

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1446

Short Title: Legislators 4 Yr. Terms/Term Limits.

(Public)

Sponsors: Representatives Ellis; and P. Wilson.

Referred to: Constitutional Amendments and Referenda.

May 17, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE FOR FOUR-YEAR TERMS FOR MEMBERS OF THE LEGISLATURE AND LIMIT THEM TO THREE CONSECUTIVE TERMS IN A HOUSE.

The General Assembly of North Carolina enacts:

Section 1. Article II of the Constitution of North Carolina is amended by adding a new section to read:

"Sec. 25. Limitation of consecutive terms.

(1) No person shall be eligible for election to more than three consecutive terms as a member of the House of Representatives, nor to more than three consecutive terms as a member of the Senate. If a person is not elected to a full term, service caused by filling of a vacancy shall be considered as a term for the purpose of this section if the person takes office during the first two calendar years of the term.

(2) Terms of office beginning before January 1, 1995, shall not be considered for the purpose of this section.

(3) A person disqualified by this section from election to the next succeeding term as a member of the House or Senate may not fill a vacancy in that succeeding term."

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

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

1 Sec. 3. Section 4 of Article II of the Constitution of North Carolina reads as
2 rewritten:

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

5 Sec. 4. Section 8 of Article II of the Constitution of North Carolina reads as
6 rewritten:

7 "**Sec. 8. Elections.** The election for members of the General Assembly shall be held
8 for the respective districts in ~~1972-1996~~ and every ~~two~~four years thereafter, at the places
9 and on the day prescribed by law."

10 Sec. 5. Section 7(3) of Article III of the Constitution of North Carolina reads
11 as rewritten:

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

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

24 "(3) **Clerks.** A Clerk of the Superior Court for each county shall be elected for a
25 term of four years by the qualified voters thereof, at the same time and places as
26 members of the ~~General Assembly~~United States House of Representatives are elected on
27 a statewide basis. If the office of Clerk of the Superior Court becomes vacant otherwise
28 than by the expiration of the term, or if the people fail to elect, the senior regular
29 resident Judge of the Superior Court serving the county shall appoint to fill the vacancy
30 until an election can be regularly held."

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

33 "(1) **District Attorneys.** The General Assembly shall, from time to time, divide the
34 State into a convenient number of prosecutorial districts, for each of which a District
35 Attorney shall be chosen for a term of four years by the qualified voters thereof, at the
36 same time and places as members of the General Assembly United States House of
37 Representatives are elected on a statewide basis. Only persons duly authorized to
38 practice law in the courts of this State shall be eligible for election or appointment as a
39 District Attorney. The District Attorney shall advise the officers of justice in his
40 district, be responsible for the prosecution on behalf of the State of all criminal actions
41 in the Superior Courts of his district, perform such duties related to appeals therefrom as
42 the Attorney General may require, and perform such other duties as the General
43 Assembly may prescribe."

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

3 **"Sec. 19. Vacancies.** Unless otherwise provided in this Article, all vacancies
4 occurring in the offices provided for by this Article shall be filled by appointment of the
5 Governor, and the appointees shall hold their places until the ~~next election for members of~~
6 ~~the General Assembly~~ the next statewide election for members of the United States House
7 of Representatives, that is held more than 60 days after the vacancy occurs, when
8 elections shall be held to fill the offices. When the unexpired term of any of the offices
9 named in this Article of the Constitution in which a vacancy has occurred, and in which
10 it is herein provided that the Governor shall fill the vacancy, expires on the first day of
11 January succeeding the ~~next election for members of the General Assembly~~ the next
12 statewide election for members of the United States House of Representatives, the
13 Governor shall appoint to fill that vacancy for the unexpired term of the office. If any
14 person elected or appointed to any of these offices shall fail to qualify, the office shall
15 be appointed to, held and filled as provided in case of vacancies occurring therein. All
16 incumbents of these offices shall hold until their successors are qualified."

