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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10365-ST-42

Short Title: Election Director Dismissal Process.

(Public)

Sponsors: Representative Clampitt.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE THE PROCESS BY WHICH A COUNTY BOARD OF ELECTIONS
3 DIRECTOR MAY BE DISMISSED.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 163-35.1 reads as rewritten:

6 "**§ 163-35.1. Termination-Dismissal of county director of elections; suspension.**

7 (a) The county board of elections may, by petition signed by a majority of the board,
8 recommend to the Executive Director of the State Board of Elections the ~~termination-dismissal~~
9 of the employment of ~~the~~ that county board of elections' county board's director of elections. The
10 petition shall clearly state the reasons for ~~termination-recommending the dismissal~~. If the petition
11 states as a reason for dismissal a violation of G.S. 163-35(a)(1) through (a)(7) or of Article 4A
12 of this Chapter, the county director of elections shall be suspended until completion of the process
13 set forth in this section. The decision to initiate a petition for dismissal of the employment of the
14 county director of elections shall not be subject to Article 33C of Chapter 143 of the General
15 Statutes, and the resulting petition shall not be a public record except as provided in this section.

16 (a1) Upon receipt of the petition, the Executive Director shall immediately notify the
17 county director of elections in writing and forward a copy of the petition by certified mail, return
18 receipt requested, to the county director of elections involved. ~~elections.~~ The county director of
19 elections ~~may reply to the petition within 15 days of receipt thereof.~~ shall respond to the petition,
20 if so desired, within 15 calendar days of initial notification by the Executive Director; such
21 response shall not be a public record except as provided in this section.

22 (a2) Within 20 calendar days of receipt of the county director of elections' ~~reply-response~~
23 or the expiration of the time period allowed for the filing of the ~~reply,~~ response, the State
24 Executive Director shall render a decision as to the ~~termination-dismissal~~ or retention of the
25 county director of elections. If the decision is to retain the county director of elections, the
26 Executive Director shall so notify the county board of elections and the county director of
27 elections; such notifications shall not be a public record. If the decision is to dismiss the county
28 director of elections, the Executive Director shall so notify the county board of elections and the
29 county director of elections; except as provided in G.S. 163-27.2, such notifications, and the
30 petition for dismissal by the county board of elections, shall become a public record at the time
31 the Executive Director notifies the county board.

32 (a3) The decision of the Executive Director ~~of the State Board of Elections~~ shall be final
33 unless the decision is, within 20 calendar days from the official date on which it was made,
34 deferred by the State ~~Board of Elections.~~ Board by vote of the State Board in an open meeting.
35 If the State Board defers the decision, then the State Board shall make a final decision on the
36 ~~termination-dismissal~~ after giving the county director of elections and the county board an



1 opportunity to be heard and to present witnesses and information to the State Board, and then
2 notify the Executive Director of its decision in writing. Any one or more members of the State
3 Board designated by the remaining members of the State Board may conduct the hearing and
4 make a final determination on the termination. For the purposes of this section, the member(s)
5 designated by the remaining members of the State Board shall possess the same authority
6 conferred upon the chairman pursuant to G.S. 163-23. If the decision, rendered after the hearing,
7 results in concurrence with the decision entered by the Executive Director, the decision becomes
8 final. If the decision rendered after the hearing is contrary to that entered by the Executive
9 Director, then the Executive Director shall, within 15 days from the written notification, enter an
10 amended decision consistent with the results of the decision by the State Board or its designated
11 member(s). Board in an open meeting. The decision of the State Board as to retention or dismissal
12 of the county director of elections shall be final. Except as provided in G.S. 163-27.2, documents
13 related to dismissal of a county director of elections under this subsection shall be a public record.

