

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 79

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

(Public)

Sponsors: Senators Winner of Buncombe; and Seymour.

Referred to: Constitution and Election Laws.

February 8, 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. 1.1. 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. 2. 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. 3. 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 ~~1972-1994~~ and every ~~two~~four years thereafter, at the places
9 and on the day prescribed by law."

10 Sec. 3.1. Section 14(1) of Article II of the Constitution of North Carolina
11 reads as rewritten:

12 **"(1) President Pro Tempore - succession to presidency.** The Senate shall elect
13 from its membership a President Pro Tempore, who shall become President of the
14 Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession
15 by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or
16 removal from office of the President of the Senate, and who shall serve ~~until the~~until:

17 (1) The expiration of his term of office as Senator; or

18 (2) The qualification of a new Lieutenant Governor whichever comes first.

19 A President Pro Tempore becoming President of the Senate under this section retains
20 the same right to vote as any other Senator, and does not have an additional right to vote
21 when the Senate is equally divided."

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

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

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

32 **"Sec. 7. Other elective officers.**

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

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

41 (3) **Vacancies.** If the office of any of these officers is vacated by death,
42 resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve
43 until his successor is elected and qualified. Every such vacancy shall be filled by
44 election at the first election for members of the General Assembly or Governor,

1 whichever comes first, that occurs more than 60 days after the vacancy has taken place,
2 and the person chosen shall hold the office for the remainder of the unexpired term
3 fixed in this Section. When a vacancy occurs in the office of any of the officers named
4 in this Section and the term expires on the first day of January succeeding the next
5 election for members of the General Assembly, the Governor shall appoint to fill the
6 vacancy for the unexpired term of the office.

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

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

15 (6) **Determination of incapacity.** The General Assembly shall by law prescribe
16 with respect to those officers, other than the Governor, whose offices are created by this
17 Article, procedures for determining the physical or mental incapacity of any officer to
18 perform the duties of his office, and for determining whether an officer who has been
19 temporarily incapacitated has sufficiently recovered his physical or mental capacity to
20 perform the duties of his office. Removal of those officers from office for any other
21 cause shall be by impeachment.

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

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

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

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

35 "(1) **District Attorneys.** The General Assembly shall, from time to time, divide the
36 State into a convenient number of prosecutorial districts, for each of which a District
37 Attorney shall be chosen for a term of four years by the qualified voters thereof, at the
38 same time and places as members of the General Assembly or the Governor are elected.
39 Only persons duly authorized to practice law in the courts of this State shall be eligible
40 for election or appointment as a District Attorney. The District Attorney shall advise
41 the officers of justice in his district, be responsible for the prosecution on behalf of the
42 State of all criminal actions in the Superior Courts of his district, perform such duties
43 related to appeals therefrom as the Attorney General may require, and perform such
44 other duties as the General 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
6 of the General Assembly or Governor, whichever comes first, that is held more than 60
7 days after the vacancy occurs, when elections shall be held to fill the offices. When the
8 unexpired term of any of the offices named in this Article of the Constitution in which a
9 vacancy has occurred, and in which it is herein provided that the Governor shall fill the
10 vacancy, expires on the first day of January succeeding the next election for members of
11 the General Assembly or Governor, whichever comes first, the Governor shall appoint
12 to fill that vacancy for the unexpired term of the office. If any person elected or
13 appointed to any of these offices shall fail to qualify, the office shall be appointed to,
14 held and filled as provided in case of vacancies occurring therein. All incumbents of
15 these offices shall hold until their successors are qualified."

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

22 " FOR constitutional amendment making the term of members of the
23 General Assembly four years, beginning with members elected in
24 1994, limiting members to three consecutive terms in the Senate or
25 House of Representatives, and making conforming amendments
26 concerning the election of other officers and the filling of vacancies.

27 AGAINST constitutional amendment making the term of members of
28 the General Assembly four years, beginning with members elected in
29 1994, limiting members to three consecutive terms in the Senate or
30 House of Representatives, and making conforming amendments
31 concerning the election of other officers and the filling of vacancies."

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

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

39 Sec. 10. If a majority of votes cast thereon are in favor of the constitutional
40 amendments, the State Board of Elections shall certify the amendments to the Secretary
41 of State who shall enroll the amendments so certified among the permanent records of
42 his office. The constitutional amendments shall become effective January 1, 1994, and
43 shall apply to members of the General Assembly elected in the 1994 general election so
44 that they shall serve four-year terms.

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

2 **"§ 7A-140. Number; election; term; qualification; oath.**

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

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

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

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

17 **"§ 147-4. Executive officers – election; term; induction into office.**

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

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

32 **"§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

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

37 A vacancy in the office of coroner shall be filled by the county commissioners, and
38 the person so appointed shall, upon qualification, hold office until his successor is
39 elected and qualified. If the coroner were elected as the nominee of a political party,
40 then the county commissioners shall consult with the county executive committee of
41 that political party before filling the vacancy, and shall appoint the person
42 recommended by that committee if the party makes a recommendation within 30 days
43 of the occurrence of the vacancy; this sentence shall apply only to the counties of
44 Alamance, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus,

1 Caldwell, Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood,
2 Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk,
3 Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.

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

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

12 **"§ 161-1. Election and term of office.**

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

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

17 **"§ 162-1. Election and term of office.**

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

21 Sec. 16. G.S. 163-1 is amended in the table by rewriting the "DATE OF

22 ELECTION" entries for State Senator and member of the State House of
23 Representatives to read: "Tuesday next after the first Monday in November 1994 and
24 every four years thereafter".

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

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

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

35 **"§ 163-8. Filling vacancies in State executive offices.**

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

1 hold the office for the remainder of the unexpired four-year term: Provided, that when a
2 vacancy occurs in any of the offices named in this section and the term expires on the
3 first day of January succeeding the next election for members of the General Assembly
4 or Governor, whichever comes first, the Governor shall appoint to fill the vacancy for
5 the unexpired term of the office.

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

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

12 **"§ 163-9. Filling vacancies in State and district judicial offices.**

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

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

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

27 **"§ 163-10. Filling vacancy in office of district attorney.**

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

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

38 **"§ 163-12. Filling vacancy in United States Senate.**

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

1 hold the office for the remainder of the unexpired term. The election shall take effect
2 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 for Governor or General Assembly,
8 whichever comes first, as the determining date for whatever purpose the date of the
9 General Assembly election is now used.

10 Sec. 24. Sections 11 through 22 of this act shall take effect only upon
11 approval of the voters of the constitutional amendments set forth in Sections 1 through 8
12 of this act. If the constitutional amendments proposed in those sections are approved by
13 the voters, Sections 11 through 22 of this act shall become effective at the same time as
14 the constitutional amendments.

15 Sec. 25. This act is effective upon ratification.