



# HOUSE BILL 74: Constitutional Amendment/COS Vacancies.

2023-2024 General Assembly

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<b>Committee:</b>		<b>Date:</b>	June 26, 2024
<b>Introduced by:</b>	Reps. K. Hall, D. Hall, Saine, Mills	<b>Prepared by:</b>	Jessica Sammons, Erika Churchill, Hillary Woodard, William Brewer Staff Attorneys
<b>Analysis of:</b>	Second Edition		

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**OVERVIEW:** *House Bill 74 would place a proposed amendment to the North Carolina Constitution requiring that the political party of the vacating member of certain State executive offices submit three nominees to the Governor and requiring the Governor to appoint a person to serve the remainder of the unexpired term from the list of nominees within seven days after receipt of the list of nominees on the November 5, 2024 ballot.*

**CURRENT LAW:** Under the North Carolina Constitution, the Council of State consists of 10 members: Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance. Article III, Section 8. Vacancies in the office of Governor and Lieutenant Governor are filled differently than vacancies in the remaining eight offices that comprise the Council of State.

Article III, Section 3 provides for a line of succession to the office of Governor, when vacancies arise. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor; the further order of succession is established by the General Assembly. A successor serves for the remainder of the unexpired term of the vacating Governor, when a new Governor is elected and qualified. The General Assembly has enacted G.S. 147-11.1 to provide for the line of succession, as required by the Constitution.

Article III, Section 7(3) of the North Carolina Constitution provides the process for filling vacancies that occur in the remaining eight offices that comprise the Council of State -- Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance. If a vacancy occurs in any of these offices, the Governor appoints a person to fill that vacancy to serve until a successor is elected and qualified. The appointee holds office until the next even-year election. The Governor may also appoint an interim officer to fulfill the duties of the vacated office until a person is elected or appointed to fill the vacancy.

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**BILL ANALYSIS:** The bill would submit to the voters of North Carolina the question of whether to amend the State's Constitution to modify the method of filling vacancies in the remaining eight offices that comprise the Council of State; no changes would be made to the vacancy filling process for the Governor or Lieutenant Governor. The ballot question would be considered at the statewide general election to be held on November 5, 2024, and the ballot question would read:

"Constitutional amendment to fill Council of State vacancies by having the Governor select from three nominees submitted by the State executive committee of the political party with which the vacating officer was affiliated when elected."

**EFFECTIVE DATE:** If the amendment to the North Carolina Constitution is approved by the voters in the November 2024 election, the amendment would become effective January 1, 2025, and apply to vacancies occurring on or after that date.