

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 193

Short Title: Legislative Four-Year Terms. (Public)

Sponsors: Representatives Warren, Hardister, and Yarborough (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Elections and Ethics Law, if favorable, Judiciary I

February 27, 2017

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE
FOUR-YEAR TERMS FOR MEMBERS OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

PART I. FOUR-YEAR TERMS

SECTION 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."

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

"Sec. 4. Number of Representatives.

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

SECTION 3. Section 6 of Article II of the Constitution of North Carolina reads as
rewritten:

"Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a
qualified voter of the State, shall not have served more than three terms in the Senate, and shall
have resided in the State as a citizen for two years and in the district for which he is chosen for one
year immediately preceding his election. Service in more than 12 months of a four-year term
constitutes serving a term in the Senate for the purpose of calculating the limitation of three
terms."

SECTION 4. Section 7 of Article II of the Constitution of North Carolina reads as
rewritten:

"Each Representative, at the time of his election, shall be a qualified voter of the State, shall
not have served more than three terms in the House of Representatives, and shall have resided in
the district for which he is chosen for one year immediately preceding his election. Service in
more than 12 months of a four-year term constitutes serving a term in the House of
Representatives for the purpose of calculating the limitation of three terms."

SECTION 5. Section 8 of Article II of the Constitution of North Carolina reads as
rewritten:

"Sec. 8. Elections.

The election for members of the General Assembly shall be held for the respective districts in
~~1972-2022~~ and every ~~two~~ four years thereafter, at the places and on the day prescribed by law."



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1 **SECTION 6.** Section 7(3) of Article III of the Constitution of North Carolina reads as
2 rewritten:

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

13 **SECTION 7.** Section 9(3) of Article IV of the Constitution of North Carolina reads as
14 rewritten:

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

21 **SECTION 8.** Section 18(1) of Article IV of the Constitution of North Carolina reads
22 as rewritten:

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

33 **SECTION 9.** Section 19 of Article IV of the Constitution of North Carolina reads as
34 rewritten:

35 **"Sec. 19. Vacancies.**

36 Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by
37 this Article shall be filled by appointment of the Governor, and the appointees shall hold their
38 places until the ~~next election for members of the General Assembly~~ next statewide election for
39 members of the United States House of Representatives that is held more than 60 days after the
40 vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of
41 the offices named in this Article of the Constitution in which a vacancy has occurred, and in which
42 it is herein provided that the Governor shall fill the vacancy, expires on the first day of January
43 succeeding the next ~~election for members of the General Assembly~~ statewide election for
44 members of the United States House of Representatives, the Governor shall appoint to fill that
45 vacancy for the unexpired term of the office. If any person elected or appointed to any of these
46 offices shall fail to qualify, the office shall be appointed to, held and filled as provided in case of
47 vacancies occurring therein. All incumbents of these offices shall hold until their successors are
48 qualified."

49 **SECTION 10.** Section 2 of Article VII of the Constitution of North Carolina reads as
50 rewritten:

51 **"Sec. 2. Sheriffs.**

1 In each county a Sheriff shall be elected by the qualified voters thereof at the same time and
2 places as members of the ~~General Assembly~~United States House of Representatives are elected on
3 a statewide basis and shall hold his office for a period of four years, subject to removal for cause
4 as provided by law. No person is eligible to serve as Sheriff if that person has been convicted of a
5 felony against this State, the United States, or another state, whether or not that person has been
6 restored to the rights of citizenship in the manner prescribed by law. Convicted of a felony
7 includes the entry of a plea of guilty; a verdict or finding of guilt by a jury, judge, magistrate, or
8 other adjudicating body, tribunal, or official, either civilian or military; or a plea of no contest,
9 nolo contendere, or the equivalent."

10 11 **PART II. STATUTORY CONFORMING CHANGES**

12 **SECTION 11.** G.S. 7A-60(a2) reads as rewritten:

13 "(a2) Upon the convening of each regular session of the General Assembly in the
14 odd-numbered year and its reconvening in the even-numbered year, the Administrative Office of
15 the Courts shall report its recommendations regarding the allocation of assistant district attorneys
16 for the upcoming fiscal biennium and fiscal year to the General Assembly, including any request
17 for additional assistant district attorneys. The report shall include the number of assistant district
18 attorneys that the Administrative Office of the Courts recommends to be allocated to each
19 prosecutorial district and the workload formula established through the National Center for State
20 Courts on which each recommended allocation is based. Any reports required under this
21 subsection shall be made to the Joint Legislative Commission of Governmental Operations, the
22 House of Representatives and Senate Appropriations Subcommittees on Justice and Public, and
23 the Fiscal Research Division."

