

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 835

Short Title: Joint Sessions Reduced.

(Public)

Sponsors: Senator Kaplan.

Referred to: Rules.

April 11, 1989

A BILL TO BE ENTITLED

1 AN ACT TO ELIMINATE JOINT SESSIONS FOR APPOINTMENT OR
2 NOMINATION OF PUBLIC OFFICERS, EXCEPT AS REQUIRED BY THE
3 CONSTITUTION.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 53-92 reads as rewritten:

7 "**§ 53-92. Appointment of Commissioner of Banks; State Banking Commission.**

8 On or before April 1, 1983, and quadrennially thereafter, the Governor shall appoint
9 a Commissioner of Banks subject to confirmation by the General Assembly ~~in joint~~
10 ~~session~~ by joint resolution. The name of the Commissioner of Banks shall be submitted
11 to the General Assembly on or before February 1, of the year in which the term of his
12 office begins. The term of office for the Commissioner of Banks shall be four years. In
13 case of a vacancy in the office of Commissioner of Banks for any reason prior to the
14 expiration of his term of office, the name of his successor shall be submitted by the
15 Governor to the General Assembly, not later than four weeks after the vacancy arises.
16 If a vacancy arises in the office when the General Assembly is not in session, the
17 Commissioner of Banks shall be appointed by the Governor to serve on an interim basis
18 pending confirmation by the General Assembly.

19 The State Banking Commission, which has heretofore been created, shall consist of
20 the State Treasurer, who shall serve as an ex officio member thereof, 12 members
21 appointed by the Governor, and two members appointed by the General Assembly
22 under G.S. 120-121, one of whom shall be appointed upon the recommendation of the
23 President of the Senate and one of whom shall be appointed upon the recommendation
24 of the Speaker of the House of Representatives. The Governor shall appoint five

1 practical bankers and seven persons selected primarily as representatives of the
2 borrowing public. The person appointed by the General Assembly upon the
3 recommendation of the President of the Senate shall be a practical banker. The person
4 appointed by the General Assembly upon the recommendation of the Speaker of the
5 House shall be a person selected primarily as a representative of the borrowing public.
6 The persons selected primarily as representatives of the borrowing public shall not be
7 employees or directors of any financial institution nor shall they have any interest in any
8 regulated financial institution other than as a result of being a depositor or borrower.
9 Under this section, no person shall be considered to have an interest in a financial
10 institution whose interest in any financial institution does not exceed one-half of one
11 percent (1/2 of 1%) of the capital stock of that financial institution. These members of
12 the Commission shall be selected so as to fully represent the consumer, industrial,
13 manufacturing, professional, business and farming interests of the State. No person shall
14 serve on the Commission for more than two complete consecutive terms. As the terms
15 of office of the appointive members of the Commission expire, their successors shall be
16 appointed by the person appointing them, for terms of four years each. Any vacancy
17 occurring in the membership of the Commission shall be filled by the appropriate
18 appointing officer for the unexpired term, except that vacancies among members
19 appointed by the General Assembly shall be filled in accordance with G.S. 120-122.
20 The appointed members of the Commission shall receive as compensation for their
21 services the same per diem and expenses as is paid to the members of the Advisory
22 Budget Commission. This compensation shall be paid from the fees collected from the
23 examination of banks as provided by law.

24 The Banking Commission shall meet at such time or times, and not less than once
25 every three months, as the Commission shall, by resolution, prescribe, and the
26 Commission may be convened in special session at the call of the Governor, or upon the
27 request of the Commissioner of Banks. The State Treasurer shall be chairman of the
28 said Commission.

29 No member of said Commission shall act in any matter affecting any bank in which
30 he is financially interested, or with which he is in any manner connected. No member of
31 said Commission shall divulge or make use of any information coming into his
32 possession as a result of his service on such Commission, and shall not give out any
33 information with reference to any facts coming into his possession by reason of his
34 services on such Commission in connection with the condition of any State banking
35 institution, unless such information shall be required of him at any hearing at which he
36 is duly subpoenaed, or when required by order of a court of competent jurisdiction.

37 A quorum shall consist of a majority of the total membership of the Banking
38 Commission. A majority vote of the members qualified with respect to a matter under
39 review present at that meeting shall constitute valid action of the Banking Commission.
40 The State Treasurer and all disqualified members who are present shall be counted to
41 determine whether a quorum is present at a meeting.

42 The Commissioner of Banks shall act as the executive officer of the Banking
43 Commission, but the Commission shall provide, by rules and regulations, for hearings
44 before the Commission upon any matter or thing which may arise in connection with the

1 banking laws of this State upon the request of any person interested therein, and review
2 any action taken or done by the Commissioner of Banks.

