

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 366

Short Title: Special Election Dates. (Public)

Sponsors: Representatives H. Warren, Cleveland, Brawley, and Bradley (Primary Sponsors).

For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Elections.

March 16, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT EXCEPT IN THE CASE OF AN EMERGENCY COUNTY SPECIAL ELECTIONS MAY BE HELD ONLY ON THE DATE OF THE GENERAL ELECTION AND MUNICIPAL SPECIAL ELECTIONS MAY BE HELD ONLY ON THE DATE OF THE GENERAL ELECTION OR THE DATE OF THE MUNICIPAL GENERAL ELECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-287 reads as rewritten:

"§ 163-287. **Special elections; procedure for calling.**

Any city, whether its elections are conducted by the county board of elections or the municipal board of elections, or any special district shall have authority to call special elections as permitted by law. Prior to calling a special election, the city council or the governing body of the special district shall adopt a resolution specifying the details of the election, and forthwith deliver the resolution to the appropriate board of elections. The resolution shall call on the board of elections to conduct the election described in the resolution and shall state the date on which the special election is to be conducted. ~~The Except in the case of a bond referendum where the Local Government Commission has found an emergency to the public health or safety, a special election for a city may only be held at the same time as the municipal general election or at the same time as a State general election. Except in the case of a bond referendum where the Local Government Commission has found an emergency to the public health or safety, a special election for a county or special district may be held only at the same time as a State general election. any other State, county or municipal primary, election or special election or referendum, but may not otherwise be held within the period of time beginning 30 days before and ending 30 days after the date of any other primary, election, special election or referendum held for that city or special district.~~

Legal notice of the special election shall be published no less than 45 days prior to the special election. The appropriate board of elections shall be responsible for publishing the legal notice. The notice shall state the date and time of the special election, the issue to be submitted to the voters, and the precincts in which the election will be held. This paragraph shall not apply to bond elections."

SECTION 2. G.S. 18B-601(f) reads as rewritten:

"(f) Election Date. – The board of elections shall set the date for the alcoholic beverage election, which may not be sooner than 60 days nor later than 120 days from the date the request was received from the governing body or the petition was verified by the ~~board,~~ board,



1 except if the next date permitted under G.S. 163-287 is after the expiration of the 120 day
2 period, the election shall be held then. No ~~An alcoholic beverage election may be held on the~~
3 ~~Tuesday next after the first Monday in November of an even numbered year.~~ held only on a
4 date permitted by G.S. 163-287."

5 **SECTION 3.** G.S. 105-465 reads as rewritten:

6 **"§ 105-465. County election as to adoption of local sales and use tax.**

7 The board of elections of any county, upon the written request of the board of county
8 commissioners, or upon receipt of a petition signed by qualified voters of the county equal in
9 number to at least fifteen percent (15%) of the total number of votes cast in the county, at the
10 last preceding election for the office of Governor, shall call a special election for the purpose of
11 submitting to the voters of the county the question of whether a one percent (1%) sales and use
12 tax will be levied.

13 The special election shall be held under the same rules applicable to the election of
14 members of the General Assembly. No new registration of voters shall be required. All
15 qualified voters in the county who are properly registered not later than 21 days (excluding
16 Saturdays and Sundays) prior to the election shall be entitled to vote at the election. The county
17 board of elections shall give at least 20 days' public notice prior to the closing of the
18 registration books for the special election.

19 The county board of elections shall prepare ballots for the special election. The question
20 presented on the ballot shall be "FOR one percent (1%) local sales and use tax on items subject
21 to State sales and use tax at the general State rate and on food" or "AGAINST one percent (1%)
22 local sales and use tax on items subject to State sales and use tax at the general State rate and
23 on food".

24 The county board of elections shall fix the date of the special ~~election,~~ election on a date
25 permitted by G.S. 163-287, except that the special election shall not be held ~~on the date or~~
26 ~~within 60 days of any biennial election for county officers, nor~~ within one year from the date of
27 the last preceding special election under this section."