14 (b) Upon majority vote by the State Board in an open meeting on the recommendation of
15 the Executive Director, the State Board of Elections may initiate proceedings for the termination
16 dismissal of a county director of elections for just cause. If the State Board votes to initiate
17 proceedings for termination, the State Board shall state cause, stating the reasons for the
18 termination dismissal in writing and send writing, immediately notifying the county director of
19 elections, and forwarding a copy by certified mail, return receipt requested, to the county director
20 of elections. If the petition states as a reason for dismissal a violation of G.S. 163-35(a)(1)
21 through (a)(7) or of Article 4A of this Chapter, the county director of elections shall be suspended
22 until completion of the process set forth in this section. The county director of elections has 15
23 calendar days to reply in writing to the notice. The State Board of Elections shall also notify the
24 chair of the county board of elections and the chair of the county board of commissioners that
25 the State Board has initiated termination dismissal proceedings. The State Board shall make a
26 final decision on the termination dismissal after giving the county director of elections and the
27 county board of elections an opportunity to be heard, present witnesses, and provide information
28 to the State Board. Any one or more members of the State Board designated by the remaining
29 members of the State Board may conduct the hearing and make a final decision. For the purposes
30 of this section, the member(s) designated by the remaining members of the State Board shall
31 possess the same authority conferred upon the chairman pursuant to G.S. 163-23. Except as
32 provided in G.S. 163-27.2, documents related to dismissal of a county director of elections under
33 this subsection shall be a public record.

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

45 (d) Termination Dismissal of any county director of elections shall comply with this
46 section.

47 (e) In the event the Executive Director is recused due to an actual or apparent conflict of
48 interest from rendering a decision under this section, the chair and vice-chair of the State Board
49 shall designate a member of staff to fulfill those duties."

50 **SECTION 2.** G.S. 163-35 reads as rewritten:

1 **"§ 163-35. Director of elections to county board of elections; appointment; compensation;**
2 **~~duties; dismissal.~~duties.**

3 (a) County Director of Elections. – In the event a vacancy occurs in the office of county
4 director of elections in any of the county boards of elections in this State, the county board of
5 elections shall submit the name of the person it recommends to fill the vacancy, in accordance
6 with provisions specified in this section, to the Executive Director ~~of the State Board of Elections~~
7 who shall issue a letter of appointment. A person shall not serve as a county director of elections
8 if ~~he~~that person does any of the following:

- 9 (1) Holds any elective public ~~office;~~office.
- 10 (2) Is a candidate for any office in a primary or ~~election;~~election.
- 11 (3) Holds any office in a political party or committee ~~thereof;~~thereof.
- 12 (4) Is a campaign ~~chairman~~chair or finance ~~chairman~~chair for any candidate for
13 public office or serves on any campaign committee for any
14 ~~candidate;~~candidate.
- 15 (5) Has been convicted of a felony in any court unless ~~his~~the rights of citizenship
16 have been restored pursuant to the provisions of Chapter 13 of the General
17 Statutes of North ~~Carolina;~~Carolina.
- 18 (6) Has been removed at any time by the State Board ~~of Elections~~ following a
19 public ~~hearing;~~ hearing.
- 20 (7) Is a member or a spouse, child, spouse of child, parent, sister, or brother of a
21 member of the county board of elections by whom ~~he~~the person would be
22 employed.

23 (b) ~~Appointment, Duties; Termination.~~Appointment. – Upon receipt of a nomination
24 from the county board of elections stating that the nominee for county director of elections is
25 submitted for appointment upon majority selection by the county board of ~~elections~~elections,
26 the Executive Director shall issue a letter of appointment of such nominee to the ~~chairman~~chair
27 of the county board of elections within 10 days after receipt of the nomination, unless good cause
28 exists to decline the appointment. The Executive Director may delay the issuance of appointment
29 for a reasonable time if necessary to obtain a criminal history records check sought under
30 G.S. 143B-968. The Executive Director shall apply the standards provided in G.S. 163-27.2 in
31 determining whether a nominee with a criminal history shall be selected. If the Executive
32 Director determines a nominee shall not be selected and does not issue a letter of appointment,
33 the decision of the Executive Director ~~of the State Board~~ shall be final unless the decision is,
34 within 10 days from the official date on which it was made, deferred by the State Board. If the
35 State Board defers the decision, then the State Board shall make a final decision on appointment
36 of the county director of elections and may direct the Executive Director to issue a letter of
37 appointment. If an Executive Director issues a letter of appointment, the county board of elections
38 shall enter in its official minutes the specified duties, responsibilities and designated authority
39 assigned to the director by the county board of elections. The specified duties and responsibilities
40 shall include adherence to the duties delegated to the county board of elections pursuant to
41 G.S. 163-33. A copy of the specified duties, responsibilities and designated authority assigned to
42 the director shall be filed with the State ~~Board of Elections.~~Board. In the event the Executive
43 Director is recused due to an actual or apparent conflict of interest from rendering a decision
44 under this section, the chair and vice-chair of the State Board shall designate a member of staff
45 to fulfill those duties.

