

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 95

Short Title: Legislator's Four-Year Term.

(Public)

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Sponsors: Senators Daniel, Ezzell; Barker, Block, Conder, Goldston, Guy, Harris, Hunt of Durham, Hunt of Moore, Johnson of Cabarrus, Martin of Pitt, Martin of Guilford, Marvin, Odom, Rauch, Richardson, Royall, Sands, Sherron, Smith, Soles, Speed, Staton, Swain, Ward, and Winner.

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Referred to: Constitution.

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February 1, 1989

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO  
2 PROVIDE FOR FOUR-YEAR TERMS FOR MEMBERS OF THE GENERAL  
3 ASSEMBLY, AND TO MAKE CONFORMING CHANGES TO OTHER  
4 STATUTES.  
5

6 The General Assembly of North Carolina enacts:

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

9 "Sec. 2. Number of Senators. The Senate shall be composed of 50 Senators,  
10 ~~biennially~~ quadrennially chosen by ballot."

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

13 "Sec. 4. Number of Representatives. The House of Representatives shall be  
14 composed of 120 Representatives, ~~biennially~~ quadrennially chosen by ballot."

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

17 "Sec. 8. Elections. The election for members of the General Assembly shall be held  
18 for the respective districts in ~~1972-1990~~ and every ~~two~~ four years thereafter, at the places  
19 and on the day prescribed by law."

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

1       "(1) Election and term. The Governor and Lieutenant Governor shall be elected by  
2 the qualified voters of the State in ~~1972-1992~~ and every four years thereafter, at the same  
3 ~~time and places as members of the General Assembly are elected~~ at the places and on the day  
4 prescribed by law. Their term of office shall be four years and shall commence on the  
5 first day of January next after their election and continue until their successors are  
6 elected and qualified."

7           Sec. 5. Section 7(1) of Article III of the Constitution of North Carolina reads  
8 as rewritten:

9       "Sec. 7. Other elective officers.

10       (1) Officers. A Secretary of State, an Auditor, a Treasurer, a Superintendent of  
11 Public Instruction, an Attorney General, a Commissioner of Agriculture, a  
12 Commissioner of Labor, and a Commissioner of Insurance shall be elected by the  
13 qualified voters of the State in ~~1972-1992~~ and every four years thereafter, at the same  
14 time and places as ~~members of the General Assembly are~~ the Governor is elected. Their  
15 term of office shall be four years and shall commence on the first day of January next  
16 after their election and continue until their successors are elected and qualified.

17       (2) Duties. Their respective duties shall be prescribed by law.

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

28       (4) Interim officers. Upon the occurrence of a vacancy in the office of any one of  
29 these officers for any of the causes stated in the preceding paragraph, the Governor may  
30 appoint an interim officer to perform the duties of that office until a person is appointed  
31 or elected pursuant to this Section to fill the vacancy and is qualified.

32       (5) Acting officers. During the physical or mental incapacity of any one of these  
33 officers to perform the duties of his office, as determined pursuant to this Section, the  
34 duties of his office shall be performed by an acting officer who shall be appointed by  
35 the Governor.

36       (6) Determination of incapacity. The General Assembly shall by law prescribe  
37 with respect to those officers, other than the Governor, whose offices are created by this  
38 Article, procedures for determining the physical or mental incapacity of any officer to  
39 perform the duties of his office, and for determining whether an officer who has been  
40 temporarily incapacitated has sufficiently recovered his physical or mental capacity to  
41 perform the duties of his office. Removal of those officers from office for any other  
42 cause shall be by impeachment.

1 (7) Special qualifications for Attorney General. Only persons duly authorized to  
2 practice law in the courts of this State shall be eligible for appointment or election as  
3 Attorney General."

4 Sec. 6. Section 9(3) of Article IV of the Constitution of North Carolina reads  
5 as rewritten:

6 "(3) Clerks. A Clerk of the Superior Court for each county shall be elected for a  
7 term of four years by the qualified voters thereof, at the same time and places as  
8 members of the General Assembly or the Governor are elected. If the office of Clerk of  
9 the Superior Court becomes vacant otherwise than by the expiration of the term, or if  
10 the people fail to elect, the senior regular resident Judge of the Superior Court serving  
11 the county shall appoint to fill the vacancy until an election can be regularly held."

