

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 382

Short Title: Gubernatorial Team Ticket. (Public)

Sponsors: Senators Rand, Berger of Rockingham; Apodaca, Bingham, Dorsett, Forrester, Garwood, Hartsell, Hoyle, Malone, Purcell, Stevens, and Webster.

Referred to: Ways and Means.

March 7, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT THE GOVERNOR AND LIEUTENANT GOVERNOR RUN AS A JOINT TICKET IN THE GENERAL ELECTION, TO CLARIFY THE STATUS OF ACTING GOVERNOR, TO ALLOW FOR THE APPOINTMENT OF THE LIEUTENANT GOVERNOR WHEN A VACANCY OCCURS, AND TO PROVIDE THAT THE CANDIDATE FOR LIEUTENANT GOVERNOR IS CHOSEN BY THE GUBERNATORIAL NOMINEE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Article III of the North Carolina Constitution is amended by adding a new subsection to read:

"(3) Team election. In the general election, each candidate for the office of Governor shall form a joint candidacy with a candidate for Lieutenant Governor so that each voter shall cast a single vote for a candidate for Governor and a candidate for Lieutenant Governor running together."

SECTION 2. Section 3 of Article III of the North Carolina Constitution reads as rewritten:

"Sec. 3. Succession to office of Governor.

(1) Succession as Governor. The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor ~~whom he succeeds~~ and until a new Governor is elected and qualified.

(2) Succession as Acting Governor. During ~~the absence of the Governor from the State, or during~~ the physical or mental incapacity of the Governor to perform the duties of ~~his~~ office, the Lieutenant Governor shall be Acting Governor. The absence of the

1 Governor from the State does not affect the power of the Governor, but the Governor
 2 may designate in writing those powers of the Governor that the Lieutenant Governor
 3 may exercise during such absence, or if there is no Lieutenant Governor or the
 4 Lieutenant Governor is absent from the State, that the next person in succession to be
 5 Acting Governor may exercise. The further order of succession as Acting Governor
 6 shall be prescribed by law.

7 (3) Physical incapacity. The Governor or Lieutenant Governor may, by a written
 8 statement filed with the Attorney General, declare that ~~he~~the respective officer is
 9 physically incapable of performing the duties of ~~his~~his-office, and may thereafter in the
 10 same manner declare that ~~he~~the respective officer is physically capable of performing
 11 the duties of ~~his~~his-office.

12 (4) Mental incapacity. The mental incapacity of the Governor or Lieutenant
 13 Governor to perform the duties of ~~his~~his-office shall be determined only by joint resolution
 14 adopted by a vote of two-thirds of all the members of each house of the General
 15 Assembly. Thereafter, the mental capacity of the Governor or Lieutenant Governor to
 16 perform the duties of ~~his~~his-office shall be determined only by joint resolution adopted by
 17 a vote of a majority of all the members of each house of the General Assembly. In all
 18 cases, the General Assembly shall give the Governor or Lieutenant Governor such
 19 notice as it may deem proper and shall allow ~~him~~that officer an opportunity to be heard
 20 before a joint session of the General Assembly before it takes final action. When the
 21 General Assembly is not in session, the Council of State, a majority of its members
 22 concurring, may convene it in extra session for the purpose of proceeding under this
 23 paragraph.

24 (5) Impeachment. Removal of the Governor or Lieutenant Governor from office
 25 for any other cause shall be by impeachment.

26 (6) Vacancy in office of Lieutenant Governor. If the office of Lieutenant
 27 Governor is vacated by death, resignation, or otherwise, it shall be the duty of the
 28 Governor to appoint another to serve the remainder of the unexpired term."

29 **SECTION 3.** Section 7(6) of Article III of the North Carolina Constitution
 30 reads as rewritten:

31 "(6) Determination of incapacity. The General Assembly shall by law prescribe
 32 with respect to those officers, other than the Governor or Lieutenant Governor, whose
 33 offices are created by this Article, procedures for determining the physical or mental
 34 incapacity of any officer to perform the duties of ~~his~~his-office, and for determining whether
 35 an officer who has been temporarily incapacitated has sufficiently recovered ~~his~~the
 36 physical or mental capacity to perform the duties of ~~his~~his-office. Removal of those
 37 officers from office for any other cause shall be by impeachment."

38 **SECTION 4.** The amendments set out in this act shall be submitted to the
 39 qualified voters of the State at a statewide election to be held on the Tuesday after the
 40 first Monday in November of 2006, which election shall be conducted under the laws
 41 then governing elections in the State. Ballots, voting systems, or both may be used in
 42 accordance with Chapter 163 of the General Statutes. The question to be used in the
 43 voting systems and ballots shall be:

44 FOR AGAINST

1 Constitutional amendments providing that candidates for Governor and
2 Lieutenant Governor shall be listed on the general election ballot as a team."