24 **SECTION 12.** G.S. 7A-140 reads as rewritten:

25 **"§ 7A-140. Number; election; term; qualification; oath.**

26 There shall be at least one district judge for each district. Each district judge shall be elected by
27 the qualified voters of the district court district in which he or she is to serve at the time of the
28 statewide election for members of the ~~General Assembly~~. United States House of Representatives.
29 The number of judges for each district shall be determined by the General Assembly. Each judge
30 shall be a resident of the district for which elected, and shall serve a term of four years, beginning
31 on the first day in January next after election.

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

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

37 **SECTION 13.** G.S. 115C-18 reads as rewritten:

38 **"§ 115C-18. Election of Superintendent of Public Instruction.**

39 The Superintendent of Public Instruction shall be elected by the qualified voters of the State in
40 1972 and every four years thereafter at the same time and places as members of the ~~General~~
41 ~~Assembly~~United States House of Representatives are ~~elected~~. elected statewide. ~~His~~ ~~The~~ term of
42 office shall be four years and shall commence on the first day of January next after election and
43 continue until ~~his~~ ~~a~~ successor is elected and qualified.

44 If the office of the Superintendent of Public Instruction is vacated by death, resignation, or
45 otherwise, it shall be the duty of the Governor to appoint another to serve until ~~his~~ ~~a~~ successor is
46 elected and qualified. Every such vacancy shall be filled by election at the first statewide election
47 for members of the ~~General Assembly~~United States House of Representatives that occurs more
48 than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the
49 remainder of the unexpired term fixed in Article III, Sec. 7 of the Constitution of North Carolina.
50 When a vacancy occurs in the office and the term expires on the first day of January succeeding
51 the next statewide election for members of the ~~General Assembly~~, United States House of

1 Representatives, the Governor shall appoint to fill the vacancy for the unexpired term of the office.
2 Upon the occurrence of a vacancy in the office for any of the causes stated herein, the Governor
3 may appoint an interim officer to perform the duties of that office until a person is appointed or
4 elected pursuant to Article III, Sec. 7 of the Constitution of North Carolina to fill the vacancy and
5 is qualified.

6 The time of the election of the Superintendent of Public Instruction shall be in accordance with
7 the provisions of Article 1 of Subchapter I of Chapter 163 of the General Statutes.

8 The election, term and induction into office of the Superintendent of Public Instruction shall
9 be in accordance with the provisions of G.S. 147-4."

10 **SECTION 14.** G.S. 163-182-13A(c) reads as rewritten:

11 "(c) Jurisdiction. – When a contest arises out of ~~the general election, the General Assembly~~
12 ~~elected at the same time shall hear and decide it. Any other contest election for any elective office~~
13 established by Article III of the Constitution, the contest shall be heard by the General Assembly
14 sitting at the time of the election."

15 **SECTION 15.** G.S. 120-37(a) reads as rewritten:

16 "(a) At the convening of the first session of the General Assembly ~~following each biennial~~
17 ~~election of members of the General Assembly; in the odd-numbered year,~~ each house shall elect a
18 principal clerk for a term of two years, subject to the condition that each officer shall serve at the
19 pleasure of the house that elected him or her and until his or her successor is elected. The reading
20 clerk and sergeant-at-arms of the Senate shall serve for terms of two years, subject to the condition
21 that each serves at the pleasure of the Senate and until the officer's successor is elected. The
22 reading clerk and sergeant-at-arms of the House of Representatives shall serve as provided in the
23 rules of the House."

24 **SECTION 16.** G.S. 120C-304(a) reads as rewritten:

25 "(a) No legislator or former legislator may register as a lobbyist under this Chapter:

26 (1) While in office.

27 (2) Before the ~~later of the~~ close of session as set forth in G.S. 120C-100(a)(4)b.1 in
28 which the legislator ~~served~~ was elected or appointed or six months after leaving
29 ~~office; office, whichever is longer.~~"

30 **SECTION 17.** G.S. 138A-14(c) reads as rewritten:

31 "(c) The Commission, jointly with the Committee, shall make basic ethics education and
32 awareness presentations to all legislators and legislative employees upon their election, reelection,
33 appointment, or employment and shall offer periodic refresher presentations as the Commission
34 and the Committee deem appropriate. Every legislator shall participate in an ethics presentation
35 approved by the Commission and Committee within two months of ~~either the convening of the~~
36 each biennium of the General Assembly to which the legislator is elected or within two months of
37 the legislator's appointment, whichever is later appointed. Additionally, if a legislator is appointed
38 to fill a vacancy, that legislator shall participate in an ethics presentation approved by the
39 Commission and Committee within two months of that legislator's appointment. Every legislative
40 employee shall participate in an ethics presentation approved by the Commission and Committee
41 within three months of employment, and shall attend refresher ethics education presentations at
42 least every two years thereafter, in a manner as the Commission and Committee deem
43 appropriate."