46 (c) ~~Compensation of Directors of Elections.~~Compensation. – Compensation paid to
47 county directors of elections in all counties maintaining full-time registration (five days per
48 week) shall be in the form of a salary in an amount recommended by the county board of elections
49 and approved by the Board of County Commissioners and shall be commensurate with the salary
50 paid to directors in counties similarly situated and similar in population and number of registered
51 voters.

1 The Board of County Commissioners in each county, whether or not the county maintains
2 full-time or modified full-time registration, shall compensate the county director of elections at
3 a minimum rate of twelve dollars (\$12.00) per hour for hours worked in attendance to his or her
4 duties as prescribed by law, including rules and regulations adopted by the State ~~Board of~~
5 ~~Elections, Board.~~ In addition, the county shall pay to the director an hourly wage of at least twelve
6 dollars (\$12.00) per hour for all hours worked in excess of those prescribed in rules and
7 regulations adopted by the State ~~Board of Elections, Board,~~ when such additional hours have
8 been approved by the county board of elections and such approval has been recorded in the
9 official minutes of the county board of elections.

10 In addition to the compensation provided for herein, the county director of elections ~~to the~~
11 ~~county board of elections~~ shall be granted the same vacation leave, sick leave, and petty leave as
12 granted to all other county employees. It shall also be the responsibility of the Board of County
13 Commissioners to appropriate sufficient funds to compensate a replacement for the director of
14 elections when authorized leave is taken.

15 (d) Duties. – The county director of elections may be empowered by the county board of
16 elections to perform such administrative duties as might be assigned by the board and the
17 ~~chairman-chair.~~ In addition, the director of elections may be authorized by the ~~chairman-chair~~
18 to execute the responsibilities devolving upon the ~~chairman-chair~~ provided such authorization by
19 any ~~chairman-chair~~ shall in no way transfer the responsibility for compliance with the law. The
20 ~~chairman-chair~~ shall remain liable for proper execution of all matters specifically assigned to ~~him~~
21 ~~the chair~~ by law.

22 The county board of elections shall have authority, by resolution adopted by majority vote,
23 to delegate to its county director of elections so much of the administrative detail of the election
24 functions, duties, and work of the board, its officers and members, as is now, or may hereafter
25 be vested in the board or its members as the county board of elections may see fit: Provided, that
26 the board shall not delegate to a county director of elections any of its quasi-judicial or
27 policy-making duties and authority. Such a resolution shall require adherence to the duties
28 delegated to the county board of elections pursuant to G.S. 163-33. Within the limitations
29 imposed upon the county director of elections by the resolution of the county board of ~~elections~~
30 ~~elections~~, the acts of a properly appointed county director of elections shall be deemed to be the
31 acts of the county board of elections, its officers and members.

32 (e) Training and Certification. – The State Board ~~of Elections~~ shall conduct a training
33 program consisting of four weeks for each new county director of elections. ~~The Each county~~
34 ~~director of elections~~ shall complete that program. Each county director ~~appointed after May 1995~~
35 ~~of elections~~ shall successfully complete a certification program as provided in G.S. 163-82.24(b)
36 within three years after ~~appointment or by January 1, 2003, whichever occurs later.~~ ~~appointment."~~

37 **SECTION 3.** This act becomes effective October 1, 2023, and applies to dismissals
38 or suspensions initiated on or after that date.