

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 387
Committee Substitute Favorable 4/27/21
Committee Substitute #2 Favorable 5/5/21
PROPOSED COMMITTEE SUBSTITUTE H387-PCS10462-ST-10

Short Title: Flexibility in Filling Vacancies/Durham.

(Local)

Sponsors:

Referred to:

March 25, 2021

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FLEXIBILITY IN FILLING VACANCIES IN THE OFFICE OF
MAYOR AND CITY COUNCIL IN THE CITY OF DURHAM.

The General Assembly of North Carolina enacts:

SECTION 1. Section 13.2 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended by Chapter 852 of the 1979 Session Laws, reads as rewritten:

~~"§ 13.2. Sec. 13.2.~~ Vacancies in office of Mayor or member of City Council. – (a) For the purpose of this section, the word 'vacancy' also includes a refusal or failure to qualify for office.

(b) If a vacancy occurs in the office of Mayor, the City Council ~~shall, except as provided in subsection (d) of this section,~~ may, within 60 days-120 days of the vacancy, ~~choose~~ appoint some qualified person for Mayor or call for a special election in accordance with Section 13.3 of this Chapter for the remainder of the unexpired portion of the term.

(c) If a vacancy occurs in the office of Council member, the City Council ~~shall, except as provided in subsection (d) of this section,~~ may, within 60 days-120 days of the vacancy, ~~choose~~ appoint some qualified person to fill the place of such Council member or call for a special election in accordance with Section 13.3 of this Chapter for the remainder of the unexpired portion of the term.

If the vacancy to be filled occurs in a seat occupied by a Council member elected from a ward, then such person chosen to fill such vacancy shall reside in the ward from which the Council member whose place is to be filled was nominated.

(d) If the City Council fails to choose ~~does not appoint~~ some qualified person within ~~60 days~~ 120 days after the vacancy occurs, it may not fill the vacancy by appointment, but shall call a special election under the provisions of Section 13.3 of this Chapter, provided that if the vacancy occurs after the first day of June in the year in which the term is to expire, the City Council need not call a special election.

(e) Notwithstanding the remainder of this section, if a State or county primary or general election, municipal primary or general election, referendum, or special election is scheduled to be held within 120 days of the date the vacancy occurs, and there are at least 10 days prior to the date by which mail-in absentee ballots must be available for voting for that scheduled election, the City Council shall call for a special election in accordance with Section 13.3 of this Chapter to fill the vacancy for the remainder of the unexpired portion of the term to coincide with that scheduled election."



1 **SECTION 2.** Section 13.3 of the Charter of the City of Durham, being Chapter 671
2 of the 1975 Session Laws, as amended by Chapter 852 of the 1979 Session Laws and S.L.
3 2001-480, reads as rewritten:

4 "~~§ 13.3.~~ Sec. 13.3. Special election to fill vacancies. – (a) If the City Council ~~is required to~~
5 ~~call~~ calls a special election under the provisions of Section 13.2 of this Charter, it shall follow
6 the procedures of this section.

7 (b) The special election shall be called and conducted in accordance with G.S. 163-287,
8 except as otherwise provided in this section.

9 (c) The City Council shall within seven days of the expiration of the ~~60-day~~ 120-day
10 period provided in Section 13.2(d) of this Charter adopt a resolution calling a special election.
11 Such special election may be held on the same date as any county or State or municipal primary,
12 or general election, referendum or special election, but may not otherwise be held within the
13 period beginning 30 days before and ending 30 days after the date of any such election, primary,
14 special election, or referendum.

15 "

16 **SECTION 3.** This act is effective when it becomes law.