44 **SECTION 18.** G.S. 147-4 reads as rewritten:

45 "**§ 147-4. Executive officers – election; term; induction into office.**

46 The executive department shall consist of a Governor, a Lieutenant Governor, a Secretary of
47 State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a
48 Commissioner of Agriculture, a Commissioner of Insurance, and a Commissioner of Labor, who
49 shall be elected for a term of four years, by the qualified electors of the State, at the same time and
50 places, and in the same manner, as members of the ~~General Assembly~~ United States House of
51 Representatives are elected statewide. Their term of office shall commence on the first day

1 of January next after their election and continue until their successors are elected and qualified.
2 The persons having the highest number of votes, respectively, shall be declared duly elected, but if
3 two or more be equal and highest in votes for the same office, then one of them shall be chosen by
4 joint ballot of both houses of the General Assembly. Contested elections shall be determined by a
5 joint ballot of both houses of the General Assembly in such manner as shall be prescribed by law."

6 **SECTION 19.** G.S. 152-1 reads as rewritten:

7 "**§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

8 In each county a coroner shall be elected by the qualified voters thereof in the same manner
9 and at the same time as the statewide election of members of the ~~General Assembly, United States~~
10 House of Representatives and shall hold office for a term of four years, or until his successor is
11 elected and qualified.

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

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

28 **SECTION 20.** G.S. 161-1 reads as rewritten:

29 "**§ 161-1. Election and term of office.**

30 In each county there shall be elected biennially by the qualified voters thereof, as provided for
31 the statewide election of members of the ~~General Assembly, United States~~ House of
32 Representatives, a register of deeds."

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

34 "**§ 163-8. Filling vacancies in State executive offices.**

35 If the office of Governor or Lieutenant Governor shall become vacant, the provisions of
36 G.S. 147-11.1 shall apply. If the office of any of the following officers shall be vacated by death,
37 resignation, or otherwise than by expiration of term, it shall be the duty of the Governor to appoint
38 another to serve until ~~his~~ a successor is elected and qualified: Secretary of State, Auditor,
39 Treasurer, Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture,
40 Commissioner of Labor, and Commissioner of Insurance. Each such vacancy shall be filled by
41 election at the first statewide election for members of the ~~General Assembly, United States~~ House
42 of Representatives that occurs more than 60 days after the vacancy has taken place, and the person
43 chosen shall hold the office for the remainder of the unexpired four-year term: Provided, that when
44 a vacancy occurs in any of the offices named in this section and the term expires on the first day of
45 January succeeding the next statewide election for members of the ~~General Assembly, United~~
46 States House of Representatives, the Governor shall appoint to fill the vacancy for the unexpired
47 term of the office.

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

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

2 "**§ 163-9. Filling vacancies in State and district judicial offices.**

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

10 (b) Except for judges specified in the next paragraph of this subsection, an appointee to the
11 office of judge of superior court shall hold ~~his place~~office until the next statewide election for
12 members of the ~~General Assembly~~United States House of Representatives that is held more than
13 60 days after the vacancy occurs, at which time an election shall be held to fill the unexpired term
14 of the office.

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

16 (1) With only one resident judge; or

17 (2) In which no county is subject to section 5 of the Voting Rights Act of 1965,
18 shall hold the office until the next election of members of the General Assembly that is held more
19 than 60 days after the vacancy occurs, at which time an election shall be held to fill an eight-year
20 term.

21 (c) When the unexpired term of the office in which the vacancy has occurred expires on
22 the first day of January succeeding the next statewide election for members of the ~~General~~
23 ~~Assembly~~United States House of Representatives, the Governor shall appoint to fill that vacancy
24 for the unexpired term of the office.

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

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

29 "**§ 163-10. Filling vacancy in office of district attorney.**

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

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

39 "**§ 163-12. Filling vacancy in United States Senate.**

40 Whenever there shall be a vacancy in the office of United States Senator from this State,
41 whether caused by death, resignation, or otherwise than by expiration of term, the Governor shall
42 appoint to fill the vacancy until an election shall be held to fill the office. If the Senator was
43 elected as the nominee of a political party, the person appointed by the Governor shall be a person
44 affiliated with that same political party. The Governor shall issue a writ for the election of a
45 Senator to be held at the time of the first statewide election for members of the ~~General~~
46 ~~Assembly~~United States House of Representatives that is held more than 60 days after the vacancy
47 occurs. The person elected shall hold the office for the remainder of the unexpired term. The
48 election shall take effect from the date of the canvassing of the returns."

