

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

1

SENATE BILL 447

Short Title: Eliminate Board Self-Appointments

(Public)

Sponsors: Senator Kincaid

Referred to: Judiciary II/Election Laws

March 21, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROHIBIT BOARDS OF COUNTY COMMISSIONERS AND CITY
2 COUNCILS FROM APPOINTING THEIR OWN MEMBERS TO PUBLIC OFFICE
3 EXCEPT WHERE A STATUTE REQUIRES A MEMBER OF THAT BOARD TO
4 SERVE.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 128-1.2 reads as rewritten:

8 "**§ 128-1.2. Ex officio service by county and city representatives and officials.**

9 (a) It is the common law rule that it is the policy of the law to secure the utmost
10 freedom from personal interest in making appointments to public office, and it is contrary
11 to public policy to permit an appointing body to appoint one of its own members to office
12 in the absence of specific legislative authority.

13 (b) In recognition of the rule set out in subsection (a) of this section, except when:

14 (1) The law requires the appointment of a member of that governing board
15 to an office;

16 (2) The office being appointed to is that of mayor, mayor pro tempore, chair
17 of the board of commissioners, or vice-chair of the board of
18 commissioners; or

19 (3) The office being appointed to has functions that are purely advisory in
20 nature,

1 the governing body of a city or the board of commissioners of a county may not appoint
2 one of its own members to public office.

3 (c) Except when the resolution of appointment provides otherwise, whenever the
4 governing body of a county or city appoints one of its own members or officials to
5 another board or commission, the individual so appointed is considered to be serving on
6 the other board or commission as a part of the individual's duties of office and shall not
7 be considered to be serving in a separate office.

8 As used in this section, the term 'official' means (i) in the case of a county, the county
9 manager, acting county manager, interim county manager, county attorney, finance
10 officer, or clerk to the board and (ii) in the case of a city, the city manager, acting city
11 manager, interim city manager, city attorney, finance officer, city clerk, or deputy clerk.
12 As used in this section, the term 'city' has the meaning provided in G.S. 160A-1."

13 Sec. 2. This act is effective upon ratification.