

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 796

Short Title: Sampson Vacancies.

(Public)

Sponsors: Representative Bowen.

Referred to: Judiciary II.

April 15, 1991

A BILL TO BE ENTITLED

1 AN ACT TO EXTEND TO SAMPSON COUNTY LAWS THAT REQUIRE
2 VACANCIES IN THE OFFICES OF SHERIFF, REGISTER OF DEEDS, AND
3 COUNTY COMMISSIONER TO BE FILLED WITH THE NOMINEE OF THE
4 POLITICAL PARTY EXECUTIVE COMMITTEE OF THE VACATING
5 MEMBER.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 153A-27.1 reads as rewritten:

9 **"§ 153A-27.1. Vacancies on board of commissioners in certain counties.**

10 (a) If a vacancy occurs on the board of commissioners, the remaining members
11 of the board shall appoint a qualified person to fill the vacancy. If the number of
12 vacancies on the board is such that a quorum of the board cannot be obtained, the
13 chairman of the board shall appoint enough members to make up a quorum, and the
14 board shall then proceed to fill the remaining vacancies. If the number of vacancies on
15 the board is such that a quorum of the board cannot be obtained and the office of
16 chairman is vacant, the clerk of superior court of the county shall fill the vacancies upon
17 the request of any remaining member of the board or upon the petition of any registered
18 voters of the county.

19 (b) If the member being replaced was serving a two-year term, or if the member
20 was serving a four-year term and the vacancy occurs later than 60 days before the
21 general election held after the first two years of the term, the appointment to fill the
22 vacancy is for the remainder of the unexpired term. Otherwise, the term of the person
23 appointed to fill the vacancy extends to the first Monday in December next following
24 the first general election held more than 60 days after the day the vacancy occurs; at that

1 general election, a person shall be elected to the seat vacated for the remainder of the
2 unexpired term.

3 (c) To be eligible for appointment to fill a vacancy, a person must (i) be a
4 member of the same political party as the member being replaced, if that member was
5 elected as the nominee of a political party, and (ii) be a resident of the same district as
6 the member being replaced, if the county is divided into electoral districts.

7 (d) If the member who vacated the seat was elected as a nominee of a political
8 party, the board of commissioners, the chairman of the board, or the clerk of superior
9 court, as the case may be, shall consult the county executive committee of the
10 appropriate political party before filling the vacancy, and shall appoint the person
11 recommended by the county executive committee of the political party of which the
12 commissioner being replaced was a member, if the party makes a recommendation
13 within 30 days of the occurrence of the vacancy.

14 (e) Whenever because of G.S. 153A-58(3)b. or because of any local act, only the
15 qualified voters of an area which is less than the entire county were eligible to vote in
16 the general election for the member whose seat is vacant, the appointing authority must
17 accept the recommendation only if the county executive committee restricted voting to
18 committee members who represent precincts all or part of which were within the
19 territorial area of the district of the county commissioner.

20 (f) The provisions of any local act which provides that a county executive
21 committee of a political party shall fill any vacancy on a board of county commissioners
22 are repealed.

23 (g) Counties subject to this section are not subject to G.S. 153A-27.

24 (h) This section shall apply only in the following counties: Alamance, Alleghany,
25 Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret,
26 Cherokee, Clay, Cleveland, Dare, Davidson, Davie, Forsyth, Graham, Guilford,
27 Haywood, Henderson, Hyde, Jackson, Madison, McDowell, Mecklenburg, Moore, Polk,
28 Randolph, Rockingham, Rutherford, Sampson, Stanly, Stokes, Transylvania, Wake, and
29 Yancey."

30 Sec. 2. G.S. 161-15(a1) reads as rewritten:

31 "(a1) When a vacancy occurs from any cause in the office of register of deeds, the
32 board of county commissioners shall fill such vacancy by the appointment of a
33 successor for the unexpired term, who shall qualify and give bond as required by law. If
34 the register of deeds were elected as the nominee of a political party, the board of
35 county commissioners shall consult the county executive committee of that political
36 party before filling the vacancy and shall appoint the person recommended by that
37 committee, if the party makes a recommendation within 30 days of the occurrence of
38 the vacancy. Counties subject to this subsection are not subject to subsection (a). This
39 subsection shall apply only in the following counties: Alamance, Alleghany, Ashe,
40 Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret,
41 Cherokee, Clay, Cleveland, Davidson, Davie, Forsyth, Gaston, Graham, Guilford,
42 Haywood, Henderson, Hyde, Jackson, Madison, McDowell, Mecklenburg, Moore, New
43 Hanover, Polk, Randolph, Rockingham, Rutherford, Sampson, Stanly, Stokes, Surry,
44 Transylvania, Wake, Watauga, and Yancey."

1 Sec. 3. G.S. 162-5.1 reads as rewritten:

2 "**§ 162-5.1. Vacancy filled in certain counties; duties performed by coroner or**
3 **chief deputy.**

4 If any vacancy occurs in the office of sheriff, the coroner of the county shall execute
5 all process directed to the sheriff until the board shall elect a sheriff to supply the
6 vacancy for the residue of the term, who shall possess the same qualifications, enter into
7 the same bond, and be subject to removal, as the sheriff regularly elected. If the sheriff
8 were elected as a nominee of a political party, the board of commissioners shall consult
9 the county executive committee of that political party before filling the vacancy, and
10 shall elect the person recommended by the county executive committee of that party, if
11 the party makes a recommendation within 30 days of the occurrence of the vacancy. If
12 the board should fail to fill such vacancy, the coroner shall continue to discharge the
13 duties of sheriff until it shall be filled.

14 In those counties where the office of coroner has been abolished, the chief deputy
15 sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall
16 perform all the duties of the sheriff until the county commissioners appoint some person
17 to fill the unexpired term. In all counties the regular deputy sheriffs shall, during the
18 interim of the vacancy, continue to perform their duties with full authority.

19 This section shall apply only in the following counties: Alamance, Alleghany,
20 Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret,
21 Cherokee, Clay, Cleveland, Davidson, Davie, Forsyth, Gaston, Graham, Guilford,
22 Haywood, Henderson, Hyde, Jackson, Madison, McDowell, Mecklenburg, Moore, New
23 Hanover, Onslow, Polk, Randolph, Rockingham, Rutherford, Sampson, Stanly, Stokes,
24 Transylvania, Wake, and Yancey."

25 Sec. 4. This act is effective upon ratification.