12 Sec. 7. Section 18(1) of Article IV of the Constitution of North Carolina  
13 reads as rewritten:

14 "(1) District Attorneys. The General Assembly shall, from time to time, divide the  
15 State into a convenient number of prosecutorial districts, for each of which a District  
16 Attorney shall be chosen for a term of four years by the qualified voters thereof, at the  
17 same time and places as members of the General Assembly or the Governor are elected.  
18 Only persons duly authorized to practice law in the courts of this State shall be eligible  
19 for election or appointment as a District Attorney. The District Attorney shall advise  
20 the officers of justice in his district, be responsible for the prosecution on behalf of the  
21 State of all criminal actions in the Superior Courts of his district, perform such duties  
22 related to appeals therefrom as the Attorney General may require, and perform such  
23 other duties as the General Assembly may prescribe."

24 Sec. 8. Section 19 of Article IV of the Constitution of North Carolina reads  
25 as rewritten:

26 "Sec. 19. Vacancies. Unless otherwise provided in this Article, all vacancies  
27 occurring in the offices provided for by this Article shall be filled by appointment of the  
28 Governor, and the appointees shall hold their places until the next election for members  
29 of the General Assembly or Governor, whichever comes first, that is held more than 60  
30 days after the vacancy occurs, when elections shall be held to fill the offices. When the  
31 unexpired term of any of the offices named in this Article of the Constitution in which a  
32 vacancy has occurred, and in which it is herein provided that the Governor shall fill the  
33 vacancy, expires on the first day of January succeeding the next election for members of  
34 the General Assembly or Governor, whichever comes first, the Governor shall appoint  
35 to fill that vacancy for the unexpired term of the office. If any person elected or  
36 appointed to any of these offices shall fail to qualify, the office shall be appointed to,  
37 held and filled as provided in case of vacancies occurring therein. All incumbents of  
38 these offices shall hold until their successors are qualified."

39 Sec. 9. The amendments set forth in Sections 1 through 8 of this act shall be  
40 submitted to the qualified voters of the State at the next statewide primary election or  
41 statewide general election or at the next statewide election, whichever is earlier, which  
42 election shall be conducted under the laws then governing elections in the State. At that  
43 election, each qualified voter who desires to vote shall be provided a ballot on which  
44 shall be printed the following:

1            "[ ] FOR constitutional amendment making the term of members of the  
2            General Assembly four years, beginning with members elected in  
3            1990; and conforming amendments concerning the election of other  
4            officers and the filling of vacancies.

5            [ ] AGAINST constitutional amendment making the term of members of  
6            the General Assembly four years, beginning with members elected in  
7            1990; and conforming amendments concerning the election of other  
8            officers and the filling of vacancies."

9            Those qualified voters favoring the amendments shall vote by marking an  
10          "X" or a check mark in the square beside the statement beginning "FOR", and those  
11          qualified voters opposed to the amendments shall vote by marking an "X" or a check  
12          mark in the square beside the statement beginning "AGAINST".

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

16          Sec. 10. If a majority of votes cast thereon are in favor of the constitutional  
17          amendments, the State Board of Elections shall certify the amendments to the Secretary  
18          of State who shall enroll the amendments so certified among the permanent records of  
19          his office. The constitutional amendments shall become effective upon certification and  
20          shall apply to members of the General Assembly elected in the 1990 general election so  
21          that they shall serve four-year terms.

22          Sec. 11. G.S. 7A-140 reads as rewritten:

23          **"§ 7A-140. Number; election; term; qualification; oath.**

24          There shall be at least one district judge for each district. Each district judge shall be  
25          elected by the qualified voters of the district court district in which he is to serve at the  
26          time of the election for members of the General Assembly. ~~specified by Chapter 163 of the~~  
27          General Statutes. The number of judges for each district shall be determined by the  
28          General Assembly. Each judge shall be a resident of the district for which elected, and  
29          shall serve a term of four years, beginning on the first Monday in December following  
30          his election.

