

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 797

Short Title: Carteret Vacancies.

(Local)

Sponsors: Representative B. Ethridge.

Referred to: Government.

March 22, 1989

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT IN FILLING A VACANCY IN THE OFFICE OF
2 SHERIFF, BOARD OF EDUCATION, REGISTER OF DEEDS, OR COUNTY
3 COMMISSIONER OF CARTERET COUNTY, THE CARTERET COUNTY
4 BOARD OF COMMISSIONERS MUST APPOINT THE NOMINEE OF THE
5 PARTY EXECUTIVE COMMITTEE OF THE VACATING OFFICER.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 162-5.1 reads as rewritten:

9 **"§ 162-5.1. Vacancy filled in certain counties; duties performed by coroner or chief**
10 **deputy.**

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

21 In those counties where the office of coroner has been abolished, the chief deputy
22 sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall
23 perform all the duties of the sheriff until the county commissioners appoint some person

1 to fill the unexpired term. In all counties the regular deputy sheriffs shall, during the
2 interim of the vacancy, continue to perform their duties with full authority.

3 This section shall apply only in the following Counties: Alamance, Alleghany,
4 Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret,
5 Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood, Henderson,
6 Hyde, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk,
7 Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey."

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

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

31 (d) If the member who vacated the seat was elected as a nominee of a political
32 party, the board of commissioners, the chairman of the board, or the clerk of superior
33 court, as the case may be, shall consult the county executive committee of the
34 appropriate political party before filling the vacancy, and shall appoint the person
35 recommended by the county executive committee of the political party of which the
36 commissioner being replaced was a member, if the party makes a recommendation
37 within 30 days of the occurrence of the vacancy.

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

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

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

5 (h) This section shall apply only in the following counties: Alamance, Alleghany,
6 Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret,
7 Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood, Henderson,
8 Hyde, Jackson, Madison, McDowell, Mecklenburg, Moore, Polk, Randolph,
9 Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.

10 Sec. 3. G.S. 115C-37.1 reads as rewritten:

11 "**§ 115C-37.1. Vacancies in offices of county boards elected on partisan basis in**
12 **certain counties.**

13 (a) All vacancies in the membership of county boards of education which are
14 elected by public or local act on a partisan basis shall be filled by appointment of the
15 person, board, or commission specified in the act, except that if the act specifies that
16 appointment shall be made by a party executive committee, then the appointment shall
17 be made instead by the remaining members of the board.

18 (b) If the vacating member was elected as the nominee of a political party, then
19 the person, board, or commission required to fill the vacancy shall consult with the
20 county executive committee of that party and appoint the person recommended by that
21 party executive committee, if the party executive committee makes a recommendation
22 within 30 days of the occurrence of the vacancy.

23 (c) Whenever only the qualified voters of less than the entire county were
24 eligible to vote for the member whose seat is vacant (either because the county
25 administrative unit was less than countywide or only residents of certain areas of the
26 administrative unit could vote in the general election for a district seat), the appointing
27 authority must accept the recommendation only if the county executive committee
28 restricted voting to committee members who represent precincts all or part of which
29 were within the territory of the vacating school board member.

30 (d) This section shall apply only in the following counties: Alamance, Alleghany,
31 Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret,
32 Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood, Henderson,
33 Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk, Randolph,
34 Rockingham, Rutherford, Stanly, Stokes, Transylvania, Vance, Wake, Washington, and
35 Yancey."

36 Sec. 4. G.S. 161-5 reads as rewritten:

37 "**§ 161-5. Vacancy in office.**

38 (a) When a vacancy occurs from any cause in the office of register of deeds, the
39 board of county commissioners shall fill such vacancy by the appointment of a
40 successor for the unexpired term, who shall qualify and give bond as required by law.

41 (a1) When a vacancy occurs from any cause in the office of register of deeds, the
42 board of county commissioners shall fill such vacancy by the appointment of a
43 successor for the unexpired term, who shall qualify and give bond as required by law. If
44 the register of deeds were elected as the nominee of a political party, the board of

1 county commissioners shall consult the county executive committee of that political
2 party before filling the vacancy and shall appoint the person recommended by that
3 committee, if the party makes a recommendation within 30 days of the occurrence of
4 the vacancy. Counties subject to this subsection are not subject to subsection (a). This
5 subsection shall apply only in the following counties: Alamance, Alleghany, Avery,
6 Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Cherokee, Clay,
7 Cleveland, Davidson, Davie, Graham, Guilford, Haywood, Henderson, Hyde, Jackson,
8 Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk, Randolph,
9 Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.

10 (b) In the interim between such vacancy in the office of register of deeds and the
11 appointment and qualification of a successor register of deeds, under the provisions of
12 subsection (a), any incumbent assistant or deputy register of deeds appointed under G.S.
13 161-6 prior to the vacancy shall continue to hold office as assistant or deputy registers
14 of deeds until discharged or otherwise lawfully relieved of office by the lawful
15 successor to the office of register of deeds."

16 Sec. 5. This act is effective upon ratification.