

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 62

Short Title: Legislator's Four-Year Term.

(Public)

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Sponsors: Representatives Buchanan; and Mercer.

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Referred to: Courts, Justice, Constitutional Amendments and Referenda.

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February 12, 1991

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO  
2 PROVIDE FOR FOUR-YEAR TERMS FOR MEMBERS OF THE GENERAL  
3 ASSEMBLY, AND TO MAKE CONFORMING CHANGES TO OTHER  
4 STATUTES.  
5

6 The General Assembly of North Carolina enacts:

7 Section 1. Section 2 of Article II of the Constitution of North Carolina reads  
8 as rewritten:

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

11 Section 2. Section 4 of Article II of the Constitution of North Carolina reads as  
12 rewritten:

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

15 Section 3. Section 8 of Article II of the Constitution of North Carolina reads as  
16 rewritten:

17 "Sec. 8. Elections. The election for members of the General Assembly shall be held  
18 for the respective districts in ~~1972-1994~~ and every ~~two~~four years thereafter, at the places  
19 and on the day prescribed by law."

20 Section 3.1. Section 14(1) of Article II of the Constitution of North Carolina  
21 reads as rewritten:

22 "(1) President Pro Tempore - succession to presidency. The Senate shall elect  
23 from its membership a President Pro Tempore, who shall become President of the  
24 Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession

1 by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or  
2 removal from office of the President of the Senate, and who shall serve ~~until the~~ until:

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

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

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

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

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

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

18 "Sec. 7. Other elective officers.

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

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

27 (3) Vacancies. If the office of any of these officers is vacated by death,  
28 resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve  
29 until his successor is elected and qualified. Every such vacancy shall be filled by  
30 election at the first election for members of the General Assembly or Governor,  
31 whichever comes first, that occurs more than 60 days after the vacancy has taken place,  
32 and the person chosen shall hold the office for the remainder of the unexpired term  
33 fixed in this Section. When a vacancy occurs in the office of any of the officers named  
34 in this Section and the term expires on the first day of January succeeding the next  
35 election for members of the General Assembly, the Governor shall appoint to fill the  
36 vacancy for the unexpired term of the office.

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

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

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

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

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

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

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

21 "(1) District Attorneys. The General Assembly shall, from time to time, divide the  
22 State into a convenient number of prosecutorial districts, for each of which a District  
23 Attorney shall be chosen for a term of four years by the qualified voters thereof, at the  
24 same time and places as members of the General Assembly or the Governor are elected.  
25 Only persons duly authorized to practice law in the courts of this State shall be eligible  
26 for election or appointment as a District Attorney. The District Attorney shall advise  
27 the officers of justice in his district, be responsible for the prosecution on behalf of the  
28 State of all criminal actions in the Superior Courts of his district, perform such duties  
29 related to appeals therefrom as the Attorney General may require, and perform such  
30 other duties as the General Assembly may prescribe."

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

33 "Sec. 19. Vacancies. Unless otherwise provided in this Article, all vacancies  
34 occurring in the offices provided for by this Article shall be filled by appointment of the  
35 Governor, and the appointees shall hold their places until the next election for members  
36 of the General Assembly or Governor, whichever comes first, that is held more than 60  
37 days after the vacancy occurs, when elections shall be held to fill the offices. When the  
38 unexpired term of any of the offices named in this Article of the Constitution in which a  
39 vacancy has occurred, and in which it is herein provided that the Governor shall fill the  
40 vacancy, expires on the first day of January succeeding the next election for members of  
41 the General Assembly or Governor, whichever comes first, the Governor shall appoint  
42 to fill that vacancy for the unexpired term of the office. If any person elected or  
43 appointed to any of these offices shall fail to qualify, the office shall be appointed to,

1 held and filled as provided in case of vacancies occurring therein. All incumbents of  
2 these offices shall hold until their successors are qualified."

3           Sec. 9. The amendments set forth in Sections 1 through 8 of this act shall be  
4 submitted to the qualified voters of the State at the next statewide primary election or  
5 statewide general election or at the next statewide election, whichever is earlier, which  
6 election shall be conducted under the laws then governing elections in the State. At that  
7 election, each qualified voter who desires to vote shall be provided a ballot on which  
8 shall be printed the following:

9           " [ ] FOR constitutional amendment making the term of members of the  
10           General Assembly four years, beginning with members elected in  
11           1994; and conforming amendments concerning the election of other  
12           officers and the filling of vacancies.

13           [ ] AGAINST constitutional amendment making the term of members of  
14           the General Assembly four years, beginning with members elected in  
15           1994; and conforming amendments concerning the election of other  
16           officers and the filling of vacancies."

17           Those qualified voters favoring the amendments shall vote by marking an  
18 "X" or a check mark in the square beside the statement beginning "FOR", and those  
19 qualified voters opposed to the amendments shall vote by marking an "X" or a check  
20 mark in the square beside the statement beginning "AGAINST".

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

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

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

31 **"§ 7A-140. Number; election; term; qualification; oath.**

32           There shall be at least one district judge for each district. Each district judge shall be  
33 elected by the qualified voters of the district court district in which he is to serve at the  
34 ~~time of the election for members of the General Assembly specified by Chapter 163 of the~~  
35 General Statutes. The number of judges for each district shall be determined by the  
36 General Assembly. Each judge shall be a resident of the district for which elected, and  
37 shall serve a term of four years, beginning on the first Monday in December following  
38 his election.

