

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 558
HOUSE BILL 796

AN ACT TO EXTEND TO PENDER AND SAMPSON COUNTIES LAWS THAT REQUIRE VACANCIES IN THE OFFICES OF SHERIFF AND COUNTY COMMISSIONER TO BE FILLED WITH THE NOMINEE OF THE POLITICAL PARTY EXECUTIVE COMMITTEE OF THE VACATING MEMBER.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

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

Sec. 2. G.S. 162-5.1 reads as rewritten:

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

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

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

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

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives