

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 796  
Second Edition Engrossed 4/26/91  
Senate Election Laws Committee Substitute Adopted 6/12/91  
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Short Title: Pender and Sampson Vacancies.

(Public)

Sponsors:

Referred to:

April 15, 1991

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE PENDER COUNTY COMMISSIONERS TO FILL VACANCIES IN THE OFFICES OF COMMISSIONER AND SHERIFF WITH THE NOMINEE OF THE POLITICAL PARTY COMMITTEE OF THE VACATING OFFICIAL, AND TO REQUIRE THE SAMPSON COUNTY COMMISSIONERS TO FILL VACANCIES IN THE OFFICES OF COMMISSIONER, SHERIFF, AND REGISTER OF DEEDS FROM A LIST OF THREE NOMINEES FOR EACH VACANCY MADE BY THE PARTY COMMITTEE OF THE VACATING OFFICIAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-27.1 reads as rewritten:

**§ 153A-27.1. Vacancies on board of commissioners in certain counties.**

(a) If a vacancy occurs on the board of commissioners, the remaining members of the board shall appoint a qualified person to fill the vacancy. If the number of vacancies on the board is such that a quorum of the board cannot be obtained, the chairman of the board shall appoint enough members to make up a quorum, and the board shall then proceed to fill the remaining vacancies. If the number of vacancies on the board is such that a quorum of the board cannot be obtained and the office of chairman is vacant, the clerk of superior court of the county shall fill the vacancies upon the request of any remaining member of the board or upon the petition of any registered voters of the county.

1 (b) If the member being replaced was serving a two-year term, or if the member  
2 was serving a four-year term and the vacancy occurs later than 60 days before the  
3 general election held after the first two years of the term, the appointment to fill the  
4 vacancy is for the remainder of the unexpired term. Otherwise, the term of the person  
5 appointed to fill the vacancy extends to the first Monday in December next following  
6 the first general election held more than 60 days after the day the vacancy occurs; at that  
7 general election, a person shall be elected to the seat vacated for the remainder of the  
8 unexpired term.

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

13 (d) If the member who vacated the seat was elected as a nominee of a political  
14 party, the board of commissioners, the chairman of the board, or the clerk of superior  
15 court, as the case may be, shall consult the county executive committee of the  
16 appropriate political party before filling the vacancy, and shall appoint the person  
17 recommended by the county executive committee of the political party of which the  
18 commissioner being replaced was a member, if the party makes a recommendation  
19 within 30 days of the occurrence of the vacancy.

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

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

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

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

36 Sec. 2. G.S. 162-5.1 reads as rewritten:

37 "**§ 162-5.1. Vacancy filled in certain counties; duties performed by coroner or**  
38 **chief deputy.**

39 If any vacancy occurs in the office of sheriff, the coroner of the county shall execute  
40 all process directed to the sheriff until the board shall elect a sheriff to supply the  
41 vacancy for the residue of the term, who shall possess the same qualifications, enter into  
42 the same bond, and be subject to removal, as the sheriff regularly elected. If the sheriff  
43 were elected as a nominee of a political party, the board of commissioners shall consult  
44 the county executive committee of that political party before filling the vacancy, and

1 shall elect the person recommended by the county executive committee of that party, if  
2 the party makes a recommendation within 30 days of the occurrence of the vacancy. If  
3 the board should fail to fill such vacancy, the coroner shall continue to discharge the  
4 duties of sheriff until it shall be filled.

5 In those counties where the office of coroner has been abolished, the chief deputy  
6 sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall  
7 perform all the duties of the sheriff until the county commissioners appoint some person  
8 to fill the unexpired term. In all counties the regular deputy sheriffs shall, during the  
9 interim of the vacancy, continue to perform their duties with full authority.

10 This section shall apply only in the following counties: Alamance, Alleghany,  
11 Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret,  
12 Cherokee, Clay, Cleveland, Davidson, Davie, Edgecombe, Forsyth, Gaston, Graham,  
13 Guilford, Haywood, Henderson, Hyde, Jackson, Lincoln, Madison, McDowell,  
14 Mecklenburg, Moore, New Hanover, Onslow, Pender, Polk, Randolph, Rockingham,  
15 Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey."

16 Sec. 3. For Sampson County only, vacancies on the board of county  
17 commissioners, in the office of sheriff, and in the office of register of deeds shall be  
18 filled in accordance with this section. A vacancy in the office of county commissioner  
19 shall be filled in accordance with G.S. 153A-27.1, in the office of sheriff in accordance  
20 with G.S. 162-5.1, and in the office of register of deeds in accordance with G.S. 161-5,  
21 except that in each case the board of county commissioners shall only be required to fill  
22 the vacancy with a nominee of the party executive committee if the party executive  
23 committee submits to the board of commissioners three names for each vacancy within  
24 30 days of the occurrence of the vacancy. If the party committee does submit three  
25 nominees for the vacancy within 30 days of its occurrence, and otherwise complies with  
26 the applicable statute, then the board of commissioners shall appoint one of the three  
27 nominees.

28 Sec. 4. This act is effective upon ratification.