall be signed by the presiding  
29 officers of both houses.

30 (7) **State House redistricting.** Every bill revising the Representative districts and  
31 the apportionment of Representatives among those districts, and containing no other  
32 matter, shall be read three times in each house before it becomes law and shall be signed  
33 by the presiding officers of both houses.

34 (8) **Congressional redistricting.** Every bill revising the districts for the election  
35 of members of the House of Representatives of the Congress of the United States and the  
36 apportionment of Representatives among those districts, and containing no other matter,  
37 shall be read three times in each house before it becomes law and shall be signed by the  
38 presiding officers of both houses.

39 (9) **Bills subject to veto by Governor; override of veto.** Any other bill shall be  
40 read three times in each house and shall be signed by the presiding officer of each house  
41 before being presented to the Governor. If the Governor approves, he shall sign it and it  
42 shall become a law; but if not, he shall return it with his objections, together with a veto  
43 message stating his reasons for such objections, to that house in which it shall have

1 originated, which shall enter the objections and veto message at large on its journal, and  
2 proceed to reconsider it. If after such reconsideration three-fifths of the members present  
3 and voting of that house shall agree to pass the bill, it shall become a law,  
4 notwithstanding the objections of the Governor. If fewer than three-fifths of the members  
5 present and voting of that house shall agree to pass the bill, it shall be sent, together with  
6 the objections and veto message, to the other house, by which it shall be reconsidered;  
7 and if approved by three-fifths of the members present and voting of that house, it shall  
8 become a law notwithstanding the objections of the Governor and notwithstanding the  
9 vote in the other house. In all such cases the vote of either house shall be determined by  
10 yeas and nays, and the names of the members voting shall be entered on the journal of  
11 each house respectively.

12 (10) **Time for action by Governor; reconvening of session.** If any bill shall not  
13 be returned by the Governor within 10 days after it shall have been presented to him, the  
14 same shall be a law in like manner as if he had signed it, unless the General Assembly  
15 shall have adjourned:

16 (a) Sine die; or

17 (b) For more than 30 days,

18 in which case it shall become a law unless, within 30 days after such adjournment, it is  
19 returned by the Governor with his objections and veto message to that house in which it  
20 shall have originated. When the General Assembly has adjourned sine die or for more  
21 than 30 days, the Governor shall reconvene that session as provided by Article III,  
22 Section 5(11) of this Constitution for reconsideration of the bill, and if he does not  
23 reconvene the session, the bill shall become law on the fortieth day after such  
24 adjournment.

25 (11) **Return of bills after adjournment.** For purposes of return of bills not  
26 approved by the Governor, each house shall designate its principal clerk or another  
27 officer to receive returned bills during its adjournment."

28 Sec. 2. Section 5 of Article III of the Constitution of North Carolina is  
29 amended by adding a new subsection to read:

30 "(11) **Reconvened sessions.** The Governor shall, when required by Section 22 of  
31 Article II of this Constitution, reconvene a session of the General Assembly. At such  
32 reconvened session, the General Assembly may only consider such bills as were returned  
33 by the Governor to that reconvened session for reconsideration. Such reconvened session  
34 shall begin on a date set by the Governor, but no later than 40 days after the General  
35 Assembly adjourned:

36 (a) Sine die; or

37 (b) For more than 30 days.

38 If the date of reconvening the session occurs after the expiration of the terms of office  
39 of the members of the General Assembly, then the members serving for the reconvened  
40 session shall be the newly elected members."

41 Sec. 3. The amendments set out in Sections 1 and 2 of this act shall be  
42 submitted to the qualified voters of the State at the general election in November 1996,  
43 which election shall be conducted under the laws then governing elections in the State.

1 Ballots, voting systems, or both may be used in accordance with Chapter 163 of the  
2 General Statutes. The question to be used in the voting systems and ballots shall be:

3 "[ ] FOR [ ] AGAINST

4 Constitutional amendments granting veto power to the Governor, subject to  
5 override by three-fifths of either house of the General Assembly."

6 Sec. 4. If a majority of votes cast on the question are in favor of the  
7 amendments set out in Sections 1 and 2 of this act, the State Board of Elections shall  
8 certify the amendments to the Secretary of State. The constitutional amendments  
9 proposed by Sections 1 and 2 of this act become effective January 1, 1997. The  
10 amendments become effective upon this certification. The Secretary of State shall enroll  
11 the amendments so certified among the permanent records of that office.

## 12 PART II – BOARD OF TRANSPORTATION.

13 Sec. 5. G.S. 143B-350(c) reads as rewritten:

14 "(c) The Board of Transportation shall have ~~20~~17 members appointed by the  
15 ~~Governor.~~Governor, subject to confirmation by the Senate and the House of  
16 Representatives as provided by subsection (c1) of this section. One member shall be  
17 appointed from each of the 14 highway engineering divisions and ~~six~~three members shall  
18 be appointed from the State at large. One at-large member shall be a registered voter of a  
19 political party other than the political party of the Governor. At least one at-large  
20 member shall possess a broad knowledge of public transportation matters. No more than  
21 two members provided for in this subsection shall reside in the same engineering division  
22 while serving in office. The initial members shall serve terms beginning July 1, 1977,  
23 and ending January 14, 1981, or until their successors are appointed and qualified. The  
24 succeeding terms of office shall be for a period of four years beginning January 15, 1981,  
25 and each four years thereafter. The Governor shall have the authority to remove for  
26 cause sufficient to himself, any member appointed by the Governor."

