

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 119

Short Title: Clarify Vacancy Elections - County Commission. (Public)

Sponsors: Representatives Lewis and Bert Jones (Primary Sponsors).

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

Referred to: Elections and Ethics Law

February 16, 2017

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE TIME OF THE NEXT GENERAL ELECTION TO FILL  
CERTAIN VACANCIES IN THE OFFICE OF COUNTY COMMISSIONER.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 153A-27 reads as rewritten:

"§ 153A-27. Vacancies on the board of commissioners.

(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 five registered voters of the county. If for any other reason the remaining members of the board do not fill a vacancy within 60 days after the day the vacancy occurs, the clerk shall immediately report the vacancy to the clerk of superior court of the county. The clerk of superior court shall, within 10 days after the day the vacancy is reported to him, fill the vacancy.

(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 for county commissioner 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 for county commissioner held more than 60 days after the day the vacancy occurs; at that general election, a person shall be elected to the seat vacated, either to the remainder of the unexpired term or, if the term has expired, to a full 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. The board of commissioners or the clerk of superior court, as the case may be, shall consult the county executive committee of the appropriate political party before filling a vacancy, but neither the board nor the clerk of the superior court is bound by the committee's recommendation."

**SECTION 2.** G.S. 153A-27.1 reads as rewritten:

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



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

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

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

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

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

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

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

35 (h) This section shall apply only in the following counties: Alamance, Alexander,  
36 Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Caldwell, Carteret, Cherokee, Clay,  
37 Cleveland, Cumberland, Dare, Davidson, Davie, Forsyth, Graham, Guilford, Harnett, Haywood,  
38 Henderson, Hyde, Jackson, Lee, Lincoln, Macon, Madison, McDowell, Mecklenburg, Moore,  
39 Pender, Polk, Randolph, Rockingham, Rutherford, Sampson, Stanly, Stokes, Transylvania, and  
40 Yancey."

41 **SECTION 3.** This act is effective when it becomes law and applies to vacancy  
42 elections held on or after that date.