



HOUSE BILL 408: Filling Vacancy/Cabarrus County Bd. of Comm.

2017-2018 General Assembly

Committee: House State and Local Government I	Date: April 4, 2017
Introduced by: Rep. Pittman	Prepared by: Giles Perry
Analysis of: First Edition	Jessica Sammons Committee Co-Counsel

OVERVIEW: House Bill 408 would change the manner in which vacancies on the Cabarrus County Board of Commissioners are filled when the departing member was elected as a nominee of a political party to a process where the appointing authority is bound by the recommendation of the relevant political party, if that recommendation is made within 30 days of the vacancy.

CURRENT LAW: There are two statutory processes governing filling vacancies on the board of county commissioners. Generally, counties are either subject to the method described in G.S. 153A-27 or the modified version described in G.S. 153A-27.1.

Selection of Appointee:

The following chart summarizes who has authority to appoint new members under both statutes:

	G.S. 153A-27	G.S. 153A-27.1
Quorum met on Board	Remaining members of Board appoint new members. If the remaining members do not fill a vacancy within 60 days, the clerk of superior court must be immediately notified, and must then fill the vacancy within 10 days of notification.	Remaining members of Board appoint new members.
Quorum not reached, but Board has a chair	Chair appoints enough new members to obtain quorum, then Board fills remaining vacancies.	Chair appoints enough new members to obtain quorum, then Board fills remaining vacancies.
Quorum not reached and no chair	Clerk of superior court must fill the vacancies upon the request of any remaining member or upon request of any five registered voters in the county.	Clerk of superior court must fill the vacancies upon the request of any number of registered voters.

In both G.S. 153A-27 and 153A-27.1, if departing member was elected to represent an electoral district, the appointee must reside in the same district as the departing member, and if the departing member was elected as a political party nominee, the appointee must be a member of the same political party.

However, under G.S. 153A-27, if the departing member was originally elected as a nominee of a political party, whoever is filling the vacancy (either the board, chair, or the clerk of superior court) must consult the executive committee of the relevant political party before filling a vacancy, but are not required to follow that committee's recommendation.

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Under G.S. 153A-27.1, if the departing member was originally elected as a nominee of a political party, whoever is filling the vacancy must appoint the nominee of the executive committee of the relevant political party if the recommendation is made within 30 days after the seat becomes vacant.

Therefore, the main difference between the two processes is that for those counties subject to G.S. 153A-27.1, the appointing authority is bound by the recommendation of the relevant political party, if that recommendation is made within 30 days of the vacancy.¹

Length of Appointee's Term:

Both G.S. 153A-27 and G.S. 153A-27.1 have the same rules regarding the length of the appointee's term, regardless of who selects the appointee. How long the appointed commissioner will serve depends on the term of the vacating member and when the vacancy occurs during that term, summarized in the following chart:

Term of Vacating Member	Term of Appointee
Departing member was serving 2 year term and vacates office during the term.	Appointee will serve the remainder of unexpired term.
Departing member was serving 4 year term and vacates office later than 60 days before the next general election held after the first two years of the term.	Appointee will serve the remainder of unexpired term.
Departing member was serving 4 year term and vacates office more than 60 days before the next general election.	Appointee will serve until first Monday in December following the next general election. Person elected at next general election will serve for the remainder of the unexpired term.

BILL ANALYSIS: House Bill 408 would add Cabarrus County to the list of counties in which G.S. 153A-27.1 applies, meaning that when a member who was elected as a nominee of a political party vacates their board of commissioners' seat in Cabarrus County, the appointing authority is bound by the recommendation of the relevant political party, if that recommendation is made within 30 days of the vacancy.

EFFECTIVE DATE: The act would be effective when it becomes law and would apply to vacancies filled on or after that date.

BACKGROUND: S.L. 2017-2 clarifies that, in the event of a vacancy during a four-year county board of commissioners' term, the length of the appointment to fill the vacancy is determined by the date of the next general election for county commissioner, not just a general election in which all precincts are open on election day.

¹G.S. 153A-27.1 applies in the following counties: Alamance, Alexander, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Caldwell, Carteret, Cherokee, Clay, Cleveland, Cumberland, Dare, Davidson, Davie, Forsyth, Graham, Guilford, Harnett, Haywood, Henderson, Hyde, Jackson, Lee, Lincoln, Macon, Madison, McDowell, Mecklenburg, Moore, Pender, Polk, Randolph, Rockingham, Rutherford, Sampson, Stanly, Stokes, Transylvania, and Yancey.