49 **SECTION 25.** G.S. 163-329 reads as rewritten:

50 "**§ 163-329. Elections to fill vacancy in office created after primary filing period opens.**

1 (a) General. – If a vacancy is created in the office of justice of the Supreme Court, judge of
2 the Court of Appeals, or judge of superior court after the filing period for the primary opens but
3 more than 60 days before the general election, and under the Constitution of North Carolina an
4 election is to be held for that position, such that the office shall be filled in the general election as
5 provided in G.S. 163-9, the election to fill the office for the remainder of the term shall be
6 conducted without a primary using the method provided in subsection (b1) of this section. If a
7 vacancy is created in the office of justice of the Supreme Court, judge of the Court of Appeals, or
8 judge of superior court before the filing period for the primary opens, and under the Constitution
9 of North Carolina an election is to be held for that position, such that the office shall be filled in
10 the general election as provided in G.S. 163-9, the election to fill the office for the remainder of
11 the term shall be conducted in accordance with G.S. 163-322.

12 (b) Repealed by Session Laws 2006-192, s. 8(a), effective August 3, 2006, and applicable
13 to vacancies occurring on or after that date.

14 (b1) Method for Vacancy Election. – If a vacancy for the office of justice of the Supreme
15 Court, judge of the Court of Appeals, or judge of the superior court occurs more than 60 days
16 before the general election and after the opening of the filing period for the primary, then the State
17 Board of Elections shall designate a special filing period of one week for candidates for the office.
18 If more than two candidates file and qualify for the office in accordance with G.S. 163-323, then
19 the Board shall conduct the election for the office as follows:

20 (1) When the vacancy described in this section occurs more than 63 days before the
21 date of the second primary for members of the ~~General Assembly, United States~~
22 House of Representatives, a special primary shall be held on the same day as
23 the second primary. The two candidates with the most votes in the special
24 primary shall have their names placed on the ballot for the general election held
25 on the same day as the general election for members of the ~~General~~
26 Assembly, United States House of Representatives.

27 (2) When the vacancy described in this section occurs less than 64 days before the
28 date of the second primary, a general election for all the candidates shall be
29 held on the same day as the general election for members of the ~~General~~
30 Assembly, United States House of Representatives and the results shall be
31 determined on a plurality basis as provided by G.S. 163-292.

32 (3) Repealed by Session Laws 2013-381, s. 51.1, effective January 1, 2014.

33 (c) Applicable Provisions. – Except as provided in this section, the provisions of this
34 Article apply to elections conducted under this section.

35 (d) Rules. – The State Board of Elections shall adopt rules for the implementation of this
36 section. The rules are not subject to Article 2A of Chapter 150B of the General Statutes. The rules
37 shall include the following:

38 (1) If after the first-choice candidate is eliminated, a ballot does not indicate one of
39 the uneliminated candidates as an alternative choice, the ballot is exhausted and
40 shall not be counted after the initial round.

41 (2) The fact that the voter does not designate a second or third choice does not
42 invalidate the voter's higher choice or choices.

43 (3) The fact that the voter gives more than one ranking to the same candidate shall
44 not invalidate the vote. The highest ranking given a particular candidate shall
45 count as long as the candidate is not eliminated.

46 (4) In case of a tie between candidates such that two or more candidates have an
47 equal number of first choices and more than two candidates qualify for the
48 second round, instant runoff voting shall be used to determine which two
49 candidates shall advance to the second round."
50

51 PART III. REFERENDUM AND EFFECTIVE DATES

1 **SECTION 26.** The amendments set out in Parts I and II of this act shall be submitted
2 to the qualified voters of the State at the general election on November 6, 2018, which election
3 shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or
4 both may be used in accordance with Chapter 163 of the General Statutes. The question to be used
5 in the voting systems and ballots shall be:

6 " FOR AGAINST

7 Constitutional amendment making the term of members of the General Assembly four
8 years, with no more than three terms in a chamber, beginning with members elected in 2020 and
9 making conforming amendments concerning the election of other officers and the filling of
10 vacancies."

11 **SECTION 27.** If a majority of the votes cast on the question are in favor of the
12 amendments set out in Parts I and II of this act, the State Board of Elections shall certify the
13 amendments to the Secretary of State, and the amendments and Part III of this act become
14 effective January 1, 2020, and apply to elections and vacancies occurring on or after that date. The
15 Secretary of State shall enroll the amendments so certified among the permanent records of that
16 office.

17 **SECTION 28.** This act is effective when it becomes law.