

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 98

Short Title: Four-Year Terms.

(Public)

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Sponsors: Representatives Sutton, Yongue, Bonner, Barefoot (Primary Sponsors); Allen, Braswell, Buchanan, Cansler, Church, Crawford, Dedmon, Earle, Goodwin, Haire, McAllister, McCrary, Moore, Owens, Rogers, Saunders, Tolson, Wainwright, and Womble.

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Referred to: Election Law and Campaign Finance Reform.

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February 17, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE FOR FOUR-YEAR TERMS FOR MEMBERS OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Article II of the Constitution of North Carolina reads as rewritten:

"Sec. 2. Number of Senators.

The Senate shall be composed of 50 Senators, ~~biennially~~ quadrennially chosen by ballot."

Section 2. Section 4 of Article II of the Constitution of North Carolina reads as rewritten:

"Sec. 4. Number of Representatives.

The House of Representatives shall be composed of 120 Representatives, ~~biennially~~ quadrennially chosen by ballot."

Section 3. Section 8 of Article II of the Constitution of North Carolina reads as rewritten:

"Sec. 8. Elections.

1 The election for members of the General Assembly shall be held for the respective  
2 districts in ~~1972-2000~~ and every ~~two~~-four years thereafter, at the places and on the day  
3 prescribed by law."

4 Section 4. Section 2(1) of Article III of the Constitution of North Carolina  
5 reads as rewritten:

6 "(1) **Election and term.** The Governor and Lieutenant Governor shall be elected by  
7 the qualified voters of the State in ~~1972-2000~~ and every four years thereafter, at the ~~same~~  
8 ~~time and places as members of the General Assembly are elected~~ at the places and on the day  
9 prescribed by law. Their term of office shall be four years and shall commence on the  
10 first day of January next after their election and continue until their successors are elected  
11 and qualified."

12 Section 5. Section 7(3) of Article III of the Constitution of North Carolina  
13 reads as rewritten:

14 "(3) **Vacancies.** If the office of any of these officers is vacated by death,  
15 resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve  
16 until his successor is elected and qualified. Every such vacancy shall be filled by election  
17 at the ~~first election for members of the General Assembly~~ first statewide election for  
18 members of the United States House of Representatives, that occurs more than 60 days  
19 after the vacancy has taken place, and the person chosen shall hold the office for the  
20 remainder of the unexpired term fixed in this Section. When a vacancy occurs in the  
21 office of any of the officers named in this Section and the term expires on the first day of  
22 January succeeding the next election for members of the General Assembly, the  
23 Governor shall appoint to fill the vacancy for the unexpired term of the office."

24 Section 6. Section 9(3) of Article IV of the Constitution of North Carolina  
25 reads as rewritten:

26 "(3) **Clerks.** A Clerk of the Superior Court for each county shall be elected for a  
27 term of four years by the qualified voters thereof, at the same time and places as members  
28 of the ~~General Assembly~~ United States House of Representatives are elected on a  
29 statewide basis. If the office of Clerk of the Superior Court becomes vacant otherwise  
30 than by the expiration of the term, or if the people fail to elect, the senior regular resident  
31 Judge of the Superior Court serving the county shall appoint to fill the vacancy until an  
32 election can be regularly held."

33 Section 7. Section 18(1) of Article IV of the Constitution of North Carolina  
34 reads as rewritten:

35 "(1) **District Attorneys.** The General Assembly shall, from time to time, divide the  
36 State into a convenient number of prosecutorial districts, for each of which a District  
37 Attorney shall be chosen for a term of four years by the qualified voters thereof, at the  
38 same time and places as members of the ~~General Assembly~~ United States House of  
39 Representatives are elected on a statewide basis. Only persons duly authorized to  
40 practice law in the courts of this State shall be eligible for election or appointment as a  
41 District Attorney. The District Attorney shall advise the officers of justice in his district,  
42 be responsible for the prosecution on behalf of the State of all criminal actions in the  
43 Superior Courts of his district, perform such duties related to appeals therefrom as the

1 Attorney General may require, and perform such other duties as the General Assembly  
2 may prescribe."

3 Section 8. Section 19 of Article IV of the Constitution of North Carolina reads  
4 as rewritten:

5 "Sec. 19. Vacancies. Unless otherwise provided in this Article, all vacancies  
6 occurring in the offices provided for by this Article shall be filled by appointment of the  
7 Governor, and the appointees shall hold their places until the ~~next election for members of~~  
8 ~~the General Assembly~~ the next statewide election for members of the United States House  
9 of Representatives, that is held more than 60 days after the vacancy occurs, when  
10 elections shall be held to fill the offices. When the unexpired term of any of the offices  
11 named in this Article of the Constitution in which a vacancy has occurred, and in which it  
12 is herein provided that the Governor shall fill the vacancy, expires on the first day of  
13 January succeeding the ~~next election for members of the General Assembly~~ the next  
14 statewide election for members of the United States House of Representatives, the  
15 Governor shall appoint to fill that vacancy for the unexpired term of the office. If any  
16 person elected or appointed to any of these offices shall fail to qualify, the office shall be  
17 appointed to, held and filled as provided in case of vacancies occurring therein. All  
18 incumbents of these offices shall hold until their successors are qualified."

