

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 288

Short Title: Wake Board of Commissioners Vacancies. (Local)

Sponsors: Senators Barringer and Hunt (Primary Sponsors).

Referred to: Redistricting.

March 14, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT CONCERNING FILLING OF VACANCIES ON THE BOARD OF  
3 COMMISSIONERS OF WAKE COUNTY.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 4 of Chapter 153A of the General Statutes is amended by  
6 adding a new section to read:

7 **"§ 153A-27.2. Vacancies on the board of commissioners in certain counties.**

8 (a) This section applies to Wake County only, which is not subject to G.S. 153A-27.

9 (b) If a vacancy occurs on the board of commissioners, the remaining members of the  
10 board shall appoint a qualified person to fill the vacancy. If the vacating member was elected as  
11 the nominee of a political party, the board of commissioners shall consult the county executive  
12 committee of that party before filling the vacancy. The board shall vote on that nomination  
13 within 30 days of its submission, and, if it is not approved, the board shall request that county  
14 executive committee to submit another name. The board shall vote on that second nomination  
15 within 30 days of its submission, and, if it is not approved, the board may appoint any person  
16 eligible under subsection (d) of this section. If the remaining board members are unable to fill  
17 the vacancy within 30 days of the failure to approve the second nomination and the vacating  
18 member was elected as the nominee of a political party, a special primary election shall be  
19 called under subsection (e) of this section.

20 (c) If the vacancy occurs later than 90 days before the general election held after the  
21 first two years of the term, the appointment to fill the vacancy is for the remainder of the  
22 unexpired term. Otherwise, the term of the person appointed to fill the vacancy extends to the  
23 first Monday in December next following the first general election held more than 90 days after  
24 the day the vacancy occurs; at that general election, a person shall be elected to the seat vacated  
25 for the remainder of the unexpired term.

26 (d) To be eligible for appointment to fill a vacancy, a person must (i) be a member of  
27 the same political party as the member being replaced, if that member was elected as the  
28 nominee of a political party, and (ii) be a resident of the same district as the member being  
29 replaced, if the county is divided into electoral districts.

30 (e) If a special primary election is required under subsection (b) of this section, the  
31 county board of commissioners shall call that special primary election for the purpose of  
32 allowing the members of the party with which the vacating member was affiliated when elected  
33 to make a recommendation. The special primary election shall be conducted in accordance with  
34 Article 10 of Chapter 163 of the General Statutes, except that the county board of elections  
35 may, with the approval of the State Board of Elections, set deadlines for filing notices of  
36 candidacy and for absentee voting in the special primary election. The date of the special



1 primary election shall be set by the county board of commissioners but the date shall be  
2 governed by G.S. 163-287. Only persons who are affiliated with the party may vote, except that  
3 if the party has allowed unaffiliated voters to participate in primary elections of that party under  
4 G.S. 163-119 then unaffiliated voters may also participate. No such special primary shall be  
5 held, however, if (i) less than 120 days remain in the term of office, or (ii) if the vacancy is  
6 being filled for the remainder of the term at the mid-term election under subsection (c) of this  
7 section and less than 120 days remain until the date of that election. The county board of  
8 commissioners shall immediately upon the certification of the primary returns appoint the  
9 winner to serve until the first Monday in December following the next general election which  
10 occurs after the date of the vacancy. This subsection applies only if the vacating member was  
11 elected as the nominee of a political party.

12 (g) If the number of vacancies on the board is such that a quorum of the board cannot  
13 be obtained for any action under this section, the chairman of the board shall appoint enough  
14 members to make up a quorum. If the number of vacancies on the board is such that a quorum  
15 of the board cannot be obtained and the office of chairman is vacant, the clerk of superior court  
16 of the county shall fill the vacancies upon the request of any remaining member of the board or  
17 upon the petition of any registered voters of the county."

18 **SECTION 2.** This act is effective when it becomes law but only applies to  
19 vacancies occurring on or after that date.