

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 7

Short Title: Term Limits/Legislature/Conform.

(Public)

Sponsors: Representatives Aldridge; Hardy, Shubert, Rayfield, and G. Wilson.

Referred to: Election Law and Campaign Reform.

January 30, 1997

A BILL TO BE ENTITLED

1
2 AN ACT TO MAKE STATUTORY CONFORMING CHANGES REQUIRED TO
3 IMPLEMENT AN ACT TO AMEND THE CONSTITUTION OF NORTH
4 CAROLINA TO PROVIDE FOR FOUR-YEAR TERMS FOR MEMBERS OF THE
5 LEGISLATURE AND LIMIT THEM TO THREE CONSECUTIVE TERMS IN A
6 HOUSE.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 7A-140 reads as rewritten:

9 **"§ 7A-140. Number; election; term; qualification; oath.**

10 There shall be at least one district judge for each district. Each district judge shall be
11 elected by the qualified voters of the district court district in which he is to serve at the
12 ~~time of the election for members of the General Assembly specified by Chapter 163 of the~~
13 General Statutes. The number of judges for each district shall be determined by the
14 General Assembly. Each judge shall be a resident of the district for which elected, and
15 shall serve a term of four years, beginning on the first Monday in December following
16 his election.

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

1 Before entering upon his duties, each district judge, in addition to other oaths
2 prescribed by law, shall take the oath of office prescribed for a judge of the General
3 Court of Justice.”

4 Section 2. G.S. 147-4 reads as rewritten:

5 **"§ 147-4. Executive officers – election; term; induction into office.**

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

19 Section 3. G.S. 152-1 reads as rewritten:

20 **"§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

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

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

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

43 Section 4. G.S. 161-1 reads as rewritten:

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

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

5 Section 5. G.S. 162-1 reads as rewritten:

6 **"§ 162-1. Election and term of office.**

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

10 Section 6. G.S. 163-1 is amended in the table by rewriting the "DATE OF
11 ELECTION" entries for State Senator and member of the State House of Representatives
12 to read: "Tuesday next after the first Monday in November 2002 and every four years
13 thereafter".

14 Section 7. G.S. 163-1 is further amended in the table by rewriting the "TERM
15 OF OFFICE" entries for State Senator and member of the State House of Representatives
16 to read: "Four years".

17 Section 8. G.S. 163-1 is further amended in the table by rewriting the "DATE
18 OF ELECTION" entries for justices and judges of the Appellate Division, judges of the
19 superior courts, judges of the district courts, district attorney, county commissioners,
20 clerk of superior court, register of deeds, sheriff, and coroner, to read: "At the next
21 regular statewide election for Governor or for members of the General Assembly,
22 whichever comes first, immediately preceding the termination of each regular term."

23 Section 9. G.S. 163-8 reads as rewritten:

24 **"§ 163-8. Filling vacancies in State executive offices.**

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

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

1 Section 10. G.S. 163-9 reads as rewritten:

2 **"§ 163-9. Filling vacancies in State and district judicial offices.**

3 (a) Vacancies occurring in the offices of Justice of the Supreme Court, judge of
4 the Court of Appeals, and judge of the superior court for causes other than expiration of
5 term shall be filled by appointment of the Governor. An appointee to the office of Justice
6 of the Supreme Court or judge of the Court of Appeals shall hold office until January 1
7 next following the election for members of the General Assembly or Governor that is
8 held more than 60 days after the vacancy occurs, whichever comes first, at which time an
9 election shall be held for an eight-year term and until a successor is elected and qualified.

10 (b) Except for judges specified in the next paragraph of this subsection, an
11 appointee to the office of judge of superior court shall hold his place until the next
12 election for members of the General Assembly or Governor that is held more than 60
13 days after the vacancy occurs, whichever comes first, at which time an election shall be
14 held to fill the unexpired term of the office.

15 Appointees for judges of the superior court from any district:

16 (1) With only one resident judge; or

17 (2) In which no county is subject to section 5 of the Voting Rights Act of
18 1965,

19 shall hold the office until the next election of members of the General Assembly that is
20 held more than 60 days after the vacancy occurs, at which time an election shall be held
21 to fill an eight-year term.

22 (c) When the unexpired term of the office in which the vacancy has occurred
23 expires on the first day of January succeeding the next election for members of the
24 General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term
25 of the office.

26 (d) Vacancies in the office of district judge which occur before the expiration of a
27 term shall not be filled by election. Vacancies in the office of district judge shall be filled
28 in accordance with G.S. 7A-142."

29 Section 11. G.S. 163-10 reads as rewritten:

30 **"§ 163-10. Filling vacancy in office of district attorney.**

31 Any vacancy occurring in the office of district attorney for causes other than
32 expiration of term shall be filled by appointment of the Governor. An appointee shall
33 hold his place until the next election for members of the General Assembly or Governor,
34 whichever comes first, that is held more than 60 days after the vacancy occurs, at which
35 time an election shall be held to fill the unexpired term of the office: Provided, that when
36 the unexpired term of the office in which the vacancy has occurred expires on the first
37 day of January succeeding the next election for members of the General Assembly or
38 Governor, whichever comes first, the Governor shall appoint to fill that vacancy for the
39 unexpired term of the office."

40 Section 12. G.S. 163-12 reads as rewritten:

41 **"§ 163-12. Filling vacancy in United States Senate.**

42 Whenever there shall be a vacancy in the office of United States Senator from this
43 State, whether caused by death, resignation, or otherwise than by expiration of term, the

1 Governor shall appoint to fill the vacancy until an election shall be held to fill the office.
2 The Governor shall issue his writ for the election of a Senator to be held at the time of the
3 first election for members of the General Assembly or Governor, whichever comes first,
4 that is held more than 60 days after the vacancy occurs. The person elected shall hold the
5 office for the remainder of the unexpired term. The election shall take effect from the
6 date of the canvassing of the returns."

7 Section 13. Each statute and each local act which states that a vacancy in an
8 elected office shall be filled until the next election for members of the General Assembly,
9 or similarly relies on the date of General Assembly elections as determining when an
10 event is to take place or the duration of an appointment, shall be considered instead to use
11 the date of the next statewide election for Governor or General Assembly, whichever
12 comes first, as the determining date for whatever purpose the date of the General
13 Assembly election is now used.

14 Section 14. Sections 1 through 13 of this act shall take effect only upon
15 approval of the voters of the constitutional amendments set forth in Sections 1 through 8
16 of AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO
17 PROVIDE FOR FOUR-YEAR TERMS FOR MEMBERS OF THE LEGISLATURE
18 AND LIMIT THEM TO THREE CONSECUTIVE TERMS IN A HOUSE. If the
19 constitutional amendments proposed in those sections are approved by the voters,
20 Sections 1 through 13 of this act shall become effective at the same time as the
21 constitutional amendments.

22 Section 15. This act is effective when it becomes law.