

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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HOUSE BILL 1489

Short Title: Limit Sessions/Four-year Terms. (Public)

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Sponsors: Representatives Owens; Underhill, Hurley, Allen, Allred, Barefoot, Bell, Cole, Cunningham, Goodwin, Lucas, McMahan, Nye, Redwine, Wainwright, and Walker.

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Referred to: Rules, Calendar, and Operations of the House.

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May 30, 2002

A BILL TO BE ENTITLED

1  
2 AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE  
3 FOR FOUR-YEAR TERMS FOR MEMBERS OF THE GENERAL ASSEMBLY  
4 AND TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS.

5 The General Assembly of North Carolina enacts:

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

8 "**Sec. 2. Number of Senators.**

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

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

13 "**Sec. 4. Number of Representatives.**

14 The House of Representatives shall be composed of 120 Representatives, ~~biennially~~  
15 quadrennially chosen by ballot."

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

18 "**Sec. 8. Elections.**

19 The election for members of the General Assembly shall be held for the respective  
20 districts in ~~1972-2004~~ and every ~~two~~ four years thereafter, at the places and on the day  
21 prescribed by law."

22 **SECTION 4.** Section 11(1) of Article II of the North Carolina Constitution  
23 reads as rewritten:

24 "(1) Regular sessions. The General Assembly shall meet in regular session in 1973  
25 and every two years thereafter on the day prescribed by law. Beginning with the regular  
26 session in 2003, during an odd-numbered year the General Assembly shall remain in  
27 session for no more than 135 calendar days, except that this period may be extended by

1 joint resolution once per regular session for not more than 10 days. The month of  
2 December in each even-numbered year is also included in the calculation. If the General  
3 Assembly upon convening of the regular session meets for not more than two  
4 consecutive calendar days and then adjourns for not less than 30 days, that period of  
5 adjournment shall be excluded from the 135 days. If the regular session meets in even-  
6 numbered years, the General Assembly shall remain in session for no more than 60  
7 calendar days, except that this period may be extended by joint resolution once per  
8 regular session for not more than 10 days, but the month in December in each even-  
9 numbered year is excluded from the calculation. Any reconvened session called under  
10 Section 5 of Article III of this Constitution shall be excluded from the calculations of  
11 this section. Neither house shall proceed upon public business unless a majority of all of  
12 its members are actually present. No valid action, other than a resolution of  
13 adjournment, may be taken by the General Assembly after the time limits prescribed in  
14 this section have expired."

15 **SECTION 5.** Section 9 of Article II of the North Carolina Constitution reads  
16 as rewritten:

17 **"Sec. 9. Term of office.**

18 The term of office of Senators and Representatives shall commence on the first day  
19 ~~of January~~ Wednesday in December next after their election."

20 **SECTION 6.** Section 2(1) of Article III of the Constitution of North  
21 Carolina reads as rewritten:

22 "(1) **Election and term.** The Governor and Lieutenant Governor shall be elected  
23 by the qualified voters of the State in ~~1972-2004~~ and every four years thereafter, at the  
24 ~~same time and places as members of the General Assembly are elected.~~ places and on  
25 the day prescribed by law. Their term of office shall be four years and shall commence  
26 on the first day of January next after their election and continue until their successors  
27 are elected and qualified."

28 **SECTION 7.** Section 7(3) of Article III of the Constitution of North  
29 Carolina reads as rewritten:

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

41 **SECTION 8.** Section 9(3) of Article IV of the Constitution of North  
42 Carolina reads as rewritten:

43 "(3) **Clerks.** A Clerk of the Superior Court for each county shall be elected for a  
44 term of four years by the qualified voters thereof, at the same time and places as

1 members of the ~~General Assembly~~ United States House of Representatives are elected  
2 on a statewide basis. If the office of Clerk of the Superior Court becomes vacant  
3 otherwise than by the expiration of the term, or if the people fail to elect, the senior  
4 regular resident Judge of the Superior Court serving the county shall appoint to fill the  
5 vacancy until an election can be regularly held."

6 **SECTION 9.** Section 18(1) of Article IV of the Constitution of North  
7 Carolina reads as rewritten:

8 "(1) **District Attorneys.** The General Assembly shall, from time to time, divide  
9 the State into a convenient number of prosecutorial districts, for each of which a District  
10 Attorney shall be chosen for a term of four years by the qualified voters thereof, at the  
11 same time and places as members of the ~~General Assembly~~ United States House of  
12 Representatives are ~~elected.~~ elected on a statewide basis. Only persons duly authorized  
13 to practice law in the courts of this State shall be eligible for election or appointment as  
14 a District Attorney. The District Attorney shall advise the officers of justice in his  
15 district, be responsible for the prosecution on behalf of the State of all criminal actions  
16 in the Superior Courts of his district, perform such duties related to appeals therefrom as  
17 the Attorney General may require, and perform such other duties as the General  
18 Assembly may prescribe."

