

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 796  
Second Edition Engrossed 4/26/91

Short Title: Sampson Vacancies.

(Public)

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Sponsors: Representative Bowen.

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Referred to: Judiciary II.

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April 15, 1991

A BILL TO BE ENTITLED

1 AN ACT TO EXTEND TO SAMPSON COUNTY LAWS THAT REQUIRE  
2 VACANCIES IN THE OFFICES OF SHERIFF, REGISTER OF DEEDS, AND  
3 COUNTY COMMISSIONER TO BE FILLED WITH THE NOMINEE OF THE  
4 POLITICAL PARTY EXECUTIVE COMMITTEE OF THE VACATING  
5 MEMBER.  
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 153A-27.1 reads as rewritten:

9 "**§ 153A-27.1. Vacancies on board of commissioners in certain counties.**

10 (a) If a vacancy occurs on the board of commissioners, the remaining members  
11 of the board shall appoint a qualified person to fill the vacancy. If the number of  
12 vacancies on the board is such that a quorum of the board cannot be obtained, the  
13 chairman of the board shall appoint enough members to make up a quorum, and the  
14 board shall then proceed to fill the remaining vacancies. If the number of vacancies on  
15 the board is such that a quorum of the board cannot be obtained and the office of  
16 chairman is vacant, the clerk of superior court of the county shall fill the vacancies upon  
17 the request of any remaining member of the board or upon the petition of any registered  
18 voters of the county.

19 (b) If the member being replaced was serving a two-year term, or if the member  
20 was serving a four-year term and the vacancy occurs later than 60 days before the  
21 general election held after the first two years of the term, the appointment to fill the  
22 vacancy is for the remainder of the unexpired term. Otherwise, the term of the person  
23 appointed to fill the vacancy extends to the first Monday in December next following

1 the first general election held more than 60 days after the day the vacancy occurs; at that  
2 general election, a person shall be elected to the seat vacated for the remainder of the  
3 unexpired term.

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

8 (d) If the member who vacated the seat was elected as a nominee of a political  
9 party, the board of commissioners, the chairman of the board, or the clerk of superior  
10 court, as the case may be, shall consult the county executive committee of the  
11 appropriate political party before filling the vacancy, and shall appoint the person  
12 recommended by the county executive committee of the political party of which the  
13 commissioner being replaced was a member, if the party makes a recommendation  
14 within 30 days of the occurrence of the vacancy.

15 (e) Whenever because of G.S. 153A-58(3)b. or because of any local act, only the  
16 qualified voters of an area which is less than the entire county were eligible to vote in  
17 the general election for the member whose seat is vacant, the appointing authority must  
18 accept the recommendation only if the county executive committee restricted voting to  
19 committee members who represent precincts all or part of which were within the  
20 territorial area of the district of the county commissioner.

21 (f) The provisions of any local act which provides that a county executive  
22 committee of a political party shall fill any vacancy on a board of county commissioners  
23 are repealed.

24 (g) Counties subject to this section are not subject to G.S. 153A-27.

25 (h) This section shall apply only in the following counties: Alamance, Alleghany,  
26 Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret,  
27 Cherokee, Clay, Cleveland, Dare, Davidson, Davie, Forsyth, Graham, Guilford,  
28 Haywood, Henderson, Hyde, Jackson, Madison, McDowell, Mecklenburg, Moore, Polk,  
29 Randolph, Rockingham, Rutherford, Sampson, Stanly, Stokes, Transylvania, Wake, and  
30 Yancey."

31 Sec. 2. G.S. 161-5(a1) reads as rewritten:

32 "(a1) When a vacancy occurs from any cause in the office of register of deeds, the  
33 board of county commissioners shall fill such vacancy by the appointment of a  
34 successor for the unexpired term, who shall qualify and give bond as required by law. If  
35 the register of deeds were elected as the nominee of a political party, the board of  
36 county commissioners shall consult the county executive committee of that political  
37 party before filling the vacancy and shall appoint the person recommended by that  
38 committee, if the party makes a recommendation within 30 days of the occurrence of  
39 the vacancy. Counties subject to this subsection are not subject to subsection (a). This  
40 subsection shall apply only in the following counties: Alamance, Alleghany, Ashe,  
41 Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret,  
42 Cherokee, Clay, Cleveland, Davidson, Davie, Forsyth, Gaston, Graham, Guilford,  
43 Haywood, Henderson, Hyde, Jackson, Madison, McDowell, Mecklenburg, Moore, New

1 Hanover, Polk, Randolph, Rockingham, Rutherford, Sampson, Stanly, Stokes, Surry,  
2 Transylvania, Wake, Watauga, and Yancey."

3 Sec. 3. G.S. 162-5.1 reads as rewritten:

4 **"§ 162-5.1. Vacancy filled in certain counties; duties performed by coroner or**  
5 **chief deputy.**

6 If any vacancy occurs in the office of sheriff, the coroner of the county shall execute  
7 all process directed to the sheriff until the board shall elect a sheriff to supply the  
8 vacancy for the residue of the term, who shall possess the same qualifications, enter into  
9 the same bond, and be subject to removal, as the sheriff regularly elected. If the sheriff  
10 were elected as a nominee of a political party, the board of commissioners shall consult  
11 the county executive committee of that political party before filling the vacancy, and  
12 shall elect the person recommended by the county executive committee of that party, if  
13 the party makes a recommendation within 30 days of the occurrence of the vacancy. If  
14 the board should fail to fill such vacancy, the coroner shall continue to discharge the  
15 duties of sheriff until it shall be filled.

16 In those counties where the office of coroner has been abolished, the chief deputy  
17 sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall  
18 perform all the duties of the sheriff until the county commissioners appoint some person  
19 to fill the unexpired term. In all counties the regular deputy sheriffs shall, during the  
20 interim of the vacancy, continue to perform their duties with full authority.

21 This section shall apply only in the following counties: Alamance, Alleghany,  
22 Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret,  
23 Cherokee, Clay, Cleveland, Davidson, Davie, Forsyth, Gaston, Graham, Guilford,  
24 Haywood, Henderson, Hyde, Jackson, Madison, McDowell, Mecklenburg, Moore, New  
25 Hanover, Onslow, Polk, Randolph, Rockingham, Rutherford, Sampson, Stanly, Stokes,  
26 Transylvania, Wake, and Yancey."

27 Sec. 4. This act is effective upon ratification.