28 **SECTION 4.** G.S. 105-473(a) reads as rewritten:

29 "(a) The board of elections of any county, upon the written request of the board of
30 county commissioners thereof, or upon receipt of a petition signed by qualified voters of the
31 county equal in number to at least fifteen percent (15%) of the total number of votes cast in the
32 county at the last preceding election for the office of Governor, shall call a special election for
33 the purpose of submitting to the voters of the county the question of whether the levy of a one
34 percent (1%) sales and use tax theretofore levied should be repealed.

35 The special election shall be held under the same rules and regulations applicable to the
36 election of members of the General Assembly. No new registration of voters shall be required.
37 All qualified voters in the county who are properly registered not later than 21 days (excluding
38 Saturdays and Sundays) prior to the election shall be entitled to vote at said election. The
39 county board of elections shall give at least 20 days' public notice prior to the closing of the
40 registration books for the special election.

41 The county board of elections shall prepare ballots for the special election which shall
42 contain the words "FOR repeal of the one percent (1%) local sales and use tax levy," and the
43 words "AGAINST repeal of the one percent (1%) local sales and use tax levy," with
44 appropriate squares so that each voter may designate his vote by his cross (X) mark.

45 The county board of elections shall fix the date of the special ~~election;~~ election on a date
46 permitted by G.S. 163-287; provided, however, that the special election shall not be held ~~on~~
47 ~~the day of any biennial election for county officers, nor within 60 days thereof, nor~~ within one
48 year from the date of the last preceding special election held under this section."

49 **SECTION 5.** G.S. 160A-103 reads as rewritten:

50 **"§ 160A-103. Referendum on charter amendments by ordinance.**

1 An ordinance adopted under G.S. 160A-102 that is not made effective upon approval by a
2 vote of the people shall be subject to a referendum petition. Upon receipt of a referendum
3 petition bearing the signatures and residence addresses of a number of qualified voters of the
4 city equal to at least 10 percent of the whole number of voters who are registered to vote in city
5 elections according to the most recent figures certified by the State Board of Elections or 5,000,
6 whichever is less, the council shall submit an ordinance adopted under G.S. 160A-102 to a vote
7 of the people. The date of the special election shall be fixed ~~at~~ on a date permitted by
8 G.S. 163-287; but not more than 120 nor fewer than 60 days after receipt of the ~~petition-~~
9 petition, except if the next date permitted under G.S. 163-287 is after the expiration of the 120-
10 day period, the election shall be held then. A referendum petition shall be addressed to the
11 council and shall identify the ordinance to be submitted to a vote. A referendum petition must
12 be filed with the city clerk not later than 30 days after publication of the notice of adoption of
13 the ordinance."

14 **SECTION 6.** G.S. 160A-104 reads as rewritten:

15 **"§ 160A-104. Initiative petitions for charter amendments.**

16 The people may initiate a referendum on proposed charter amendments. An initiative
17 petition shall bear the signatures and resident addresses of a number of qualified voters of the
18 city equal to at least ten percent (10%) of the whole number of voters who are registered to vote
19 in city elections according to the most recent figures certified by the State Board of Elections or
20 5,000, whichever is less. The petition shall set forth the proposed amendments by describing
21 them briefly but completely and with reference to the pertinent provisions of G.S. 160A-101,
22 but it need not contain the precise text of the charter amendments necessary to implement the
23 proposed changes. The petition may not propose changes in the alternative, or more than one
24 integrated set of charter amendments. Upon receipt of a valid initiative petition, the council
25 shall call a special election on the question of adopting the charter amendments proposed
26 therein, and shall give public notice thereof in accordance with G.S. 163-287. The date of the
27 special election shall be fixed ~~at~~ on a date permitted by G.S. 163-287; but not more than 120
28 nor fewer than 60 days after receipt of the ~~petition-~~ petition, except if the next date permitted
29 under G.S. 163-287 is after the expiration of the 120-day period, the election shall be held then.
30 If a majority of the votes cast in the special election shall be in favor of the proposed changes,
31 the council shall adopt an ordinance amending the charter to put them into effect. Such an
32 ordinance shall not be subject to a referendum petition. No initiative petition may be filed (i)
33 between the time the council initiates proceedings under G.S. 160A-102 by publishing a notice
34 of hearing on proposed charter amendments and the time proceeding under that section have
35 been carried to a conclusion either through adoption or rejection of a proposed ordinance or
36 lapse of time, nor (ii) within one year and six months following the effective date of an
37 ordinance amending the city charter pursuant to this Article, nor (iii) within one year and six
38 months following the date of any election on charter amendments that were defeated by the
39 voters.

