

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE BILL 1281

Short Title: Election Director Oversight. (Public)

Sponsors: Representatives Underhill, Goodwin (Primary Sponsors); and Wainwright.

Referred to: Election Law and Campaign Finance Reform, if favorable, Judiciary I.

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO GRANT ADDITIONAL OVERSIGHT OF COUNTY BOARD OF ELECTION
EMPLOYEES TO THE STATE BOARD OF ELECTIONS IN ORDER TO PROVIDE
GREATER CONSISTENCY IN THE ADMINISTRATION OF ELECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-35 reads as rewritten:

"§ 163-35. Director of elections to county board of elections; appointment; compensation; duties; dismissal.

(a) In the event a vacancy occurs in the office of county director of elections in any of the county boards of elections in this State, the county board of elections shall submit the name of the person it recommends to fill the vacancy, in accordance with provisions specified in this section, to the Executive Director of the State Board of Elections who shall issue a letter of appointment. A person shall not serve as a director of elections if he:

- (1) Holds any elective public office;
- (2) Is a candidate for any office in a primary or election;
- (3) Holds any office in a political party or committee thereof;
- (4) Is a campaign chairman or finance chairman for any candidate for public office or serves on any campaign committee for any candidate;
- (5) Has been convicted of a felony in any court unless his rights of citizenship have been restored pursuant to the provisions of Chapter 13 of the General Statutes of North Carolina;
- (6) Has been removed at any time by the State Board of Elections following a public hearing; or
- (7) Is a member or a spouse, child, spouse of child, parent, sister, or brother of a member of the county board of elections by whom he would be employed.

(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county board of elections. The specified duties and responsibilities shall include the duty and responsibility to comply with all orders of the State Board and all directives issued by the Executive Director under G.S. 163-132.4. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections.



1 The county board of elections may, by petition signed by a majority of the board,
2 recommend to the Executive Director of the State Board of Elections the termination of the
3 employment of the county board's director of elections. The petition shall clearly state the
4 reasons for termination. Upon receipt of the petition, the Executive Director shall forward a
5 copy of the petition by certified mail, return receipt requested, to the county director of
6 elections involved. The county director of elections may reply to the petition within 15 days of
7 receipt thereof. Within 20 days of receipt of the county director of elections' reply or the
8 expiration of the time period allowed for the filing of the reply, the State Executive Director
9 shall render a decision as to the termination or retention of the county director of elections. The
10 decision of the Executive Director of the State Board of Elections shall be final unless the
11 decision is, within 20 days from the official date on which it was made, deferred by the State
12 Board of Elections. If the State Board defers the decision, then the State Board shall make a
13 final decision on the termination after giving the county director of elections an opportunity to
14 be heard and to present witnesses and information to the State Board, and then notify the
15 Executive Director of its decision in writing. Any one or more members of the State Board
16 designated by the remaining members of the State Board may conduct the hearing and make a
17 final determination on the termination. For the purposes of this subsection, the member(s)
18 designated by the remaining members of the State Board shall possess the same authority
19 conferred upon the chairman pursuant to G.S. 163-23. If the decision, rendered after the
20 hearing, results in concurrence with the decision entered by the Executive Director, the
21 decision becomes final. If the decision rendered after the hearing is contrary to that entered by
22 the Executive Director, then the Executive Director shall, within 15 days from the written
23 notification, enter an amended decision consistent with the results of the decision by the State
24 Board of Elections or its designated member(s).

25 Upon majority vote on the recommendation of the Executive Director, the State Board of
26 Elections may initiate proceedings for the termination of a county director of elections for just
27 cause. If the State Board votes to initiate proceedings for termination, the State Board shall
28 state the reasons for the termination in writing and send a copy by certified mail, return receipt
29 requested, to the county director of elections. The director has 15 days to reply in writing to the
30 notice. The State Board of Elections shall also notify the chair of the county board of elections
31 and the chair of the county board of commissioners that the State Board has initiated
32 termination proceedings. The State Board shall make a final decision on the termination after
33 giving the county director of elections an opportunity to be heard, present witnesses, and
34 provide information to the State Board. Any one or more members of the State Board
35 designated by the remaining members of the State Board may conduct the hearing and make a
36 final decision. For the purposes of this subsection, the member(s) designated by the remaining
37 members of the State Board shall possess the same authority conferred upon the chairman
38 pursuant to G.S. 163-23.