3 **SECTION 5.** If a majority of the votes cast on the question are in favor of
4 the amendments set out in this act, the State Board of Elections shall certify the
5 amendments to the Secretary of State and shall enroll the amendments so certified
6 among the permanent records of that office. If approved, the amendments set out in this
7 act become effective on January 1, 2009, and apply to the 2008 election cycle.

8 **SECTION 5.1.** Chapter 163 of the General Statutes is amended by adding a
9 new section to read:

10 **"§ 163-115.1. Party must nominate candidates for Governor and Lieutenant**
11 **Governor.**

12 If a party nominates a candidate for Governor under this Article, it must also
13 nominate a candidate for Lieutenant Governor, or the nomination as Governor is void. If
14 a party nominates a candidate for Lieutenant Governor under this Article, it must also
15 nominate a candidate for Governor, or the nomination as Lieutenant Governor is void."

16 **SECTION 5.2.** Chapter 163 of the General Statutes is amended by adding a
17 new section to read:

18 **"§ 163-108.2. Nomination of Lieutenant Governor.**

19 Except for G.S. 163-114 and G.S. 163-115.1, the provisions of this Article do not
20 apply to the office of Lieutenant Governor. Nomination for such office is as provided by
21 Article 11B of this Chapter."

22 **SECTION 5.3.** G.S. 163-98 reads as rewritten:

23 **"§ 163-98. General election participation by new political party.**

24 In the first general election following the date on which a new political party
25 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its
26 candidates for national, State, congressional, and local offices printed on the official
27 ballots.

28 For the first general election following the date on which it qualifies under
29 G.S. 163-96, a new political party shall select its candidates by party convention.
30 Following adjournment of the nominating convention, but not later than the first day of
31 July prior to the general election, the president of the convention shall certify to the
32 State Board of Elections the names of persons chosen in the convention as the new
33 party's candidates for State, congressional, and national offices in the ensuing general
34 election. The State Board of Elections shall print names thus certified on the appropriate
35 ballots as the nominees of the new party. The State Board of Elections shall send to
36 each county board of elections the list of any new party candidates so that the county
37 board can add those names to the appropriate ballot. The convention, if it nominates a
38 candidate for Governor, must also nominate a candidate for Lieutenant Governor, or the
39 nomination for Governor shall be void except that if it fails to nominate a candidate for
40 Lieutenant Governor, its candidate for Governor may nominate a candidate for
41 Lieutenant Governor between July 1 and July 15. The convention, if it nominates a
42 candidate for Lieutenant Governor, must also nominate a candidate for Governor, or the
43 nomination for Lieutenant Governor is void."

1 **"§ 163-127.3. Vacancies in nomination.**

2 If a party has nominated a candidate for Lieutenant Governor under Article 10 of
3 this Chapter, and a vacancy occurs in that nomination, the gubernatorial candidate of
4 that party shall name a replacement nominee. The deadline and procedures for making
5 such replacement nomination shall be the same as if it had been made under
6 G.S. 163-114."

7 **SECTION 5.8.** G.S. 163-106(c) reads as rewritten:

8 "(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary
9 nominations for the following offices shall file their notice of candidacy with the State
10 Board of Elections no earlier than 12:00 noon on the second Monday in February and
11 no later than 12:00 noon on the last business day in February preceding the primary:

12 Governor

13 ~~Lieutenant Governor~~

14 All State executive officers

15 United States Senators

16 Members of the House of Representatives of the United States

17 District attorneys

18 Candidates seeking party primary nominations for the following offices shall file
19 their notice of candidacy with the county board of elections no earlier than 12:00 noon
20 on the second Monday in February and no later than 12:00 noon on the last business day
21 in February preceding the primary:

22 State Senators

23 Members of the State House of Representatives

24 All county offices."

25 **SECTION 5.9.** G.S. 163-107(a) is amended by deleting in the schedule
26 under "Office Sought", and "Amount of Filing Fee" the entries for "Lieutenant
27 Governor".

