

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 14

Short Title: Four-Year Terms Implementing Statute. (Public)

Sponsors: Representatives LaRoque; and Sauls.

Referred to: Rules, Calendar, and Operations of the House.

January 31, 2005

A BILL TO BE ENTITLED
AN ACT TO IMPLEMENT A CONSTITUTIONAL AMENDMENT PROVIDING
FOR FOUR-YEAR TERMS FOR MEMBERS OF THE GENERAL ASSEMBLY
BY PROVIDING NECESSARY STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

The executive department shall consist of a Governor, a Lieutenant Governor, a Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a Commissioner of Labor, who shall be elected for a term of four years, by the qualified electors of the State, ~~at the same time and places, and in the same manner, as members of the General Assembly are elected as provided by Chapter 163 of the General Statutes.~~ Their term of office shall commence on the first day of January next after their election

1 and continue until their successors are elected and qualified. The persons having the
2 highest number of votes, respectively, shall be declared duly elected, but if two or more
3 be equal and highest in votes for the same office, then one of them shall be chosen by
4 joint ballot of both houses of the General Assembly. Contested elections shall be
5 determined by a joint ballot of both houses of the General Assembly in such manner as
6 shall be prescribed by law."

7 **SECTION 3.** G.S. 152-1 reads as rewritten:

8 **"§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

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

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

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

31 **SECTION 4.** G.S. 161-1 reads as rewritten:

32 **"§ 161-1. Election and term of office.**

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

36 **SECTION 5.** G.S. 162-1 reads as rewritten:

37 **"§ 162-1. Election and term of office.**

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

41 **SECTION 6.** G.S. 163-1 is amended in the table by rewriting the "DATE
42 OF ELECTION" entries for State Senator and member of the State House of
43 Representatives to read: "Tuesday next after the first Monday in November 2006 and
44 every four years thereafter".

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

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

11 **SECTION 9.** G.S. 163-8 reads as rewritten:

12 **"§ 163-8. Filling vacancies in State executive offices.**

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

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

32 **SECTION 10.** G.S. 163-9 reads as rewritten:

33 **"§ 163-9. Filling vacancies in State and district judicial offices.**

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

42 (b) Except for judges specified in the next paragraph of this subsection, an
43 appointee to the office of judge of superior court shall hold his place until the next
44 election for members of the General Assembly or Governor that is held more than 60

1 days after the vacancy occurs, whichever comes first, at which time an election shall be
2 held to fill the unexpired term of the office.

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

4 (1) With only one resident judge; or

5 (2) In which no county is subject to section 5 of the Voting Rights Act of
6 1965,

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

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

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

17 **SECTION 11.** G.S. 163-10 reads as rewritten:

18 "**§ 163-10. Filling vacancy in office of district attorney.**

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

28 **SECTION 12.** G.S. 163-12 reads as rewritten:

29 "**§ 163-12. Filling vacancy in United States Senate.**

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

38 **SECTION 13.** Each statute and each local act which states that a vacancy in
39 an elected office shall be filled until the next election for members of the General
40 Assembly, or similarly relies on the date of General Assembly elections as determining
41 when an event is to take place or the duration of an appointment, shall be considered
42 instead to use the date of the next statewide election for Governor or General Assembly,
43 whichever comes first, as the determining date for whatever purpose the date of the
44 General Assembly election is now used.

1 **SECTION 14.** Sections 1 through 13 of this act shall take effect only upon
2 approval of the voters of the constitutional amendments set forth in Sections 1 through 9
3 of AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE
4 FOR FOUR-YEAR TERMS FOR MEMBERS OF THE GENERAL ASSEMBLY. If
5 the constitutional amendments proposed in those sections are approved by the voters,
6 Sections 1 through 13 of this act shall become effective at the same time as the
7 constitutional amendments.

8 **SECTION 15.** This act is effective when it becomes law.