19 **SECTION 10.** Section 19 of Article IV of the Constitution of North Carolina  
20 reads as rewritten:

21 "**Sec. 19. Vacancies.** Unless otherwise provided in this Article, all vacancies occurring  
22 in the offices provided for by this Article shall be filled by appointment of the  
23 Governor, and the appointees shall hold their places until the ~~next election for members~~  
24 ~~of the General Assembly~~ next statewide election for members of the United States  
25 House of Representatives that is held more than 60 days after the vacancy occurs, when  
26 elections shall be held to fill the offices. When the unexpired term of any of the offices  
27 named in this Article of the Constitution in which a vacancy has occurred, and in which  
28 it is herein provided that the Governor shall fill the vacancy, expires on the first day of  
29 January succeeding the ~~next election for members of the General Assembly~~ next  
30 statewide election for members of the United States House of Representatives, the  
31 Governor shall appoint to fill that vacancy for the unexpired term of the office. If any  
32 person elected or appointed to any of these offices shall fail to qualify, the office shall  
33 be appointed to, held and filled as provided in case of vacancies occurring therein. All  
34 incumbents of these offices shall hold until their successors are qualified."

35 **SECTION 11.** The amendments set out in Sections 1 through 10 of this act  
36 shall be submitted to the qualified voters of the State at a statewide election to be held  
37 on the Tuesday after the first Monday in November of 2002, which election shall be  
38 conducted under the laws then governing elections in the State. Ballots, voting systems,  
39 or both may be used in accordance with Chapter 163 of the General Statutes. The  
40 question to be used in the voting systems and ballots shall be:

41 **"[ ] FOR [ ] AGAINST**

42 Constitutional amendments limiting the length of the legislative session,  
43 making the term of members of the General Assembly four years beginning with

1 members elected in 2004, and making conforming amendments concerning the election  
2 of other officers and the filling of vacancies."

3 **SECTION 12.** If a majority of votes cast on the question are in favor of the  
4 amendments set out in Sections 1 through 10 of this act, the State Board of Elections  
5 shall certify the amendments to the Secretary of State. The constitutional amendments  
6 shall become effective upon certification. The Secretary of State shall enroll the  
7 amendments so certified among the permanent records of that office.

8 **SECTION 13.** G.S. 7A-140 reads as rewritten:

9 **"§ 7A-140. Number; election; term; qualification; oath.**

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

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

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

23 **SECTION 13.1.** G.S. 120-11.1 reads as rewritten:

24 **"§ 120-11.1. Time of meeting.**

25 The regular session of the Senate and House of Representatives shall be held  
26 biennially beginning at 12:00 noon on the ~~third Wednesday after the second Monday in~~  
27 January first Wednesday in December next after their election. ~~election or the statewide~~  
28 election of the United States House of Representatives."

29 **SECTION 14.** G.S. 147-4 reads as rewritten:

30 **"§ 147-4. Executive officers – election; term; induction into office.**

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

44 **SECTION 15.** G.S. 152-1 reads as rewritten:

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

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

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

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

24 **SECTION 16.** G.S. 161-1, now superseded by G.S. 161-2, is repealed.

25 **SECTION 17.** G.S. 162-1 reads as rewritten:

26 **"§ 162-1. Election and term of office.**

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

30 **SECTION 18.** G.S. 163-1 is amended in the table by rewriting the "DATE  
31 OF ELECTION" entries for State Senator and member of the State House of  
32 Representatives to read: "Tuesday next after the first Monday in November 2004 and  
33 every four years thereafter".

34 **SECTION 19.** G.S. 163-1 is further amended in the table by rewriting the  
35 "TERM OF OFFICE" entries for State Senator and member of the State House of  
36 Representatives to read: "Four years".

37 **SECTION 20.** G.S. 163-1 is further amended in the table by rewriting the  
38 "DATE OF ELECTION" entries for justices and judges of the Appellate Division,  
39 judges of the superior courts, judges of the district courts, district attorney, county  
40 commissioners, clerk of superior court, register of deeds, sheriff, and coroner, to read:  
41 "At the next regular statewide election for members of the United States House of  
42 Representatives, immediately preceding the termination of each regular term."