27 Sec. 6. G.S. 143B-350 is amended by adding a new subsection to read:

28 "(c1) No nominee of the Governor to membership on the Board of Transportation  
29 shall take office until he shall have been confirmed by both the Senate and the House of  
30 Representatives, unless the vacancy occurs after the General Assembly has adjourned  
31 sine die or for more than 10 days and has not reconvened. If the vacancy occurs after the  
32 General Assembly has adjourned sine die or for more than 10 days and has not  
33 reconvened, the Governor shall appoint a replacement, who shall assume office and serve  
34 until the General Assembly next adjourns sine die or for more than 10 days, whichever  
35 occurs first, unless an earlier expiration is provided by law. For such person to continue  
36 in office after adjournment sine die or for more than 10 days, the appointment must be  
37 confirmed by both the Senate and the House of Representatives. If both houses shall not  
38 have confirmed the appointment by that date, the appointee vacates the office, the person  
39 does not hold over, and the person may not be reappointed to fill the vacancy during the  
40 remainder of that term of office. The vote on confirmation in each house shall be by  
41 majority of those present and voting."

42 Sec. 7. G.S. 143B-350(d) reads as rewritten:

1       "(d) The Board of Transportation shall have ~~two~~six members appointed by the  
2 General Assembly. ~~One~~Two of these members shall be appointed upon the  
3 recommendation of the Speaker of the House of Representatives, ~~and one two shall be~~  
4 ~~appointed~~upon the recommendation of the President of the Senate, ~~Senate~~, one upon the  
5 recommendation of the President Pro Tempore of the Senate, and one upon the  
6 recommendation of the Speaker Pro Tempore of the House of Representatives. All six  
7 legislative appointments shall be made in accordance with G.S. 120-121. The initial  
8 members appointed by the General Assembly shall serve for terms expiring June 30,  
9 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-  
10 numbered years. Vacancies in appointments made by the General Assembly shall be  
11 filled in accordance with G.S. 120-122."

### 12           **PART III – CONFIRMATION OF GOVERNOR'S CABINET.**

13           Sec. 8. G.S. 143B-9 reads as rewritten:

#### 14       **"§ 143B-9. Appointment of officers and employees.**

15           (a) The head of each principal State department, except those departments headed  
16 by popularly elected officers, shall be appointed by the Governor, subject to confirmation  
17 by both the Senate and the House of Representatives as provided by subsection (b) of this  
18 section, and serve at his pleasure. shall serve at the pleasure of the Governor.

19           The salary of the head of each of the principal State departments and of elected  
20 officials shall be as provided by law.

21           The head of a principal State department shall appoint a chief deputy or chief  
22 assistant, and such chief deputy or chief assistant shall not be subject to the State  
23 Personnel Act. The salary of such chief deputy or chief assistant shall, upon the  
24 recommendation of the Governor, be set by the General Assembly. Unless otherwise  
25 provided for in the Executive Organization Act of 1973, and subject to the provisions of  
26 the Personnel Act, the head of each principal State department shall designate the  
27 administrative head of each transferred agency and all employees of each division,  
28 section, or other unit of the principal State department.

29           (b) No nominee of the Governor to an office as head of a principal department  
30 listed in G.S. 143B-6(1) through (9) shall take office until he shall have been confirmed  
31 by both the Senate and the House of Representatives, unless the vacancy occurs after the  
32 General Assembly has adjourned sine die or for more than 10 days and has not  
33 reconvened. If the vacancy occurs after the General Assembly has adjourned sine die or  
34 for more than 10 days and has not reconvened, the Governor shall appoint a replacement,  
35 who shall assume office and serve until the General Assembly next adjourns sine die or  
36 for more than 10 days, whichever occurs first. For such person to continue in office after  
37 that date, the appointment must be confirmed by both the Senate and the House of  
38 Representatives. If both those houses have not confirmed the appointment by that date,  
39 the appointee vacates the office, the person does not hold over, and the person may not be  
40 appointed to fill the vacancy during the remainder of the term of the Governor who made  
41 the appointment. The vote on confirmation in each house shall be by majority of those  
42 present and voting."

1           Sec. 9. Sections 5 through 8 of this act become effective January 1, 1997, and  
2 apply to all vacancies occurring on or after that date, but become effective only if the  
3 constitutional amendments proposed in Sections 1 and 2 of this act are approved as  
4 provided in Sections 3 and 4 of this act.

5           Sec. 10. This act is effective upon ratification.