19 Section 9. The amendments set out in Sections 1 through 8 of this act shall be  
20 submitted to the qualified voters of the State at a statewide election to be held on the  
21 Tuesday after the first Monday in December of 1999, which election shall be conducted  
22 under the laws then governing elections in the State. Ballots, voting systems, or both  
23 may be used in accordance with Chapter 163 of the General Statutes. The question to be  
24 used in the voting systems and ballots shall be:

25 "[ ] FOR [ ] AGAINST

26 Constitutional amendments making the term of members of the General  
27 Assembly four years, beginning with members elected in 2000, and making conforming  
28 amendments concerning the election of other officers and the filling of vacancies."

29 Section 10. If a majority of votes cast on the question are in favor of the  
30 amendments set out in Sections 1 through 8 of this act, the State Board of Elections shall  
31 certify the amendments to the Secretary of State. The constitutional amendments shall  
32 become effective January 1, 2000, and shall apply to members of the General Assembly  
33 elected in the 2000 general election so that they shall serve four-year terms. The  
34 Secretary of State shall enroll the amendments so certified among the permanent records  
35 of that office.

36 Section 11. G.S. 7A-140 reads as rewritten:

37 "§ 7A-140. Number; election; term; qualification; oath.

38 There shall be at least one district judge for each district. Each district judge shall be  
39 elected by the qualified voters of the district court district in which he is to serve at the  
40 time ~~of the election for members of the General Assembly~~ specified by Chapter 163 of the  
41 General Statutes. The number of judges for each district shall be determined by the  
42 General Assembly. Each judge shall be a resident of the district for which elected, and

1 shall serve a term of four years, beginning on the first Monday in December following  
2 his election.

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

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

9 Section 12. G.S. 147-4 reads as rewritten:

10 **"§ 147-4. Executive officers – election; term; induction into office.**

11 The executive department shall consist of a Governor, a Lieutenant Governor, a  
12 Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an  
13 Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a  
14 Commissioner of Labor, who shall be elected for a term of four years, by the qualified  
15 electors of the State, ~~at the same time and places, and in the same manner, as members of the~~  
16 General Assembly are elected as provided by Chapter 163 of the General Statutes. Their  
17 term of office shall commence on the first day of January next after their election and  
18 continue until their successors are elected and qualified. The persons having the highest  
19 number of votes, respectively, shall be declared duly elected, but if two or more be equal  
20 and highest in votes for the same office, then one of them shall be chosen by joint ballot  
21 of both houses of the General Assembly. Contested elections shall be determined by a  
22 joint ballot of both houses of the General Assembly in such manner as shall be prescribed  
23 by law."

24 Section 13. G.S. 152-1 reads as rewritten:

25 **"§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

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

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

41 When the coroner shall be out of the county, or shall for any reason be unable to hold  
42 the necessary inquest as provided by law, or there is a vacancy existing in the office of  
43 coroner which has not been filled by the county commissioners and it is made to appear

1 to the clerk of the superior court by satisfactory evidence that a deceased person whose  
2 body has been found within the county probably came to his death by the criminal act or  
3 default of some person, it is the duty of the clerk to appoint some suitable person to act as  
4 coroner in such special case."

5 Section 14. G.S. 161-1, now superseded by G.S. 161-2, is repealed.

6 Section 15. G.S. 162-1 reads as rewritten:

7 **"§ 162-1. Election and term of office.**

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

11 Section 16. G.S. 163-1 is amended in the table by rewriting the "DATE OF  
12 ELECTION" entries for State Senator and member of the State House of Representatives  
13 to read: "Tuesday next after the first Monday in November 2000 and every four years  
14 thereafter".

15 Section 17. G.S. 163-1 is further amended in the table by rewriting the  
16 "TERM OF OFFICE" entries for State Senator and member of the State House of  
17 Representatives to read: "Four years".

18 Section 18. G.S. 163-1 is further amended in the table by rewriting the "DATE  
19 OF ELECTION" entries for justices and judges of the Appellate Division, judges of the  
20 superior courts, judges of the district courts, district attorney, county commissioners,  
21 clerk of superior court, register of deeds, sheriff, and coroner, to read: "At the next  
22 regular statewide election for members of the United States House of Representatives,  
23 immediately preceding the termination of each regular term."

