

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1281  
PROPOSED COMMITTEE SUBSTITUTE H1281-PCS30366-RR-38

Short Title: Election Director Oversight.

(Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO GRANT ADDITIONAL OVERSIGHT OF COUNTY BOARD OF ELECTION  
EMPLOYEES TO THE STATE BOARD OF ELECTIONS IN ORDER TO PROVIDE  
GREATER CONSISTENCY IN THE ADMINISTRATION OF ELECTIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 163-33(1) and (12) read as rewritten:

"§ 163-33. Powers and duties of county boards of elections.

The county boards of elections within their respective jurisdictions shall exercise all powers granted to such boards in this Chapter, and they shall perform all the duties imposed upon them by law, which shall include the following:

(1) To make and issue such rules, regulations, and instructions, not inconsistent with ~~law~~ law, with directives promulgated under the provisions of G.S. 163-132.4, or the rules with the rules, orders, and directives established by the State Board of Elections, as it may deem necessary for the guidance of election officers and voters.

...

(12) To perform such other duties as may be prescribed by this ~~Chapter or Chapter, by directives promulgated pursuant to G.S. 163-132.4, or by the rules-rules, orders, and directives of the State Board of Elections.~~ Elections.

...."

**SECTION 2.** G.S. 163-35(b) reads as rewritten:

"(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county board of elections. The specified duties and responsibilities shall include adherence to the duties delegated to the county board of elections pursuant to G.S. 163-33. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections.

The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Director of the State Board of Elections the termination of the employment of the county board's director of elections. The petition shall clearly state the



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1 reasons for termination. Upon receipt of the petition, the Executive Director shall forward a  
2 copy of the petition by certified mail, return receipt requested, to the county director of  
3 elections involved. The county director of elections may reply to the petition within 15 days of  
4 receipt thereof. Within 20 days of receipt of the county director of elections' reply or the  
5 expiration of the time period allowed for the filing of the reply, the State Executive Director  
6 shall render a decision as to the termination or retention of the county director of elections. The  
7 decision of the Executive Director of the State Board of Elections shall be final unless the  
8 decision is, within 20 days from the official date on which it was made, deferred by the State  
9 Board of Elections. If the State Board defers the decision, then the State Board shall make a  
10 final decision on the termination after giving the county director of elections an opportunity to  
11 be heard and to present witnesses and information to the State Board, and then notify the  
12 Executive Director of its decision in writing. Any one or more members of the State Board  
13 designated by the remaining members of the State Board may conduct the hearing and make a  
14 final determination on the termination. For the purposes of this subsection, the member(s)  
15 designated by the remaining members of the State Board shall possess the same authority  
16 conferred upon the chairman pursuant to G.S. 163-23. If the decision, rendered after the  
17 hearing, results in concurrence with the decision entered by the Executive Director, the  
18 decision becomes final. If the decision rendered after the hearing is contrary to that entered by  
19 the Executive Director, then the Executive Director shall, within 15 days from the written  
20 notification, enter an amended decision consistent with the results of the decision by the State  
21 Board of Elections or its designated member(s).

22 Upon majority vote on the recommendation of the Executive Director, the State Board of  
23 Elections may initiate proceedings for the termination of a county director of elections for just  
24 cause. If the State Board votes to initiate proceedings for termination, the State Board shall  
25 state the reasons for the termination in writing and send a copy by certified mail, return receipt  
26 requested, to the county director of elections. The director has 15 days to reply in writing to the  
27 notice. The State Board of Elections shall also notify the chair of the county board of elections  
28 and the chair of the county board of commissioners that the State Board has initiated  
29 termination proceedings. The State Board shall make a final decision on the termination after  
30 giving the county director of elections an opportunity to be heard, present witnesses, and  
31 provide information to the State Board. Any one or more members of the State Board  
32 designated by the remaining members of the State Board may conduct the hearing and make a  
33 final decision. For the purposes of this subsection, the member(s) designated by the remaining  
34 members of the State Board shall possess the same authority conferred upon the chairman  
35 pursuant to G.S. 163-23.

36 A county director of elections may be suspended, with pay, without warning for causes  
37 relating to personal conduct detrimental to service to the county or to the State Board of  
38 Elections, pending the giving of written reasons, in order to avoid the undue disruption of work  
39 or to protect the safety of persons or property or for other serious reasons. Any suspension may  
40 be initiated by the Executive Director but may not be for more than five days. Upon placing a  
41 county director of elections on suspension, the Executive Director shall, as soon as possible,  
42 reduce to writing the reasons for the suspension and forward copies to the county director of  
43 elections, the members of the county board of elections, the chair of the county board of  
44 commissioners, and the State Board of Elections. If no action for termination has been taken  
45 within five days, the county director of elections shall be fully reinstated.

46 Termination of any county director of elections shall comply with this subsection."

47 **SECTION 3.** G.S. 163-35(d) reads as rewritten:

48 "(d) Duties. – The director of elections may be empowered by the county board of  
49 elections to perform such administrative duties as might be assigned by the board and the  
50 chairman. In addition, the director of elections may be authorized by the chairman to execute  
51 the responsibilities devolving upon the chairman provided such authorization by any chairman

1 shall in no way transfer the responsibility for compliance with the law. The chairman shall  
2 remain liable for proper execution of all matters specifically assigned to him by law.

3 The county board of elections shall have authority, by resolution adopted by majority vote,  
4 to delegate to its director of elections so much of the administrative detail of the election  
5 functions, duties, and work of the board, its officers and members, as is now, or may hereafter  
6 be vested in the board or its members as the county board of elections may see fit: Provided,  
7 that the board shall not delegate to a director of elections any of its quasi-judicial or  
8 policy-making duties and authority. Such a resolution shall require adherence to the duties  
9 delegated to the county board of elections pursuant to G.S. 163-33. Within the limitations  
10 imposed upon ~~him~~ the director of elections by the resolution of the county board of elections  
11 the acts of a properly appointed director of elections shall be deemed to be the acts of the  
12 county board of elections, its officers and members."

13 **SECTION 4.** This act becomes effective July 1, 2009, and every county board of  
14 elections shall amend or adopt the resolution of duties and responsibilities required by this act  
15 on or before January 1, 2010.