3 The Banking Commission is hereby vested with full power and authority to
4 supervise, direct and review the exercise by the Commissioner of Banks of all powers,
5 duties, and functions now vested in or exercised by the Commissioner of Banks under
6 the banking laws of this State; any party to a proceeding before the Banking
7 Commission may, within 20 days after final order of said Commission and by written
8 notice to the Commissioner of Banks, appeal to the Superior Court of Wake County for
9 a final determination of any question of law which may be involved. The cause shall be
10 entitled 'State of North Carolina on Relation of the Banking Commission against (here
11 insert name of appellant).' It shall be placed on the civil issue docket of such court and
12 shall have precedence over other civil actions. In the event of an appeal the
13 Commissioner shall certify the record to the Clerk of Superior Court of Wake County
14 within 15 days thereafter."

15 Sec. 2. G.S. 62-10(a) reads as rewritten:

16 "(a) The North Carolina Utilities Commission shall consist of seven
17 commissioners who shall be appointed by the Governor subject to confirmation by the
18 General Assembly ~~in joint session~~ by joint resolution. The names of commissioners to be
19 appointed by the Governor shall be submitted by the Governor to the General Assembly
20 for confirmation by the General Assembly on or before May 1, of the year in which the
21 terms for which the appointments are to be made are to expire. Upon failure of the
22 Governor to submit names as herein provided, the Lieutenant Governor and Speaker of
23 the House jointly shall submit the names of a like number of commissioners to the
24 General Assembly on or before May 15 of the same year for confirmation by the
25 General Assembly. Regardless of the way in which names of commissioners are
26 submitted, confirmation of commissioners must be accomplished prior to adjournment
27 of the then current session of the General Assembly. This subsection shall be subject to
28 the provisions of subsection (c) of this section."

29 Sec. 3. G.S. 62-15(a) reads as rewritten:

30 "(a) There is established in the Commission the office of executive director,
31 whose salary shall be the same as that fixed for members of the Commission. The
32 executive director shall be appointed by the Governor subject to confirmation by the
33 General Assembly ~~in joint session~~ by joint resolution. The name of the executive director
34 appointed by the Governor shall be submitted to the General Assembly on or before
35 May 1 of the year in which the term of his office begins. The term of office for the
36 executive director shall be six years, and the initial term shall begin July 1, 1977. The
37 executive director may be removed from office by the Governor in the event of his
38 incapacity to serve; and the executive director shall be removed from office by the
39 Governor upon the affirmative recommendation of a majority of the Commission, after
40 consultation with the Joint Legislative Utility Review Committee of the General
41 Assembly. In case of a vacancy in the office of executive director for any reason prior to
42 the expiration of his term of office, the name of his successor shall be submitted by the
43 Governor to the General Assembly, not later than four weeks after the vacancy arises. If
44 a vacancy arises in the office when the General Assembly is not in session, the

1 executive director shall be appointed by the Governor to serve on an interim basis
2 pending confirmation by the General Assembly."

3 Sec. 4. G.S. 116-6(d) reads as rewritten:

4 "(d) The Senate and House of Representatives, in electing members of the Board
5 of Governors, shall select from a slate of nominees made ~~in a joint session of the General~~
6 ~~Assembly~~ as provided by resolution of each house. There shall be nominated from the
7 floor at least twice the number of persons as there are vacancies to be filled. The Senate
8 and the House of Representatives shall elect one half of the persons necessary to fill the
9 vacancies, with the Senate to hold its election prior to the House of Representatives. In
10 the event that an odd number of members are to be elected, the House of
11 Representatives shall select the additional nominee. In 1973 and every four years
12 thereafter through 1989, the Senate shall elect at least one woman and one member of a
13 minority race and the House of Representatives shall elect at least one member of the
14 political party to which the largest minority of the members of the General Assembly
15 belong. In 1975 and every four years thereafter through 1987, the Senate shall elect at
16 least one member of the political party to which the largest minority of the members of
17 the General Assembly belong and the House of Representatives shall elect at least one
18 woman and one member of a minority race. In 1991 and every four years thereafter the
19 Senate shall elect at least two members of the political party to which the largest
20 minority of the members of the General Assembly belong and the House of
21 Representatives shall elect at least two women and two members of a minority race. In
22 1993 and every four years thereafter the Senate shall elect at least two women and two
23 members of a minority race and the House of Representatives shall elect at least two
24 members of the political party to which the largest minority of the members of the
25 General Assembly belong. In 1989 and biennially thereafter, these elections shall be
26 held during the first 30 legislative days of the regular session."

27 Sec. 5. This act is effective upon ratification.