

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 759
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40458-MMy-11A

Short Title: Modify Process/Appellate Court Vacancies. (Public)

Sponsors: Representative K. Hall.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO MODIFY THE
3 PROCESS FOR FILLING VACANCIES ON THE NORTH CAROLINA SUPREME
4 COURT AND THE NORTH CAROLINA COURT OF APPEALS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Section 6 of Article IV of the North Carolina Constitution reads as
7 rewritten:

8 "~~Sec. 6. Supreme Court.~~Court, vacancies.

9 (1) Membership. The Supreme Court shall consist of a Chief Justice and six Associate
10 Justices, but the General Assembly may increase the number of Associate Justices to not more
11 than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity,
12 to perform any of the duties placed upon him, the senior Associate Justice available may
13 discharge those duties.

14 (2) Sessions of the Supreme Court. The sessions of the Supreme Court shall be held in
15 the City of Raleigh unless otherwise provided by the General Assembly.

16 (3) Vacancies. If the office of a Justice is vacated by death, resignation, or otherwise, the
17 Governor shall, no later than seven days after receipt of a list of three nominees submitted by the
18 State executive committee of the political party with which the vacating Justice was affiliated
19 when elected, appoint one person from the list to serve for the unexpired part of the term."

20 SECTION 2. Section 7 of Article IV of the North Carolina Constitution reads as
21 rewritten:

22 "~~Sec. 7. Court of Appeals.~~Appeals, vacancies.

23 (1) Membership. The structure, organization, and composition of the Court of Appeals
24 shall be determined by the General Assembly. The Court shall have not less than five members,
25 and may be authorized to sit in divisions, or other than en banc. Sessions of the Court shall be
26 held at such times and places as the General Assembly may prescribe.

27 (2) Vacancies. If the office of a judge serving under this section is vacated by death,
28 resignation, or otherwise, the Governor shall, no later than seven days after receipt of a list of
29 three nominees submitted by the State executive committee of the political party with which the
30 vacating judge was affiliated when elected, appoint one person from the list to serve for the
31 unexpired part of the term."

32 SECTION 3. The amendments set out in Sections 1 and 2 of this act shall be
33 submitted to the qualified voters of the State at the general election in 2022, which election shall
34 be conducted under the laws then governing elections in the State. Ballots, voting systems, or
35 both may be used in accordance with Chapter 163 of the General Statutes. The question to be
36 used in the voting systems and ballots shall be:



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"[] FOR [] AGAINST

Constitutional amendment to fill vacancies on the Supreme Court and the Court of Appeals by having the Governor select from three nominees submitted by the State executive committee of the political party with which the vacating justice or judge was affiliated when elected."

SECTION 4. If a majority of the votes cast on the question are in favor of the amendments set out in this act, the State Board of Elections shall certify the amendments to the Secretary of State. The amendments set out in Sections 1 and 2 of this act become effective January 1, 2023, and apply to vacancies occurring on or after that date. The Secretary of State shall enroll the amendments so certified among the permanent records of that office.

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.