43 **SECTION 21.** G.S. 163-8 reads as rewritten:

44 **"§ 163-8. Filling vacancies in State executive offices.**

1 If the office of Governor or Lieutenant Governor shall become vacant, the  
2 provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers  
3 shall be vacated by death, resignation, or otherwise than by expiration of term, it shall  
4 be the duty of the Governor to appoint another to serve until his successor is elected and  
5 qualified: Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction,  
6 Attorney General, Commissioner of Agriculture, Commissioner of Labor, and  
7 Commissioner of Insurance. Each such vacancy shall be filled by election at the first  
8 statewide election for members of the ~~General Assembly~~ United States House of  
9 Representatives that occurs more than 60 days after the vacancy has taken place, and the  
10 person chosen shall hold the office for the remainder of the unexpired four-year term:  
11 Provided, that when a vacancy occurs in any of the offices named in this section and the  
12 term expires on the first day of January succeeding ~~the next election for members of the~~  
13 ~~General Assembly~~ the next statewide election for members of the United States House  
14 of Representatives, the Governor shall appoint to fill the vacancy for the unexpired term  
15 of the office.

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

21 **SECTION 22.** G.S. 163-9 reads as rewritten:

22 "**§ 163-9. Filling vacancies in State and district judicial offices.**

23 (a) Vacancies occurring in the offices of Justice of the Supreme Court, judge of  
24 the Court of Appeals, and judge of the superior court for causes other than expiration of  
25 term shall be filled by appointment of the Governor. An appointee to the office of  
26 Justice of the Supreme Court or judge of the Court of Appeals shall hold office until  
27 January 1 next following the next statewide election for members of the ~~General~~  
28 ~~Assembly~~ United States House of Representatives that is held more than 60 days after  
29 the vacancy occurs, at which time an election shall be held for an eight-year term and  
30 until a successor is elected and qualified.

31 (b) Except for judges specified in the next paragraph of this subsection, an  
32 appointee to the office of judge of superior court shall hold his place until the next  
33 statewide election for members of the ~~General Assembly~~ United States House of  
34 Representatives that is held more than 60 days after the vacancy occurs, at which time  
35 an election shall be held to fill the unexpired term of the office.

36 Appointees for judges of the superior court from any district:

37 (1) With only one resident judge; or

38 (2) In which no county is subject to section 5 of the Voting Rights Act of  
39 1965,

40 shall hold the office until the next statewide election of members of the ~~General~~  
41 ~~Assembly~~ United States House of Representatives that is held more than 60 days after  
42 the vacancy occurs, at which time an election shall be held to fill an eight-year term.

43 (c) When the unexpired term of the office in which the vacancy has occurred  
44 expires on the first day of January succeeding the next statewide election for members

1 of the ~~General Assembly, United States House of Representatives,~~ the Governor shall  
2 appoint to fill that vacancy for the unexpired term of the office.

3 (d) Vacancies in the office of district judge which occur before the expiration of  
4 a term shall not be filled by election. Vacancies in the office of district judge shall be  
5 filled in accordance with G.S. 7A-142."

6 **SECTION 23.** G.S. 163-10 reads as rewritten:

7 "**§ 163-10. Filling vacancy in office of district attorney.**

8 Any vacancy occurring in the office of district attorney for causes other than  
9 expiration of term shall be filled by appointment of the Governor. An appointee shall  
10 hold his place until the next statewide election for members of the ~~General Assembly~~  
11 United States House of Representatives that is held more than 60 days after the vacancy  
12 occurs, at which time an election shall be held to fill the unexpired term of the office:  
13 Provided, that when the unexpired term of the office in which the vacancy has occurred  
14 expires on the first day of January succeeding the next statewide election for members  
15 of the ~~General Assembly, United States House of Representatives,~~ the Governor shall  
16 appoint to fill that vacancy for the unexpired term of the office."

17 **SECTION 24.** G.S. 163-12 reads as rewritten:

18 "**§ 163-12. Filling vacancy in United States Senate.**

19 Whenever there shall be a vacancy in the office of United States Senator from this  
20 State, whether caused by death, resignation, or otherwise than by expiration of term, the  
21 Governor shall appoint to fill the vacancy until an election shall be held to fill the office.  
22 The Governor shall issue his writ for the election of a Senator to be held at the time of  
23 the first statewide election for members of the ~~General Assembly, United States House~~  
24 of Representatives that is held more than 60 days after the vacancy occurs. The person  
25 elected shall hold the office for the remainder of the unexpired term. The election shall  
26 take effect from the date of the canvassing of the returns."

27 **SECTION 25.** Each statute and each local act which states that a vacancy in  
28 an elected office shall be filled until the next election for members of the General  
29 Assembly, or similarly relies on the date of General Assembly elections as determining  
30 when an event is to take place or the duration of an appointment, shall be considered  
31 instead to use the date of the next statewide election of members of the United States  
32 House of Representatives as the determining date for whatever purpose the date of the  
33 General Assembly election is now used.

34 **SECTION 26.** Sections 13 through 25 of this act shall take effect only upon  
35 approval of the voters of the constitutional amendments set forth in Sections 1 through  
36 10 of this act. If the constitutional amendments proposed in those sections are approved  
37 by the voters, Sections 13 through 25 of this act shall become effective at the same time  
38 as the constitutional amendments.