

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 71

Short Title: Four-Year Terms. (Public)

Sponsors: Representatives Goforth, Brubaker, Carney, Howard (Primary Sponsors); Adams, K. Alexander, Allen, Bell, Bordsen, Braxton, Brisson, Bryant, Cole, Cotham, Crawford, Dockham, Earle, England, Farmer-Butterfield, Fisher, E. Floyd, Frye, Glazier, Goodwin, Haire, Hall, Harrell, Hill, Holliman, Hughes, Jackson, Jeffus, Johnson, Jones, Justice, Lucas, Mackey, McGee, McLawhorn, Michaux, Mobley, Owens, Parmon, Pierce, Rapp, Sager, Spear, Sutton, Tolson, Tucker, Underhill, Wainwright, E. Warren, R. Warren, West, Williams, Womble, Wray, and Yongue.

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

February 5, 2009

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:

SECTION 1. Section 2 of Article II of the North Carolina Constitution 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 North Carolina Constitution 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 8 of Article II of the North Carolina Constitution reads as rewritten:

"Sec. 8. Elections.

The election for members of the General Assembly shall be held for the respective districts in ~~1972-2010~~ and every ~~two~~ four years thereafter, at the places and on the day prescribed by law."

SECTION 4. Section 14(1) of Article II of the North Carolina Constitution reads as rewritten:

"(1) President Pro Tempore – succession to presidency. The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve ~~until the expiration of his term of office as Senator~~ until:

(a) The expiration of his term of office as Senator; or

(b) The qualification of a new Lieutenant Governor, whichever comes first."



1 **SECTION 5.** Section 2(1) of Article III of the North Carolina Constitution reads as
2 rewritten:

3 "(1) Election and term. The Governor and Lieutenant Governor shall be elected by the
4 qualified voters of the State in ~~1972~~ 2010 and every four years thereafter, ~~at the same time and~~
5 ~~places as members of the General Assembly are elected at the places and on the day prescribed~~
6 by law. Their term of office shall be four years and shall commence on the first day of January
7 next after their election and continue until their successors are elected and qualified."

8 **SECTION 6.** Section 7 of Article III of the North Carolina Constitution reads as
9 rewritten:

10 "**Sec. 7. Other elective officers.**

11 (1) Officers. A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public
12 Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor,
13 and a Commissioner of Insurance shall be elected by the qualified voters of the State in ~~1972~~
14 2010 and every four years thereafter, at the same time and places as ~~members of the General~~
15 ~~Assembly are the Governor is~~ elected. Their term of office shall be four years and shall
16 commence on the first day of January next after their election and continue until their
17 successors are elected and qualified.

18 (2) Duties. Their respective duties shall be prescribed by law.

19 (3) Vacancies. If the office of any of these officers is vacated by death, resignation, or
20 otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is
21 elected and qualified. Every such vacancy shall be filled by election at the first election for
22 members of the General Assembly or Governor, whichever comes first, that occurs more than
23 60 days after the vacancy has taken place, and the person chosen shall hold the office for the
24 remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office of
25 any of the officers named in this Section and the term expires on the first day of January
26 succeeding the next election for members of the General Assembly, the Governor shall appoint
27 to fill the vacancy for the unexpired term of the office.

28 (4) Interim officers. Upon the occurrence of a vacancy in the office of any one of these
29 officers for any of the causes stated in the preceding paragraph, the Governor may appoint an
30 interim officer to perform the duties of that office until a person is appointed or elected
31 pursuant to this Section to fill the vacancy and is qualified.

32 (5) Acting officers. During the physical or mental incapacity of any one of these
33 officers to perform the duties of his office, as determined pursuant to this Section, the duties of
34 his office shall be performed by an acting officer who shall be appointed by the Governor.

35 (6) Determination of incapacity. The General Assembly shall by law prescribe with
36 respect to those officers, other than the Governor, whose offices are created by this Article,
37 procedures for determining the physical or mental incapacity of any officer to perform the
38 duties of his office, and for determining whether an officer who has been temporarily
39 incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of
40 his office. Removal of those officers from office for any other cause shall be by impeachment.

41 (7) Special qualifications for Attorney General. Only persons duly authorized to
42 practice law in the courts of this State shall be eligible for appointment or election as Attorney
43 General."

44 **SECTION 7.** Section 9(3) of Article V of the North Carolina Constitution reads as
45 rewritten:

46 "(3) Clerks. A Clerk of the Superior Court for each county shall be elected for a term of
47 four years by the qualified voters thereof, at the same time and places as members of the
48 General Assembly or the Governor are elected. If the office of Clerk of the Superior Court
49 becomes vacant otherwise than by the expiration of the term, or if the people fail to elect, the
50 senior regular resident Judge of the Superior Court serving the county shall appoint to fill the
51 vacancy until an election can be regularly held."

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

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

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

14 "**Sec. 19. Vacancies.**

15 Unless otherwise provided in this Article, all vacancies occurring in the offices provided for
16 by this Article shall be filled by appointment of the Governor, and the appointees shall hold
17 their places until the next election for members of the General Assembly or Governor,
18 whichever comes first, that is held more than 60 days after the vacancy occurs, when elections
19 shall be held to fill the offices. When the unexpired term of any of the offices named in this
20 Article of the Constitution in which a vacancy has occurred, and in which it is herein provided
21 that the Governor shall fill the vacancy, expires on the first day of January succeeding the next
22 election for members of the General Assembly or Governor, whichever comes first, the
23 Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person
24 elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to,
25 held and filled as provided in case of vacancies occurring therein. All incumbents of these
26 offices shall hold until their successors are qualified."

27 **SECTION 10.** The amendments set out in Sections 1 through 9 of this act shall be
28 submitted to the qualified voters of the State at the statewide primary election on May 4, 2010,
29 which election shall be conducted under the laws then governing elections in the State. Ballots,
30 voting systems, or both may be used in accordance with Chapter 163 of the General Statutes.
31 The question to be used in the voting systems and ballots shall be:

32 " FOR AGAINST

33 Constitutional amendments making the term of members of the General Assembly
34 four years, beginning with members elected in 2010, and making conforming amendments
35 concerning the election of other officers and the filling of vacancies."

36 **SECTION 11.** If a majority of votes cast on the question are in favor of the
37 amendments set out in Sections 1 through 9 of this act, the State Board of Elections shall certify
38 the amendments to the Secretary of State. The constitutional amendments shall apply to
39 members of the General Assembly elected in the 2010 general election so that they shall serve
40 four-year terms. The Secretary of State shall enroll the amendments so certified among the
41 permanent records of that office.

42 **SECTION 12.** This act is effective when it becomes law.