17 Sec. 9. The amendments set forth in Sections 1 through 8 of this act shall be
18 submitted to the qualified voters of the State on Tuesday after the first Monday in
19 November of 1993, or at the next statewide election, whichever is earlier, which
20 election shall be conducted under the laws then governing elections in the State. At that
21 election, each qualified voter who desires to vote shall be provided a ballot on which
22 shall be printed the following:

- 23 " FOR constitutional amendment making the term of members of the
24 General Assembly four years, beginning with members elected in
25 1996, limiting members to three consecutive terms in the Senate or
26 House of Representatives, and making conforming amendments
27 concerning the election of other officers and the filling of vacancies.
28 AGAINST constitutional amendment making the term of members of
29 the General Assembly four years, beginning with members elected in
30 1996, limiting members to three consecutive terms in the Senate or
31 House of Representatives, and making conforming amendments
32 concerning the election of other officers and the filling of vacancies."

33 Those qualified voters favoring the amendments shall vote by marking an
34 "X" or a check mark in the square beside the statement beginning "FOR", and those
35 qualified voters opposed to the amendments shall vote by marking an "X" or a check
36 mark in the square beside the statement beginning "AGAINST".

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

40 Sec. 10. If a majority of votes cast thereon are in favor of the constitutional
41 amendments, the State Board of Elections shall certify the amendments to the Secretary
42 of State who shall enroll the amendments so certified among the permanent records of
43 his office. The constitutional amendments shall become effective January 1, 1996, and

1 shall apply to members of the General Assembly elected in the 1996 general election so
2 that they shall serve four-year terms.

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

4 **"§ 7A-140. Number; election; term; qualification; oath.**

5 There shall be at least one district judge for each district. Each district judge shall be
6 elected by the qualified voters of the district court district in which he is to serve at the
7 time of the election for members of the General Assembly, ~~specified by Chapter 163 of the~~
8 General Statutes. The number of judges for each district shall be determined by the
9 General Assembly. Each judge shall be a resident of the district for which elected, and
10 shall serve a term of four years, beginning on the first Monday in December following
11 his election.

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

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

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

19 **"§ 147-4. Executive officers – election; term; induction into office.**

20 The executive department shall consist of a Governor, a Lieutenant Governor, a
21 Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an
22 Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a
23 Commissioner of Labor, who shall be elected for a term of four years, by the qualified
24 electors of the State, ~~at the same time and places, and in the same manner, as members of the~~
25 General Assembly are elected as provided by Chapter 163 of the General Statutes. Their
26 term of office shall commence on the first day of January next after their election and
27 continue until their successors are elected and qualified. The persons having the highest
28 number of votes, respectively, shall be declared duly elected, but if two or more be
29 equal and highest in votes for the same office, then one of them shall be chosen by joint
30 ballot of both houses of the General Assembly. Contested elections shall be determined
31 by a joint ballot of both houses of the General Assembly in such manner as shall be
32 prescribed by law."

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

34 **"§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

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

39 A vacancy in the office of coroner shall be filled by the county commissioners, and
40 the person so appointed shall, upon qualification, hold office until his successor is
41 elected and qualified. If the coroner were elected as the nominee of a political party,
42 then the county commissioners shall consult with the county executive committee of
43 that political party before filling the vacancy, and shall appoint the person
44 recommended by that committee if the party makes a recommendation within 30 days

1 of the occurrence of the vacancy; this sentence shall apply only to the counties of
2 Alamance, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus,
3 Caldwell, Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood,
4 Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk,
5 Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.

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

13 Sec. 14. G.S. 161-1, now superceded by G.S. 161-2, is repealed.

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

15 **"§ 162-1. Election and term of office.**

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

19 Sec. 16. G.S. 163-1 is amended in the table by rewriting the "DATE OF
20 ELECTION" entries for State Senator and member of the State House of
21 Representatives to read: "Tuesday next after the first Monday in November 1996 and
22 every four years thereafter".

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

26 Sec. 18. G.S. 163-1 is further amended in the table by rewriting the "DATE
27 OF ELECTION" entries for justices and judges of the Appellate Division, judges of the
28 superior courts, judges of the district courts, district attorney, county commissioners,
29 clerk of superior court, register of deeds, sheriff, and coroner, to read: "At the next
30 regular statewide election for members of the United States House of Representatives,
31 immediately preceding the termination of each regular term."