40 The restrictions imposed by this section on filing initiative petitions shall apply only to
41 petitions concerning the same subject matter. For example, pendency of council action on
42 amendments concerning the method of electing the council shall not preclude an initiative
43 petition on adoption of the council-manager form of government.

44 Nothing in this section shall be construed to prohibit the submission of more than one
45 proposition for charter amendments on the same ballot so long as no proposition offers a
46 different plan under the same option as another proposition on the same ballot."

47 **SECTION 7.** G.S. 153A-60 reads as rewritten:

48 **"§ 153A-60. Initiation of alterations by resolution.**

49 The board of commissioners shall initiate any alteration in the structure of the board by
50 adopting a resolution. The resolution shall:

- 51 (1) Briefly but completely describe the proposed alterations;

- 1 (2) Prescribe the manner of transition from the existing structure to the altered
2 structure;
- 3 (3) Define the electoral districts, if any, and apportion the members among the
4 districts;
- 5 (4) Call a special referendum on the question of adoption of the alterations. The
6 referendum shall be held and conducted by the county board of elections.
7 The referendum may be held only on a date permitted by G.S. 163-287. ~~at
8 the same time as any other state, county or municipal primary, election,
9 special election or referendum, or on any date set by the board of county
10 commissioners, provided, that such referendum shall not be held within the
11 period of time beginning 60 days before and ending 60 days after any other
12 primary, election, special election or referendum held in the county.~~

13 Upon its adoption, the resolution shall be published in full."

14 **SECTION 8.** G.S. 159-61(b) reads as rewritten:

15 "(b) The date of a bond referendum shall be fixed by the governing board, but shall not
16 be more than one year after adoption of the bond ~~order.~~ order, except if the next date permitted
17 under G.S. 163-287 is after the expiration of the one-year period, the election shall be held
18 then. Except if the Local Government Commission finds that an emergency to the public health
19 or safety necessitates an earlier date, the election may be held only on a date permitted by
20 G.S. 163-287. ~~The~~ If the Local Government Commission finds that an emergency to the public
21 health or safety necessitates an earlier date, the governing board may call a special referendum
22 for the purpose of voting on a bond issue on any day, including the day of any regular or
23 special election held for another purpose (unless the law under which the bond referendum or
24 other election is held specifically prohibits submission of other questions at the same time). A
25 special bond referendum may not be held within 30 days before or 10 days after a statewide
26 primary, election, or referendum, or within 30 days before or 10 days after any other primary,
27 election, or referendum to be held in the same unit holding the bond referendum and already
28 validly called or scheduled by law at the time the bond referendum is called. The clerk shall
29 mail or deliver a certified copy of the resolution calling a special bond referendum to the board
30 of elections that is to conduct it within three days after the resolution is adopted, but failure to
31 observe this requirement shall not in any manner affect the validity of the referendum or bonds
32 issued pursuant thereto. Bond referenda shall be conducted by the board of elections
33 conducting regular elections of the county, city, or special district. In fixing the date of a bond
34 referendum, the governing board shall consult the board of elections in order that the
35 referendum shall not unduly interfere with other elections already scheduled or in process.
36 Several bond orders or other matters may be voted upon at the same referendum."

37 **SECTION 9.** This act is effective with respect to elections held on or after January
38 1, 2012.