

S. B. 154

CHAPTER 466

AN ACT TO AMEND ARTICLES II, III AND XIV OF THE CONSTITUTION OF NORTH CAROLINA WITH RESPECT TO SUCCESSION TO ELECTIVE STATE EXECUTIVE OFFICES, THE APPOINTMENT OF ACTING OFFICERS IN CERTAIN INSTANCES, THE DETERMINATION OF THE INCAPACITY OF ELECTED STATE EXECUTIVE OFFICERS TO PERFORM THE DUTIES OF THEIR OFFICES, AND FIXING A PERMANENT SEAT OF GOVERNMENT.

The General Assembly of North Carolina do enact:

Section 1. Article II of the Constitution of North Carolina is hereby amended by rewriting Section 20 thereof to read as follows:

“Sec. 20. Other senatorial officers. The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant-Governor-elect to qualify, or upon succession by the Lieutenant-Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

“During the physical or mental incapacity of the President of the Senate to perform the duties of his office, or during the absence of the President of the Senate, the President Pro Tempore shall preside over the Senate. The Senate shall elect its other officers.”

Sec. 2. Article III of the Constitution of North Carolina is hereby amended by rewriting Section 2 thereof to read as follows:

“Sec. 2. Qualifications of Governor and Lieutenant-Governor. No person shall be eligible for election to the office of Governor or Lieutenant-Governor, unless he shall have attained the age of 30 years, shall have been a citizen of the United States five years, and shall have been a resident of this State for two years next before the election; nor shall a person elected to either of these two offices be eligible for election for the next succeeding term of the same office.”

Sec. 3. Article III of the Constitution of North Carolina is hereby amended by rewriting Section 12 thereof to read as follows:

“Sec. 12. Succession to office of Governor. The Lieutenant-Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant-Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.

“During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant-Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

"The Governor may, by a written statement filed with the Secretary of State, declare that he is physically incapable of performing the duties of his office, and may thereafter in the same manner declare that he is physically capable of performing the duties of his office.

"The mental incapacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of a majority of all the members of each house of the General Assembly. In all cases, the General Assembly shall give the Governor such notice as it may deem proper and shall allow him an opportunity to be heard before a Joint Session of the General Assembly before it takes final action. When the General Assembly is not in Session, the Council of State, a majority of its members concurring, may convene it in Extra Session for the purpose of proceeding under this paragraph.

"Removal of the Governor from office for any other cause shall be by impeachment."

Sec. 4. Article III of the Constitution of North Carolina is hereby amended by rewriting Section 13 thereof to read as follows:

"Sec. 13. Duties of other executive officers. The respective duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance shall be prescribed by law. If the office of any of these officers shall be vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor be elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in the first Section of this Article: Provided, that when a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

"Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an acting officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

"During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to the provisions of this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

"The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of

any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.”

Sec. 5. Article XIV of the Constitution of North Carolina is hereby amended by rewriting Section 6 thereof to read as follows:

“Sec. 6. Seat of Government. The permanent seat of Government in this State shall be at the City of Raleigh.”

Sec. 6. The amendments set out in Sections 1, 2, 3, 4, and 5 of this Act shall be submitted to the qualified voters of the State as a single proposition at the next general election. The election shall be conducted under the laws then governing general elections in this State.

Sec. 7. At that election, the voters favoring the amendments set out in Sections 1, 2, 3, 4, and 5 of this Act shall vote ballots on which shall be printed or written the words:

“FOR constitutional amendments concerning succession to office of Governor, providing methods for determining incapacity of Governor, concerning appointment of acting officers to perform duties of elected State executive officers in certain cases, authorizing General Assembly to provide a method for determining incapacity of elected State executive officers other than Governor, and fixing the permanent seat of government at Raleigh.”

and those voters opposed shall vote ballots in which shall be printed or written the words:

“AGAINST constitutional amendments concerning succession to office of Governor, providing methods for determining incapacity of Governor, concerning appointment of acting officers to perform duties of elected State executive officers in certain cases, authorizing General Assembly to provide a method for determining incapacity of elected State executive officers other than Governor, and fixing the permanent seat of government at Raleigh.”

Sec. 8. If a majority of the votes cast thereon be in favor of the amendments set out in Sections 1, 2, 3, 4, and 5 of this Act, it shall be the duty of the Governor of the State to certify those amendments under the Great Seal of the State to the Secretary of State, who shall enroll those amendments so certified among the permanent records of his office, and the amendments shall take effect upon such certification.

Sec. 9. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 10. This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1961.