24 Section 19. G.S. 163-8 reads as rewritten:

25 **"§ 163-8. Filling vacancies in State executive offices.**

26 If the office of Governor or Lieutenant Governor shall become vacant, the provisions  
27 of G.S. 147-11.1 shall apply. If the office of any of the following officers shall be vacated  
28 by death, resignation, or otherwise than by expiration of term, it shall be the duty of the  
29 Governor to appoint another to serve until his successor is elected and qualified:  
30 Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Attorney  
31 General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of  
32 Insurance. Each such vacancy shall be filled by election at the first statewide election for  
33 members of the ~~General Assembly~~ United States House of Representatives, that occurs  
34 more than 60 days after the vacancy has taken place, and the person chosen shall hold the  
35 office for the remainder of the unexpired four-year term: Provided, that when a vacancy  
36 occurs in any of the offices named in this section and the term expires on the first day of  
37 January succeeding ~~the next election for members of the General Assembly~~ the next statewide  
38 election for members of the United States House of Representatives, the Governor shall  
39 appoint to fill the vacancy for the unexpired term of the office.

40 Upon the occurrence of a vacancy in the office of any one of these officers for any of  
41 the causes stated in the preceding paragraph, the Governor may appoint an acting officer  
42 to perform the duties of that office until a person is appointed or elected pursuant to this

1 section and Article III, Section 7 of the State Constitution, to fill the vacancy and is  
2 qualified."

3 Section 20. G.S. 163-9 reads as rewritten:

4 **"§ 163-9. Filling vacancies in State and district judicial offices.**

5 (a) Vacancies occurring in the offices of Justice of the Supreme Court, judge of  
6 the Court of Appeals, and judge of the superior court for causes other than expiration of  
7 term shall be filled by appointment of the Governor. An appointee to the office of Justice  
8 of the Supreme Court or judge of the Court of Appeals shall hold office until January 1  
9 next following the next statewide election for members of the ~~General Assembly~~ United  
10 States House of Representatives that is held more than 60 days after the vacancy occurs,  
11 at which time an election shall be held for an eight-year term and until a successor is  
12 elected and qualified.

13 (b) Except for judges specified in the next paragraph of this subsection, an  
14 appointee to the office of judge of superior court shall hold his place until the next  
15 statewide election for members of the ~~General Assembly~~ United States House of  
16 Representatives that is held more than 60 days after the vacancy occurs, at which time an  
17 election shall be held to fill the unexpired term of the office.

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

19 (1) With only one resident judge; or

20 (2) In which no county is subject to section 5 of the Voting Rights Act of  
21 1965,

22 shall hold the office until the next statewide election of members of the ~~General Assembly~~  
23 United States House of Representatives, that is held more than 60 days after the vacancy  
24 occurs, at which time an election shall be held to fill an eight-year term.

25 (c) When the unexpired term of the office in which the vacancy has occurred  
26 expires on the first day of January succeeding the next statewide election for members of  
27 the ~~General Assembly~~, United States House of Representatives, the Governor shall appoint  
28 to fill that vacancy for the unexpired term of the office.

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

32 Section 21. G.S. 163-10 reads as rewritten:

33 **"§ 163-10. Filling vacancy in office of district attorney.**

34 Any vacancy occurring in the office of district attorney for causes other than  
35 expiration of term shall be filled by appointment of the Governor. An appointee shall  
36 hold his place until the next statewide election for members of the ~~General Assembly~~  
37 United States House of Representatives that is held more than 60 days after the vacancy  
38 occurs, at which time an election shall be held to fill the unexpired term of the office:  
39 Provided, that when the unexpired term of the office in which the vacancy has occurred  
40 expires on the first day of January succeeding the next statewide election for members of  
41 the ~~General Assembly~~ the United States House of Representatives the Governor shall  
42 appoint to fill that vacancy for the unexpired term of the office."

43 Section 22. G.S. 163-12 reads as rewritten:

1 **"§ 163-12. Filling vacancy in United States Senate.**

2 Whenever there shall be a vacancy in the office of United States Senator from this  
3 State, whether caused by death, resignation, or otherwise than by expiration of term, the  
4 Governor shall appoint to fill the vacancy until an election shall be held to fill the office.  
5 The Governor shall issue his writ for the election of a Senator to be held at the time of the  
6 first statewide election for members of the ~~General Assembly~~ United States House of  
7 Representatives that is held more than 60 days after the vacancy occurs. The person  
8 elected shall hold the office for the remainder of the unexpired term. The election shall  
9 take effect from the date of the canvassing of the returns."

10 Section 23. Each statute and each local act which states that a vacancy in an  
11 elected office shall be filled until the next election for members of the General Assembly,  
12 or similarly relies on the date of General Assembly elections as determining when an  
13 event is to take place or the duration of an appointment, shall be considered instead to use  
14 the date of the next statewide election of members of the United States House of  
15 Representatives as the determining date for whatever purpose the date of the General  
16 Assembly election is now used.

17 Section 24. Sections 11 through 23 of this act shall take effect only upon  
18 approval of the voters of the constitutional amendments set forth in Sections 1 through 8  
19 of this act. If the constitutional amendments proposed in those sections are approved by  
20 the voters, Sections 11 through 23 of this act shall become effective at the same time as  
21 the constitutional amendments.