



This Bill Analysis reflects the contents of the bill as it was presented in committee.

# SENATE BILL 269: Vacancies in Durham/Cary 2021 Elections.

2021-2022 General Assembly

|                       |  |                     |  |
|-----------------------|--|---------------------|--|
| <b>Committee:</b>     | House Election Law and Campaign Finance Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House | <b>Date:</b>        | June 29, 2021  |
| <b>Introduced by:</b> | Sens. Murdock, Woodard   | <b>Prepared by:</b> | Erika Churchill, Jessica Sammons, Sarah Pilon, and Hillary Woodard |
| <b>Analysis of:</b>   | PCS to Second Edition<br>S269-CSST-22  |                     | Committee Co-Counsel   |

**OVERVIEW:** *The Proposed Committee Substitute (PCS) to Senate Bill to 269 would do the following:*

- *Amend the Charter of the City of Durham to allow the City Council to have 120 days, rather than 60 days, to appoint a qualified person to fill a vacancy in the office of Mayor or City Council member before being required to call a special election.*
- *Authorize the Town of Cary to conduct municipal elections in 2021, notwithstanding Session Law (S.L.) 2021-56.*

[As introduced, this bill was identical to H387, as introduced by Reps. Hawkins, Alston, Reives, which is currently in Senate Rules and Operations of the Senate.]

**Filling Vacancies on the City Council in the City of Durham**

**CURRENT LAW:** Officers for the City of Durham consist of a mayor and six City Council members. The mayor and three City Council members are elected at-large. Three City Council members are elected from wards, with all qualified voters of the city voting for each of those three members. If a vacancy, which includes a refusal or failure to qualify for office, occurs in the office of the Mayor or membership on the City Council, the City Council must choose a qualified person within 60 days to fill the vacancy for the remainder of the unexpired term. If a vacating City Council member was elected from a residency ward, the person chosen to fill the vacancy must reside in the same ward as the vacating member.

If the City Council does not appoint a person to fill the vacancy within 60 days, the City Council is not able to fill the vacancy by appointment, and must call a special election by adopting a resolution within seven days of the expiration of the 60 day period. However, if the vacancy occurs after the first day of June in the year in which the term is to expire, the City Council is not required to call a special election. The special election may be held on the same date as any county, State, or municipal primary or general election, referendum, or special election, but may not be held 30 days before or 30 days after any election, primary, special election, or referendum.

G.S. 160A-63 contains a statutory process for filling vacancies in elected municipal offices, which generally requires a vacancy to be filled by appointment of the remaining city council members. When there is a conflict between the general law and a city charter regarding the powers and duties of city officials, "the two procedures may be used as alternatives, and a city may elect to follow either one." G.S. 160A-3(a).

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**BILL ANALYSIS:** The PCS would amend the charter of the City of Durham to modify the method for filling vacancies in the office of Mayor or City Council. The City Council would have the option to appoint a qualified person to fill the vacancy for the remainder of the unexpired term within 120 days of the vacancy occurring. Within that 120-day period, the City Council would also have the option to call for a special election to fill the vacancy for the remainder of the unexpired term.

If another election is already scheduled to be held with the 120 day period, and if 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 would be required to call for a special election to fill the vacancy for the remainder of the unexpired term to coincide with that special election.

If no appointment is made within 120 days of the vacancy occurring, the City Council would no longer be able to fill the vacancy by appointment, and would be required to call a special election to fill the vacancy within seven days of the expiration of the 120 day period.

## **Authorize the Town of Cary to Conduct Municipal Elections in 2021:**

**CURRENT LAW:** S.L. 2021-56 does the following:

- Delays the scheduled municipal election from 2021 to 2022 in municipalities where there is a municipal election scheduled for 2021 and where less than the entire jurisdiction is eligible to vote for one or more of the municipal candidates on the 2021 ballot. Affected municipalities would have the option for the at-large elections in those districts to be in 2021.
- Extends the terms of the officers currently serving in an affected municipality until his or her successor is elected and qualified in 2022.
- Requires the affected municipalities to evaluate and revise its electoral districts in accordance with state and federal law following the release of federal decennial census data by November 17, 2021, or December 17, 2021, if the municipality is unable to meet the November 17, 2021 deadline.
- Sets the filing period based on when the affected municipality revises its electoral districts as follows:
  - From December 6, 2021, until December 17, 2021, for electoral districts revised by November 17, 2021.
  - From January 3, 2022, until January 7, 2022, for electoral districts revised by December 17, 2021.

Officers for the Town of Cary consist of a mayor, elected for a four-year term, and six council members, elected for staggered four-year terms. Four council members are elected from districts and two council members are elected at-large. Election results are determined using the nonpartisan election and runoff method.

Following the enactment of S.L. 2021-56, the next municipal elections for the Town of Cary are scheduled to be held on March 8, 2022, and any runoff election is scheduled to be held on the date of the second primary or April 26, 2022, if no second primary is held.

**BILL ANALYSIS:** The PCS would authorize the Town of Cary to conduct municipal elections in 2021, provided the Town of Cary adopts a resolution calling for the municipal elections to be conducted in 2021. The resolution and the districts that would be used for conducting the 2021 municipal elections

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would have to be delivered to the appropriate county boards of elections no later than noon on Monday, July 19, 2021.

If a resolution is adopted, the filing period for the 2021 municipal elections for the Town of Cary would be from July 26, 2021, through August 13, 2021. The election would be held on October 5, 2021, and any runoff election would be held on November 2, 2021.

**EFFECTIVE DATE:** Effective when it becomes law.