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

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

37          Sec. 12. G.S. 147-4 reads as rewritten:

38          **"§ 147-4. Executive officers – election; term; induction into office.**

39          The executive department shall consist of a Governor, a Lieutenant Governor, a  
40          Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an  
41          Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a  
42          Commissioner of Labor, who shall be elected for a term of four years, by the qualified  
43          electors of the State, ~~at the same time and places, and in the same manner, as members of the~~  
44          General Assembly are elected as provided by Chapter 163 of the General Statutes. Their

1 term of office shall commence on the first day of January next after their election and  
2 continue until their successors are elected and qualified. The persons having the highest  
3 number of votes, respectively, shall be declared duly elected, but if two or more be  
4 equal and highest in votes for the same office, then one of them shall be chosen by joint  
5 ballot of both houses of the General Assembly. Contested elections shall be determined  
6 by a joint ballot of both houses of the General Assembly in such manner as shall be  
7 prescribed by law."

8 Sec. 13. G.S. 152-1 reads as rewritten:

9 **"§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

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

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

25 When the coroner shall be out of the county, or shall for any reason be unable to  
26 hold the necessary inquest as provided by law, or there is a vacancy existing in the  
27 office of coroner which has not been filled by the county commissioners and it is made  
28 to appear to the clerk of the superior court by satisfactory evidence that a deceased  
29 person whose body has been found within the county probably came to his death by the  
30 criminal act or default of some person, it is the duty of the clerk to appoint some  
31 suitable person to act as coroner in such special case."

32 Sec. 14. G.S. 161-1 reads as rewritten:

33 **"§ 161-1. Election and term of office.**

34 In each county there shall be elected biennially by the qualified voters thereof, as  
35 ~~provided for the election of members of the General Assembly~~ by Chapter 163 of the  
36 General Statutes, a register of deeds."

37 Sec. 15. G.S. 162-1 reads as rewritten:

38 **"§ 162-1. Election and term of office.**

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

42 Sec. 16. G.S. 163-1 is amended in the table by rewriting the "DATE OF  
43 ELECTION" entries for State Senator and members of the State House of

1 Representatives to read: "Tuesday next after the first Monday in November 1990 and  
2 every four years thereafter".

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

6 Sec. 18. G.S. 163-1 is further amended in the table by rewriting the "DATE  
7 OF ELECTION" entries for justices and judges of the Appellate Division, judges of the  
8 superior courts, judges of the district courts, district attorney, county commissioners,  
9 clerk of superior court, register of deeds, sheriff, and coroner, to read: "At the next  
10 regular statewide election for Governor or for members of the General Assembly,  
11 whichever comes first, immediately preceding the termination of each regular term."

12 Sec. 19. G.S. 163-8 reads as rewritten:

13 **"§ 163-8. Filling vacancies in State executive offices.**

14 If the office of Governor or Lieutenant Governor shall become vacant, the  
15 provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers  
16 shall be vacated by death, resignation, or otherwise than by expiration of term, it shall  
17 be the duty of the Governor to appoint another to serve until his successor is elected and  
18 qualified: Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction,  
19 Attorney General, Commissioner of Agriculture, Commissioner of Labor, and  
20 Commissioner of Insurance. Each such vacancy shall be filled by election at the first  
21 election for members of the General Assembly or Governor, whichever occurs first, that  
22 occurs more than 60 days after the vacancy has taken place, and the person chosen shall  
23 hold the office for the remainder of the unexpired four-year term: Provided, that when a  
24 vacancy occurs in any of the offices named in this section and the term expires on the  
25 first day of January succeeding the next election for members of the General Assembly  
26 or Governor, whichever comes first, the Governor shall appoint to fill the vacancy for  
27 the unexpired term of the office.

28 Upon the occurrence of a vacancy in the office of any one of these officers for any  
29 of the causes stated in the preceding paragraph, the Governor may appoint an acting  
30 officer to perform the duties of that office until a person is appointed or elected pursuant  
31 to this section and Article III, Section 7 of the State Constitution, to fill the vacancy and  
32 is qualified."

