

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

1

HOUSE BILL 623

Short Title: Craven Drainage Commissioners.

(Local)

Sponsors: Representatives Wainwright, Nichols, and Edwards.

Referred to: Local & Regional Government I.

March 29, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE ELECTION OF BOARDS OF DRAINAGE COMMISSIONERS IN CRAVEN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 156-79 reads as rewritten:

**"§ 156-79. ~~Appointment~~ Election and organization under original act.**

After the drainage district has been declared established, as aforesaid, and the survey and plan therefor approved, ~~the court shall appoint three persons, in the manner set forth in G.S. 156-81, who shall be designated as the board of drainage commissioners. a three member board of drainage commissioners shall be elected in the manner set forth in G.S. 156-81.~~ Any vacancy thereafter occurring shall be filled by the clerk ~~or clerks~~ of the superior court in the manner set forth in G.S. 156-81. ~~Such~~ The three drainage commissioners, when ~~so appointed,~~ elected, shall be immediately created a body corporate under the name and style of 'The Board of Drainage Commissioners of ..... District,' with the right to hold property and convey the same, to sue and be sued, and shall possess such other powers as usually pertain to corporations. They shall organize by electing from among their number a chairman and a vice-chairman. They shall also elect a secretary, either within or without their body. ~~Such~~ The board of drainage commissioners shall adopt a seal, which they may alter at pleasure. The board of drainage commissioners shall have and possess such powers as are herein granted."

1           Sec. 2. G.S. 156-81 reads as rewritten:

2 **"§ 156-81. ~~Appointment~~ Election and organization under amended act.**

3           (a) ~~Method of Appointment.~~ Election. – ~~The manner of appointment shall be as~~  
4 ~~follows:~~

5           (1) ~~If the drainage district shall lie solely within one county, the clerk of~~  
6 ~~superior court for such county shall appoint such commissioners.~~

7           (2) ~~If the said district shall lie in more than one county, then such~~  
8 ~~commissioners shall be appointed by unanimous action of the clerks of~~  
9 ~~court for the counties wherein any part of such district lies.~~

10           The members of the board of drainage commissioners shall own land in the district  
11 and shall be elected by vote of the persons owning land in the district, with each  
12 individual landowner having one vote.

13           (b) Organization. – Immediately after the ~~appointment~~ election of the board of  
14 drainage commissioners, the clerk of the court of the county wherein such drainage  
15 proceeding is pending shall notify each of the commissioners in writing to appear at a  
16 certain time and place within the district and organize. ~~The clerk or clerks of court, as the~~  
17 ~~case may be, of superior court shall appoint one of the three members as chairman of the~~  
18 board of drainage commissioners, and in doing so ~~he or they~~ the clerk shall consider  
19 carefully and impartially the respective qualifications of each of the members for the  
20 position.

21           (c) Term of Office. – ~~The term of service of the members of the board of drainage~~  
22 ~~commissioners so appointed shall begin upon their appointment. Where all three~~  
23 ~~commissioners are appointed at once, one commissioner shall serve for one year, one for~~  
24 ~~two years, and the other for three years, the term to be computed from the first day of~~  
25 ~~October following their organization. The members so serving for one, two, and three~~  
26 ~~years, respectively, shall be unanimously designated by the clerk or clerks of the court.~~  
27 ~~Thereafter each member shall be appointed for three years. The clerk of the court for the~~  
28 ~~county wherein the proceeding is pending shall record in the drainage record the date of~~  
29 ~~appointment, the members appointed, and the beginning and expiration of their term of~~  
30 ~~office.~~ The members of the board of drainage commissioners shall be elected to serve  
31 four-year terms. No member of the board of drainage commissioners may serve more  
32 than two consecutive terms. The initial election of members of the board of drainage  
33 commissioners shall be held on September 1, 1996. The terms of office of the drainage  
34 commissioners appointed by the clerk under prior law shall expire immediately upon the  
35 election of drainage commissioners pursuant to this section.

36           (d) Vacancies Filled. – If a vacancy shall occur in the office of any commissioner  
37 by death, resignation, or otherwise, the remaining two members are to discharge the  
38 necessary duties of the board until the vacancy shall be filled; and if the vacancy shall be  
39 in the office of chairman or secretary, the two remaining members may elect a secretary,  
40 and the clerk ~~or clerks, as the case may be, of superior court~~ shall appoint one of the two  
41 remaining members to act as chairman to hold until the vacancy in the board shall be  
42 filled. ~~The clerk of the county wherein the proceeding is pending~~ superior court shall keep a  
43 ~~similar~~ record of any appointment to fill vacancies. The person appointed to fill the

1 vacancy shall be appointed in the manner set forth in subsection (a) of this section and  
2 shall serve until the expiration of the term of ~~his~~the person's predecessor. The secretary  
3 of the board of drainage commissioners shall promptly notify the ~~appropriate clerk or clerks~~  
4 ~~of the clerk of superior court~~ of any vacancy in the board.

