

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE DRS75091-LBx-66C (1/4)

Short Title:   Gubernatorial Team Ticket. (Public)

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Sponsors:    Senators Rand, and Berger of Rockingham.

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Referred to:

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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 SECTION 5.4. G.S. 163-122 is amended by adding a new subsection to  
2 read:

3 "(d) In filing petitions as an unaffiliated candidate, a petition for the office of  
4 Governor shall also contain the name of a candidate for Lieutenant Governor, and the  
5 petition shall be a petition for both. In filing petitions as an unaffiliated candidate, a  
6 petition for the office of Lieutenant Governor shall also contain the name of a candidate  
7 for Governor, and the petition shall be a petition for both. The form of the petition  
8 requesting unaffiliated candidates to be placed on the ballot for Governor and  
9 Lieutenant Governor on the general election ballot shall contain on the heading of each  
10 page of the petition in bold print or in all capital letters the words: 'THE  
11 UNDERSIGNED REGISTERED VOTERS IN ..... COUNTY HEREBY PETITION  
12 ON BEHALF OF ..... AS AN UNAFFILIATED CANDIDATE FOR GOVERNOR  
13 AND ..... AS AN UNAFFILIATED CANDIDATE FOR LIEUTENANT  
14 GOVERNOR IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED  
15 HEREBY PETITION THAT THE SUBJECT CANDIDATES BE PLACED ON THE  
16 APPROPRIATE BALLOT UPON COMPLIANCE WITH THE PROVISIONS OF  
17 G.S. 163-122.'"

18 SECTION 5.5. G.S. 163-165.6 is amended by adding a new subsection to  
19 read:

20 "(h) The offices of Governor and Lieutenant Governor shall be combined on the  
21 ballot and the nominees of each party or unaffiliated offices listed together so that a vote  
22 for a candidate for one of those offices is a vote for the candidates for both offices."

23 SECTION 5.6. G.S. 163-182.1 is amended by adding a new subsection to  
24 read:

25 "(c) A write-in vote for a candidate for Governor shall not be counted unless that  
26 person has also written in the name of a candidate for Lieutenant Governor. A write-in  
27 vote for a candidate for Lieutenant Governor shall not be counted unless that person has  
28 also written in the name of a candidate for Governor."

29 SECTION 5.7. Chapter 163 of the General Statutes is amended by adding a  
30 new Article to read:

31 "Article 11B.

32 "Nomination of Lieutenant Governor.

33 "§ 163-127.1. Lieutenant Governor.

34 Each person nominated by a political party as its candidate for Governor under  
35 Article 10 of this Chapter shall nominate a candidate for Lieutenant Governor in  
36 accordance with this Article.

37 "§ 163-127.2. Time of nomination.

38 The nomination for Lieutenant Governor shall be made no earlier than the date that  
39 party's nomination for Governor is determined under G.S. 163-110, 163-111, or  
40 163-112, as appropriate, and no later than the first Monday in August. The State Board  
41 of Elections shall be notified of the nomination for Lieutenant Governor no later than  
42 the first Monday in August. The State Board of Elections shall cause the name of the  
43 nominee to be printed on the general election ballots as if the nomination had been  
44 made by primary under Article 10 of this Chapter.

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.