

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 536

Short Title: Council of State Vacancies.

(Public)

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Sponsors: Representative Blue.

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Referred to: Government.

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March 13, 1989

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CONSTITUTION AND GENERAL STATUTES BY  
2 MAKING THE SAME PROVISIONS FOR FILLING VACANCIES IN THE  
3 COUNCIL OF STATE, OTHER THAN FOR GOVERNOR, AS IS PROVIDED  
4 FOR VACANCIES IN THE GENERAL ASSEMBLY.  
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6 The General Assembly of North Carolina enacts:

7 Section 1. Section 7(3) of Article III of the Constitution of North Carolina  
8 reads as rewritten:

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

22 Sec. 2. Section 14(1) of Article II of the Constitution of North Carolina reads  
23 as rewritten:

1       "(1) President Pro Tempore - succession to presidency. The Senate shall elect from  
2 its membership a President Pro Tempore, who shall become President of the Senate  
3 upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the  
4 Lieutenant Governor to the office of Governor, or upon the death, resignation, or  
5 removal from office of the President of the Senate, and who shall serve until the  
6 expiration of his term of office as Senator, or until the vacancy in the office of  
7 Lieutenant Governor is filled, whichever occurs first."

8           Sec. 3. The amendments set out in Sections 1 and 2 of this act shall be  
9 submitted to the qualified voters of the State at the general election in November 1990,  
10 which election shall be conducted under the laws then governing elections in the State.  
11 At that election, each qualified voter desiring to vote shall be provided a ballot on which  
12 shall be printed the following:

13           " [ ]   FOR constitutional amendments making the same provisions for filling  
14                   vacancies in the Council of State, other than for Governor, as is  
15                   provided for vacancies in the General Assembly.

16           [ ]   AGAINST constitutional amendments making the same provisions for  
17                   filling vacancies in the Council of State, other than for Governor, as is  
18                   provided for vacancies in the General Assembly."

19           Those qualified voters favoring the amendments set out in Section 1 and 2  
20 of this act shall vote by making an X or a check mark in the square beside the statement  
21 beginning "FOR", and those qualified voters opposed to those amendments shall vote  
22 by making an X or check mark in the square beside the statement beginning  
23 "AGAINST".

24           Notwithstanding the foregoing provisions of this section, voting machines  
25 may be used in accordance with rules and regulations prescribed by the State Board of  
26 Elections.

27           Sec. 4. If a majority of votes cast thereon are in favor of the amendments set  
28 out in Section 1 and 2 of this act, the State Board of Elections shall certify the  
29 amendments to the Secretary of State, who shall enroll the amendments so certified  
30 among the permanent records of his office, and the amendments shall become effective  
31 upon such certification, and shall apply to any vacancies occurring on or after that date.

32           Sec. 5. G.S. 163-8 reads as rewritten:

33       "**§ 163-8. Filling vacancies in State executive offices.**

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

1 succeeding the next election for members of the General Assembly which occurs more  
2 than 60 days after the vacancy has taken place, the Governor shall appoint to fill the  
3 vacancy for the unexpired term of the office. In making any appointment under this  
4 section, if a person was elected to that office as the nominee of a political party, the  
5 Governor shall immediately appoint the person recommended by the State executive  
6 committee of the political party of which the officer was the nominee and with which  
7 the officer was affiliated when elected.

8       Upon the occurrence of a vacancy in the office of any one of these officers for any  
9 of the causes stated in the preceding paragraph, the Governor may appoint an acting  
10 officer for a period not to exceed 30 days or until the expiration of the term, whichever  
11 comes first, to perform the duties of that office until a person is appointed or elected  
12 pursuant to this section and Article III, Section 7 of the State Constitution, to fill the  
13 vacancy and is qualified."

14       Sec. 6. Section 5 of this act shall only become effective if the constitutional  
15 amendments proposed by Sections 1 and 2 of this act are approved by the voters.

16       Sec. 7. This act is effective upon ratification.