5 (e) ~~Failure to Appoint.~~—~~If for any reason the clerk or clerks of the court shall fail~~  
6 ~~to provide for the appointment of drainage commissioners prior to the expiration of a~~  
7 ~~term, the incumbents shall continue to hold their office as commissioners until their~~  
8 ~~successors are appointed and qualified. The term of office of boards of drainage~~  
9 ~~commissioners heretofore elected and appointed shall expire immediately upon the~~  
10 ~~appointment of new commissioners pursuant to subsection (a) of this section.~~

11 (f) Meetings. — The board shall meet once each month at a stated time and place  
12 during the progress of drainage construction, and more often if necessary. After the  
13 drainage work is completed, or at any time, the chairman shall have the power to call  
14 special meetings of the board at a certain time and place. The chairman shall also call a  
15 meeting at any time upon the written request of the owners of a majority in area of the  
16 land in the district.

17 (g) Compensation. — The chairman of the board of drainage commissioners shall  
18 receive compensation and allowances as fixed by the clerk of the superior court. In fixing  
19 such compensation and allowances, the clerk shall give due consideration to the duties  
20 and responsibilities imposed upon the chairman of the board. The other members of the  
21 board shall receive a per diem not to exceed twenty-five dollars (\$25.00) a day, while  
22 engaged in attendance upon meetings of the board, or in the discharge of duties imposed  
23 by the board. The secretary of the board shall receive such compensation and expense  
24 allowances as may be determined by the board.

25 The chairman and members of the board of drainage commissioners shall also receive  
26 their actual travel and subsistence expenses while engaged in attendance upon meetings  
27 of the board, or in the discharge of duties imposed by the board. The compensation and  
28 expense allowances as herein set out shall be paid from the assessments made annually  
29 for the purpose of maintaining the canals of the drainage district, or from any other funds  
30 of the district.

31 (h) ~~Application of Section.~~—~~The provisions of this section shall apply to all~~  
32 ~~drainage districts now or hereafter existing in this State, without regard to the date of~~  
33 ~~organization.~~

34 (i) Repealed by Session Laws 1989 (Regular Session, 1990), c. 959, s. 3."

35 Sec. 3. G.S. 156-82.1(c) reads as rewritten:

36 "(c) The commissioners, upon notice to and with the approval of the clerk of the  
37 superior court, may use surplus funds in such manner as they deem best for (i) the  
38 maintenance of the improvements, (ii) construction or enlargement of canals and water  
39 retardant structures, or other improvements or equipment, (iii) replacement or acquisition  
40 of equipment or structures, and (iv) for payment of any or all operating expenses  
41 including salaries, fees and costs of court.

42 The term 'surplus funds' is defined to mean any funds remaining after the payment of  
43 those items set forth specifically in the certificate of assessment, as well as funds

1 provided in said certificate for maintenance and contingencies, and also, shall include  
2 maintenance and any other funds which the said commissioners may have on hand and  
3 which are not necessary for the payment of the bonds and interest thereon which have  
4 been issued by the said district."

5 Sec. 4. G.S. 156-82.2 reads as rewritten:

6 "**§ 156-82.2. ~~Appointment~~ Election of drainage commissioners.**

7 Notwithstanding any other provision of law (including, where applicable, any special  
8 acts or local modification of general law), the General Assembly hereby appoints all  
9 sitting drainage district commissioners and drainage commission treasurers, as of the date  
10 of ratification of this section, as commissioners, officers, and treasurers of their  
11 respective districts. Said commissioners, officers, and treasurers shall continue in office  
12 until such time as appointments shall be made as provided in G.S. 156-81 and G.S. 156-  
13 81.1, which appointments shall be made by the clerk or clerks of the superior court not  
14 later than January 1, 1991. law, the term of office of any drainage district commissioner  
15 appointed by the clerk of superior court under prior law shall expire upon the election of  
16 drainage district commissioners in accordance with G.S. 156-81."

17 Sec. 5. The Craven County Board of Elections shall, upon request, assist the  
18 Clerk of Superior Court of Craven County with the election of drainage district  
19 commissioners as provided by this act.

20 Sec. 6. This act applies to Craven County and drainage districts lying entirely  
21 within Craven County only.

22 Sec. 7. This act is effective upon ratification.