

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 370*
Second Edition Engrossed 4/10/89

Short Title: Resign-to-Run.

(Public)

Sponsors: Senators Guy; Allran, Ballance, Barker, Block, Carpenter, Chalk, Cochrane, Conder, Daniel, Daughtry, Ezzell, Goldston, Hardin, Harris, Hunt of Durham, Hunt of Moore, Johnson of Cabarrus, Johnson of Wake, Kaplan, Kincaid, Martin of Pitt, Martin of Guilford, Marvin, Murphy, Parnell, Plyler, Rauch, Raynor, Richardson, Royall, Sands, Shaw, Sherron, Simpson, Smith, Soles, Speed, Staton, Swain, Taft, Tally, Walker, Ward, and Winner.

Referred to: Election Laws.

March 8, 1989

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A PERSON TO RESIGN FROM STATE OR LOCAL OFFICE IF HE OR SHE SEEKS ANOTHER PUBLIC OFFICE THE TERM OF WHICH RUNS CONCURRENTLY WITH THAT OF THE OFFICE HE IS HOLDING.

The General Assembly of North Carolina enacts:

Section 1. Chapter 163 of the General Statutes is amended by adding a new Article to read:

“ARTICLE 11A.

“RESIGN-TO-RUN.

“§ 163-125. Resignation required from one office to run for another in certain cases.

(a) No individual may qualify as a candidate for elective public office who holds another elective office, whether State, district, county or municipal, more than 40 days of the term of which runs concurrently with the term of office for which he seeks to qualify without resigning from such office prior to the last day of qualifying for the office he intends to seek. Said resignation shall be effective on or before the last day of qualifying.

1 (b) For the purpose of determining the method of filling the vacancy, it shall be
2 considered to have occurred on the date the resignation is submitted.

3 (c) A resignation required by this section requires the elected official to execute
4 an instrument in writing directed, except as provided below, to the Governor,
5 irrevocably resigning from the office he or she currently occupies. In case of a State
6 officer, the resignation shall be presented to the Governor with a copy to the Secretary
7 of State and to the Executive Secretary-Director of the State Board of Elections. In the
8 case of a county, municipal, or special district public officer, the resignation shall be
9 directed and presented to the clerk of or clerk to that unit of government, or the
10 custodian of records of the unit if there is no clerk.

11 (d) A person who has resigned under the provisions of this section shall not hold
12 over until a successor is elected or appointed and qualifies.

13 (e) This section does not apply to persons holding any elective federal office, nor
14 does it apply to persons holding the office of judge or justice in the General Court of
15 Justice who seek another office as a judge or justice in the General Court of Justice.

16 (f) For the purposes of this section, the phrase 'last day of qualifying' means in
17 the case of a county, district, State, or federal election, the last day for filing under G.S.
18 163-106 or G.S. 163-13, in the case of a partisan municipal election, the last day for
19 filing under G.S. 163-291, and in the case of a nonpartisan municipal election, the last
20 day for filing under G.S. 163-294.2.

21 (g) This section does not apply to candidacies under the Presidential Preference
22 Primary Act."

23 Sec. 2. This act shall become effective with respect to elections held on or
24 after January 1, 1990.