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

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

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

2   **"§ 147-4. Executive officers – election; term; induction into office.**

3       The executive department shall consist of a Governor, a Lieutenant Governor, a  
4 Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an  
5 Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a  
6 Commissioner of Labor, who shall be elected for a term of four years, by the qualified  
7 electors of the State, ~~at the same time and places, and in the same manner, as members of the~~  
8 ~~General Assembly are elected~~ as provided by Chapter 163 of the General Statutes. Their  
9 term of office shall commence on the first day of January next after their election and  
10 continue until their successors are elected and qualified. The persons having the highest  
11 number of votes, respectively, shall be declared duly elected, but if two or more be  
12 equal and highest in votes for the same office, then one of them shall be chosen by joint  
13 ballot of both houses of the General Assembly. Contested elections shall be determined  
14 by a joint ballot of both houses of the General Assembly in such manner as shall be  
15 prescribed by law."

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

17   **"§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

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

22       A vacancy in the office of coroner shall be filled by the county commissioners, and  
23 the person so appointed shall, upon qualification, hold office until his successor is  
24 elected and qualified. If the coroner were elected as the nominee of a political party,  
25 then the county commissioners shall consult with the county executive committee of  
26 that political party before filling the vacancy, and shall appoint the person  
27 recommended by that committee if the party makes a recommendation within 30 days  
28 of the occurrence of the vacancy; this sentence shall apply only to the counties of  
29 Alamance, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus,  
30 Caldwell, Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood,  
31 Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk,  
32 Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.

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

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

41   **"§ 161-1. Election and term of office.**

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

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

2   **"§ 162-1. Election and term of office.**

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

6           Sec. 16. G.S. 163-1 is amended in the table by rewriting the "DATE OF  
7 ELECTION" entries for State Senator and member of the State House of  
8 Representatives to read: "Tuesday next after the first Monday in November 1990 and  
9 every four years thereafter".

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

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

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

20   **"§ 163-8. Filling vacancies in State executive offices.**

21       If the office of Governor or Lieutenant Governor shall become vacant, the  
22 provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers  
23 shall be vacated by death, resignation, or otherwise than by expiration of term, it shall  
24 be the duty of the Governor to appoint another to serve until his successor is elected and  
25 qualified: Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction,  
26 Attorney General, Commissioner of Agriculture, Commissioner of Labor, and  
27 Commissioner of Insurance. Each such vacancy shall be filled by election at the first  
28 election for members of the General Assembly or Governor, whichever occurs first, that  
29 occurs more than 60 days after the vacancy has taken place, and the person chosen shall  
30 hold the office for the remainder of the unexpired four-year term: Provided, that when a  
31 vacancy occurs in any of the offices named in this section and the term expires on the  
32 first day of January succeeding the next election for members of the General Assembly  
33 or Governor, whichever comes first, the Governor shall appoint to fill the vacancy for  
34 the unexpired term of the office.

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

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

41   **"§ 163-9. Filling vacancies in State and district judicial offices.**

42       Vacancies occurring in the offices of Justice of the Supreme Court, judge of the  
43 Court of Appeals, and judge of the superior court for causes other than expiration of  
44 term shall be filled by appointment of the Governor. An appointee shall hold his place

1 until the next election for members of the General Assembly, whichever comes first,  
2 that is held more than 60 days after the vacancy occurs, at which time an election shall  
3 be held to fill the unexpired term of the office: Provided, that when the unexpired term  
4 of the office in which the vacancy has occurred expires on the first day of January  
5 succeeding the next election for members of the General Assembly, or Governor,  
6 whichever comes first, the Governor shall appoint to fill that vacancy for the unexpired  
7 term of the office.

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

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

12 **"§ 163-10. Filling vacancy in office of district attorney.**

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

22 Sec. 22. G.S. 163-11(a) reads as rewritten:

23 "(a) If a vacancy shall occur in the General Assembly by death, resignation, or  
24 otherwise than by expiration of term, the Governor shall immediately appoint ~~for the~~  
25 ~~unexpired part of the term~~ the person recommended by the political party executive  
26 committee provided by this section. The person so appointed shall hold office for the  
27 remainder of the unexpired term, except if the next election for Governor which occurs  
28 more than 60 days after the effective date of the vacancy is:

29 (1) Before the date of the expiration date of the term; and

30 (2) Before the next regular statewide election for members of the General  
31 Assembly,

32 the appointment shall be until the next election for Governor, and at that election, a  
33 person shall be elected to fill the remainder of the unexpired term. The Governor shall  
34 make the appointment within seven days of receiving the recommendation of the  
35 appropriate committee. If the Governor fails to make the appointment within the  
36 required period, he shall be presumed to have made the appointment and the legislative  
37 body to which the appointee was recommended is directed to seat the appointee as a  
38 member in good standing for the duration of the unexpired term."

39 Sec. 23. G.S. 163-12 reads as rewritten:

40 **"§ 163-12. Filling vacancy in United States Senate.**

41 Whenever there shall be a vacancy in the office of United States Senator from this  
42 State, whether caused by death, resignation, or otherwise than by expiration of term, the  
43 Governor shall appoint to fill the vacancy until an election shall be held to fill the office.  
44 The Governor shall issue his writ for the election of a Senator to be held at the time of

1 the first election for members of the General Assembly or Governor, whichever comes  
2 first, that is held more than 60 days after the vacancy occurs. The person elected shall  
3 hold the office for the remainder of the unexpired term. The election shall take effect  
4 from the date of the canvassing of the returns."

5           Sec. 24. Each statute and each local act which states that a vacancy in an  
6 elected office shall be filled until the next election for members of the General  
7 Assembly, or similarly relies on the date of General Assembly elections as determining  
8 when an event is to take place or the duration of an appointment, shall be considered  
9 instead to use the date of the next statewide election for Governor or General Assembly,  
10 whichever comes first, as the determining date for whatever purpose the date of the  
11 General Assembly election is now used.

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

17           Sec. 26. This act is effective upon ratification.