33 Sec. 20. G.S. 163-9 reads as rewritten:

34 **"§ 163-9. Filling vacancies in State and district judicial offices.**

35 Vacancies occurring in the offices of Justice of the Supreme Court, judge of the  
36 Court of Appeals, and judge of the superior court for causes other than expiration of  
37 term shall be filled by appointment of the Governor. An appointee shall hold his place  
38 until the next election for members of the General Assembly, whichever comes first,  
39 that is held more than 60 days after the vacancy occurs, at which time an election shall  
40 be held to fill the unexpired term of the office: Provided, that when the unexpired term  
41 of the office in which the vacancy has occurred expires on the first day of January  
42 succeeding the next election for members of the General Assembly, or Governor,  
43 whichever comes first, the Governor shall appoint to fill that vacancy for the unexpired  
44 term of the office.

1 Vacancies in the office of district judge which occur before the expiration of a term  
2 shall not be filled by election. Vacancies in the office of district judge shall be filled in  
3 accordance with G.S. 7A-142."

4 Sec. 21. G.S. 163-10 reads as rewritten:

5 **"§ 163-10. Filling vacancy in office of district attorney.**

6 Any vacancy occurring in the office of district attorney for causes other than  
7 expiration of term shall be filled by appointment of the Governor. An appointee shall  
8 hold his place until the next election for members of the General Assembly, or  
9 Governor, whichever comes first, that is held more than 60 days after the vacancy  
10 occurs, at which time an election shall be held to fill the unexpired term of the office:  
11 Provided, that when the unexpired term of the office in which the vacancy has occurred  
12 expires on the first day of January succeeding the next election for members of the  
13 General Assembly or Governor, whichever comes first, the Governor shall appoint to  
14 fill that vacancy for the unexpired term of the office."

15 Sec. 22. G.S. 163-11(a) reads as rewritten:

16 "(a) If a vacancy shall occur in the General Assembly by death, resignation, or  
17 otherwise than by expiration of term, the Governor shall immediately appoint ~~for the~~  
18 ~~unexpired part of the term~~ the person recommended by the political party executive  
19 committee provided by this section. The person so appointed shall hold office for the  
20 remainder of the unexpired term, except if the next election for Governor which occurs  
21 more than 60 days after the effective date of the vacancy is:

22 (1) Before the date of the expiration date of the term; and

23 (2) Before the next regular statewide election for members of the General  
24 Assembly,

25 the appointment shall be until the next election for Governor, and at that election, a  
26 person shall be elected to fill the remainder of the unexpired term. The Governor shall  
27 make the appointment within seven days of receiving the recommendation of the  
28 appropriate committee. If the Governor fails to make the appointment within the  
29 required period, he shall be presumed to have made the appointment and the legislative  
30 body to which the appointee was recommended is directed to seat the appointee as a  
31 member in good standing for the duration of the unexpired term."

32 Sec. 23. G.S. 163-12 reads as rewritten:

33 **"§ 163-12. Filling vacancy in United States Senate.**

34 Whenever there shall be a vacancy in the office of United States Senator from this  
35 State, whether caused by death, resignation, or otherwise than by expiration of term, the  
36 Governor shall appoint to fill the vacancy until an election shall be held to fill the office.  
37 The Governor shall issue his writ for the election of a Senator to be held at the time of  
38 the first election for members of the General Assembly or Governor, whichever comes  
39 first, that is held more than 60 days after the vacancy occurs. The person elected shall  
40 hold the office for the remainder of the unexpired term. The election shall take effect  
41 from the date of the canvassing of the returns."

42 Sec. 24. Each statute and each local act which states that a vacancy in an  
43 elected office shall be filled until the next election for members of the General  
44 Assembly, or similarly relies on the date of General Assembly elections as determining

1 when an event is to take place or the duration of an appointment, shall be considered  
2 instead to use the date of the next statewide election for Governor or General Assembly,  
3 whichever comes first, as the determining date for whatever purpose the date of the  
4 General Assembly election is now used.

5           Sec. 25. Sections 11 through 23 of this act shall take effect only upon  
6 approval of the voters of the constitutional amendments set forth in Sections 1 through 8  
7 of this act. If the constitutional amendments proposed in those sections are approved by  
8 the voters, Sections 11 through 23 of this act shall become effective at the same time as  
9 the constitutional amendments.

10           Sec. 26. This act is effective upon ratification.