32 Sec. 19. 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
35 provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers
36 shall be vacated by death, resignation, or otherwise than by expiration of term, it shall
37 be the duty of the Governor to appoint another to serve until his successor is elected and
38 qualified: Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction,
39 Attorney General, Commissioner of Agriculture, Commissioner of Labor, and
40 Commissioner of Insurance. Each such vacancy shall be filled by election at the first
41 statewide election for members of the ~~General Assembly~~ United States House of
42 Representatives, that occurs more than 60 days after the vacancy has taken place, and
43 the person chosen shall hold the office for the remainder of the unexpired four-year
44 term: Provided, that when a vacancy occurs in any of the offices named in this section

1 and the term expires on the first day of January succeeding ~~the next election for members~~
2 ~~of the General Assembly~~ the next statewide election for members of the United States
3 House of Representatives, the Governor shall appoint to fill the vacancy for the
4 unexpired term of the office.

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

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

11 **"§ 163-9. Filling vacancies in State and district judicial offices.**

12 Vacancies occurring in the offices of Justice of the Supreme Court, judge of the
13 Court of Appeals, and judge of the superior court for causes other than expiration of
14 term shall be filled by appointment of the Governor. An appointee shall hold his place
15 until the next statewide election for members of the ~~General Assembly~~ United States
16 House of Representatives that is held more than 60 days after the vacancy occurs, at
17 which time an election shall be held to fill the unexpired term of the office: Provided,
18 that when the unexpired term of the office in which the vacancy has occurred expires on
19 the first day of January succeeding the next statewide election for members of the
20 ~~General Assembly~~, United States House of Representatives, the Governor shall appoint to
21 fill that vacancy for the unexpired term of the office.

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

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

26 **"§ 163-10. Filling vacancy in office of district attorney.**

27 Any vacancy occurring in the office of district attorney for causes other than
28 expiration of term shall be filled by appointment of the Governor. An appointee shall
29 hold his place until the next statewide election for members of the ~~General Assembly~~
30 United States House of Representatives that is held more than 60 days after the vacancy
31 occurs, at which time an election shall be held to fill the unexpired term of the office:
32 Provided, that when the unexpired term of the office in which the vacancy has occurred
33 expires on the first day of January succeeding the next statewide election for members
34 of the ~~General Assembly~~ the United States House of Representatives the Governor shall
35 appoint to fill that vacancy for the unexpired term of the office."

36 Sec. 22. G.S. 163-12 reads as rewritten:

37 **"§ 163-12. Filling vacancy in United States Senate.**

38 Whenever there shall be a vacancy in the office of United States Senator from this
39 State, whether caused by death, resignation, or otherwise than by expiration of term, the
40 Governor shall appoint to fill the vacancy until an election shall be held to fill the office.
41 The Governor shall issue his writ for the election of a Senator to be held at the time of
42 the first statewide election for members of the ~~General Assembly~~ United States House of
43 Representatives that is held more than 60 days after the vacancy occurs. The person

1 elected shall hold the office for the remainder of the unexpired term. The election shall
2 take effect from the date of the canvassing of the returns."

3 Sec. 23. Each statute and each local act which states that a vacancy in an
4 elected office shall be filled until the next election for members of the General
5 Assembly, or similarly relies on the date of General Assembly elections as determining
6 when an event is to take place or the duration of an appointment, shall be considered
7 instead to use the date of the next statewide election of members of the United States
8 House of Representatives as the determining date for whatever purpose the date of the
9 General Assembly election is now used.

10 Sec. 24. There is appropriated from the General Fund to the State Board of
11 Elections for fiscal year 1994-95 the sum of thirty-six thousand dollars (\$36,000) to
12 provide for the expense of conducting the referendum provided by this act.

13 Sec. 25. Sections 11 through 23 of this act shall take effect only upon
14 approval of the voters of the constitutional amendments set forth in Sections 1 through 8
15 of this act. If the constitutional amendments proposed in those sections are approved by
16 the voters, Sections 11 through 23 of this act shall become effective at the same time as
17 the constitutional amendments. Section 24 of this act becomes effective July 1, 1994.