39 A county director of elections may be suspended, with pay, without warning for causes
40 relating to personal conduct detrimental to service to the county or to the State Board of
41 Elections, pending the giving of written reasons, in order to avoid the undue disruption of work
42 or to protect the safety of persons or property or for other serious reasons. Any suspension may
43 be initiated by the Executive Director but may not be for more than five days. Upon placing a
44 county director of elections on suspension, the Executive Director shall, as soon as possible,
45 reduce to writing the reasons for the suspension and forward copies to the county director of
46 elections, the members of the county board of elections, the chair of the county board of
47 commissioners, and the State Board of Elections. If no action for termination has been taken
48 within five days, the county director of elections shall be fully reinstated.

49 Termination of any county director of elections shall comply with this subsection.

50 (c) Compensation of Directors of Elections. – Compensation paid to directors of
51 elections in all counties maintaining full-time registration (five days per week) shall be in the

1 form of a salary in an amount recommended by the county board of elections and approved by
2 the Board of County Commissioners and shall be commensurate with the salary paid to
3 directors in counties similarly situated and similar in population and number of registered
4 voters.

5 The Board of County Commissioners in each county, whether or not the county maintains
6 full-time or modified full-time registration, shall compensate the director of elections at a
7 minimum rate of twelve dollars (\$12.00) per hour for hours worked in attendance to his or her
8 duties as prescribed by law, including rules and regulations adopted by the State Board of
9 Elections. In addition, the county shall pay to the director an hourly wage of at least twelve
10 dollars (\$12.00) per hour for all hours worked in excess of those prescribed in rules and
11 regulations adopted by the State Board of Elections, when such additional hours have been
12 approved by the county board of elections and such approval has been recorded in the official
13 minutes of the county board of elections.

14 In addition to the compensation provided for herein, the director of elections to the county
15 board of elections shall be granted the same vacation leave, sick leave, and petty leave as
16 granted to all other county employees. It shall also be the responsibility of the Board of County
17 Commissioners to appropriate sufficient funds to compensate a replacement for the director of
18 elections when authorized leave is taken.

19 (d) Duties. – The director of elections may be empowered by the county board of
20 elections to perform such administrative duties as might be assigned by the board and the
21 chairman. In addition, the director of elections may be authorized by the chairman to execute
22 the responsibilities devolving upon the chairman provided such authorization by any chairman
23 shall in no way transfer the responsibility for compliance with the law. The chairman shall
24 remain liable for proper execution of all matters specifically assigned to him by law.

25 The county board of elections shall have authority, by resolution adopted by majority vote,
26 to delegate to its director of elections so much of the administrative detail of the election
27 functions, duties, and work of the board, its officers and members, as is now, or may hereafter
28 be vested in the board or its members as the county board of elections may see fit: Provided,
29 that the board shall not delegate to a director of elections any of its quasi-judicial or
30 policy-making duties and authority. Such resolution shall require the director of elections to
31 comply with all orders of the State Board and all directives issued by the Executive Director
32 under G.S. 163-132.4. Within the limitations imposed upon ~~him~~ the director of elections by the
33 resolution of the county board of elections the acts of a properly appointed director of elections
34 shall be deemed to be the acts of the county board of elections, its officers and members.

35 (e) Training and Certification. – The State Board of Elections shall conduct a training
36 program consisting of four weeks for each new county director of elections. The director shall
37 complete that program. Each director appointed after May 1995 shall successfully complete a
38 certification program as provided in G.S. 163-82.24(b) within three years after appointment or
39 by January 1, 2003, whichever occurs later."

40 **SECTION 2.** This act becomes effective July 1, 2009, and every county board of
41 elections shall amend or adopt the resolution of duties and responsibilities required by this act
42 on or before January 1, 2010.