



General Statutes Commission

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MEMORANDUM

To: North Carolina House of Representatives
From: General Statutes Commission
Re: SB 556 (Amendmt. To Add HB 33 (Adjust GSC Membership))
Date: June 19, 2019

General Comments

The proposed amendment to SB 556 (GSC People First Language 2019) essentially adds the text of HB 33 (Adjust GSC Membership) to SB 556 as a new Part II-A. The amendment (i) removes an appointment to the General Statutes Commission (Commission) by the dean of the Charlotte School of Law because of the school's closure; (ii) deletes a provision that applied only to the original appointments to the Commission and is now obsolete; (iii) adjusts the beginning and ending dates of appointments to the Commission to align more closely with the Commission's work year; (iv) resolves ambiguous language dealing with vacancies on the Commission and clarifies what procedure applies; and (v) makes conforming amendments to these changes. HB 33 passed the House unanimously on February 27, 2019, was sent to the Senate, and has been in the Senate Judiciary Committee since May 24, 2019.

Specific Comments

The amendment adds a new Part II-A to the bill that contains two sections.

New **Section 32.1** revises and updates G.S. 164-14, the statute that sets out the membership and terms of office of the Commission, to make four basic changes.

First, in G.S. 164-14(a), the amendment eliminates the appointment to the Commission by the dean of the Charlotte School of Law and reduces accordingly the total number of members of the Commission from 14 to 13. The Charlotte School of Law closed on August 11, 2017. The closure is permanent. The School's last appointee resigned on September 19, 2017, due to the School's closure. Pursuant to G.S. 164-14(d), the Governor appointed a new member to complete the unexpired portion of that person's term. This appointee's term ended on May 30, 2019.

Second, the amendment repeals G.S. 164-14(b) as obsolete. The General Statutes Commission was created in 1945. Appointments are normally for two-year terms. G.S. 164-14(b) created special one-time, one-year terms for some of the original appointments, with the rest of the original members serving two-year terms, in order to stagger the terms. G.S. 164-14(b) dealt only with the terms of the original 1945 appointees and is no longer needed.

Third, in G.S. 164-14(c), the amendment changes the starting date of members' terms from June 1 to September 1 and the ending date from May 31 to August 31 two years later. The change will better align the members' terms with the Commission's work year, which begins in September of one year and extends through June of the following year. The Commission normally meets monthly during that period. It does not meet in July or August. The result would allow new members to begin at the start of a work year rather than at the end of one.

The amendment also (i) amends this subsection (G.S. 164-14(c)) to conform to the changes to subsections (a) and (d) and the repeal of subsection (b), (ii) makes two technical amendments (inserts a missing "the" before "president of the North Carolina Bar Association" and removes two uses of "such" as legalese), and (iii) deletes the last sentence. The last sentence requires reappointments or new appointments to be made by the date a term ends; the Commission is of the opinion that the sentence is no longer necessary in light of G.S. 164-14(f), which provides for existing members to hold over if no new appointment or reappointment has been made by that date.

Fourth, in G.S. 164-14(d), the amendment resolves an apparent conflict between this subsection and subsection (f).

G.S. 164-14(d) provides in part that if an appointment is not made by June 1, a vacancy exists and the Governor may fill the vacancy; if no appointment is made by July 31 of that year, the Commission itself may make the appointment. This portion of subsection (d) appears to conflict with subsection (f), which is a hold-over provision enacted in 1967 (c. 17). If a member holds over at the end of the member's term, there is no vacancy. To the extent of a direct conflict between subsection (f) and the portion of subsection (d) in question, the later-enacted subsection (f) would control. It appears that the Commission and its staff have effectively read subsection (f) as controlling for some decades.

The proposed revision of G.S. 164-14(d) retains in modernized language the existing authorization for the original appointing authority to fill actual vacancies, that is, those that exist due to the death or resignation of a member or are due to some reason other than the expiration of the member's term. The revision also eliminates any default appointment by the Governor or the Commission itself, which is an unusual feature not commonly found in the statutes of other boards and commissions.

New **Section 32.2** provides for a two-month extension of the terms of the existing members to accommodate the change in the dates for the beginning and ending of members' terms.

The amendment also revises **Sections 33 and 34** of the bill to conform to the addition of Part II-A and to include an effective date provision for the new Part (when the bill becomes law).