28 **SECTION 5.10.** G.S. 163-107.1(b) reads as rewritten:

29 "(b) If the candidate is seeking the office of United States Senator, Governor,
30 ~~Lieutenant Governor~~, or any State executive officer, the petition must be signed by
31 10,000 registered voters who are members of the political party in whose primary the
32 candidate desires to run, except that in the case of a political party as defined by
33 G.S. 163-96(a)(2) which will be making nominations by primary election, the petition
34 must be signed by ten percent (10%) of the registered voters of the State who are
35 affiliated with the same political party in whose primary the candidate desires to run, or
36 in the alternative, the petition shall be signed by no less than 10,000 registered voters
37 regardless of the voter's political party affiliation, whichever requirement is greater. The
38 petition must be filed with the State Board of Elections not later than 12:00 noon on
39 Monday preceding the filing deadline before the primary in which he seeks to run. The
40 names on the petition shall be verified by the board of elections of the county where the
41 signer is registered, and the petition must be presented to the county board of elections
42 at least 15 days before the petition is due to be filed with the State Board of Elections.
43 When a proper petition has been filed, the candidate's name shall be printed on the
44 primary ballot."

1 **SECTION 5.11.** G.S. 163-111(c)(1) reads as rewritten:

2 "(1) A candidate who is apparently entitled to demand a second primary,
3 according to the unofficial results, for one of the offices listed below, and desiring to do
4 so, shall file a request for a second primary in writing with the Executive Director of the
5 State Board of Elections no later than 12:00 noon on the ninth day (including Saturdays
6 and Sundays) following the date on which the primary was conducted, and such request
7 shall be subject to the certification of the official results by the State Board of Elections.
8 If the vote certification by the State Board of Elections determines that a candidate who
9 was not originally thought to be eligible to call for a second primary is in fact eligible to
10 call for a second primary, the Executive Director of the State Board of Elections shall
11 immediately notify such candidate and permit him to exercise any options available to
12 him within a 48-hour period following the notification:

13 Governor,

14 Lieutenant Governor,

15 All State executive officers,

16 District Attorneys of the General Court of Justice,

17 United States Senators,

18 Members of the United States House of Representatives,

19 State Senators in multi-county senatorial districts, and

20 Members of the State House of Representatives in multi-county
21 representative districts."

22 **SECTION 5.12.** G.S. 163-1(b) reads as rewritten:

23 "(b) On Tuesday next after the first Monday in May preceding each general
24 election to be held in November for the officers referred to in subsection (a) of this
25 section other than Lieutenant Governor, there shall be held in all election precincts
26 within the territory for which the officers are to be elected a primary election for the
27 purpose of nominating candidates for each political party in the State for those offices."

28 **SECTION 5.13.** G.S. 163-123 is amended by adding a new subsection to
29 read:

30 "(c1) Any declaration of intent filed under this section for the office of Governor
31 shall be a joint declaration with another candidate for the office of Lieutenant Governor.
32 Any declaration of intent filed under this section for the office of Lieutenant Governor
33 shall be a joint declaration with another candidate for the office of Governor. The
34 declaration shall be signed by both candidates. The State Board of Elections shall
35 provide for a joint petition form for Governor and Lieutenant Governor in lieu of the
36 one provided by subsection (d) of this section."

37 **SECTION 5.14.** G.S. 147-11.1(a)(2) reads as rewritten:

38 "~~(2) During the absence of the Governor from the State, or during the~~
39 ~~physical or mental incapacity of the Governor to perform the duties of~~
40 ~~his office, the Lieutenant Governor shall be Acting Governor. The~~
41 ~~further order of succession as Acting Governor shall be prescribed by~~
42 ~~law.~~"

43 **SECTION 5.15.** G.S. 147-11.1(c)(1) reads as rewritten:

1 "(1) If, by reason of ~~absence from the State or~~ physical or mental
2 incapacity, there is neither a Governor nor a Lieutenant Governor
3 qualified to discharge the powers and duties of the office of Governor,
4 then the President of the Senate shall become Acting Governor."

5 **SECTION 5.16.** G.S. 147-11.1 is amended by adding a new subsection to
6 read:

7 "(g) Designation of Powers to Be Exercised in the Absence of the Governor. – If
8 the Governor is absent from the State and has designated some or all of the powers of
9 the Governor to be exercised by the Lieutenant Governor (or the next person in
10 succession if there is no Lieutenant Governor or the Lieutenant Governor is absent from
11 the State), such designation shall be made by filing with the Secretary of State."

12 **SECTION 5.17.** Sections 5.1 through 5.16 of this act become effective only
13 if the constitutional amendments proposed by this act are approved as provided by
14 Sections 4 and 5 of this act, and if so approved, Sections 5.1 through 5.13 of this act
15 become effective beginning with the 2008 General Election and Sections 5.14 through
16 5.16 become effective January 1, 2009.

17 **SECTION 6.** This act is effective when it becomes law.