

PRO

by Henson Barnes

In 1935, a great debate arose in North Carolina over whether to switch from annual legislative sessions to a biennial system. The issue centered on whether annual sessions were costing the state too much money and resulting in a full-time legislature. After a spirited legislative debate and a close vote by the people, the call for a part-time "citizen" legislature — as opposed to a "professional" body — won the day. North Carolina, in contrast to most other states at the time, switched to biennial sessions, conducted by a band of citizens who served as part-time legislators.

In 1982, nearly 150 years later, the concept of a citizen legislature is again endangered. And once again the state's voters can do something about it. While the nature of the vote has shifted from the frequency of legislative sessions to the length of time a legislator serves, the heart of the debate is the same: What can we do to insure that North Carolina continues to have a citizen legislature?

There are only two choices: limit the time demands placed on a legislator who is conscientiously performing his or her duties; or reduce the burdens of running for office every two years. The work load of the General Assembly is increasing rapidly and is not likely to slow down. The only alternative then is to decrease the time spent running for office. The proposed constitutional amendment accomplishes this goal.

Going to four-year terms is the trend for all elective offices. At one time, every state had two-year terms for its legislators. Now, 38 states have four-year terms for at least one house. Four states have four-year terms for both houses (see box at end). Two-year terms were once the norm for every county commissioner in North Carolina. Of the 100 counties, 96 have now gone to four-year terms for their commissioners. And today, more than half of our cities — about 190 — have four-year terms for their governing boards or councils.

Citizen Legislator Faces Extinction

In recent years, the General Assembly has increasingly begun to resemble a full-time body. The sessions run longer and occur more frequently. In 1981, the session began in January and



Four Year The

In the 1982 primary, North Carolina voters will determine whether the term of office for state legislators will be extended from two to four years. Such a change requires voter approval of an amendment to the state constitution.

The General Assembly itself is responsible for putting this question before the voters. On April 15, 1981, the state Senate voted 35-12, with three members absent, to place the four-year-term issue on the 1982 primary ballot. The state House of Representatives followed suit on June 4, 1981, by a vote of 72 to 42, with six members absent. The N.C. Constitution requires that three-fifths of all members of each house approve a proposed constitutional amendment before it goes before the state's voters.

Proponents contend that four-year terms will strengthen the legislature, specifically its nature as a "citizen" rather than a "professional" body. Opponents insist the measure will make the legislature less accountable to voters and will not stem the loss of citizen legislators.

Since November 1968, there have been 24 constitutional amendments on state ballots, and only two have been defeated — in 1970, an amendment to abolish the state's literacy requirement for voting; and in 1974, an amendment designed to allow the issuance of bonds to finance industrial and pollution control facilities. Perhaps the most memorable amendment of recent years is the 1977 action which allows the governor and lieutenant governor to succeed themselves.

While proposed constitutional amendments usually have passed, the one creating four-year



Terms? Voters Decide

terms for legislators faces strong opposition. No organized campaign promoting four-year terms has developed. But a strong opposition drive has emerged. Thomas O. Gilmore, who has been the deputy secretary of the Department of Human Resources and a state representative from Guilford County, has formed the "Keep the Two-Year-Term Committee." This group has gained the bi-partisan support of former governors James E. Holshouser, Jr., Terry Sanford, and Robert W. Scott. Several of the state's major newspapers, including the Greensboro Daily News and the Fayetteville Observer, have also editorialized against the four-year terms.

Moreover, the amendment opponents have gained some extra time to mobilize their forces. Originally, the 1982 primary was scheduled for early May. But the U.S. Department of Justice required the legislature to adjust the legislative and Congressional redistricting plans passed in 1981. The Justice Department must give final approval to the new redistricting plans passed in April 1982 before the primary date can be set.

The North Carolina Center for Public Policy Research asked two legislators to present their reasons for supporting or opposing four-year terms. Sen. Henson P. Barnes, Democrat representing Wayne and Greene Counties, favors four-year terms; he sponsored the 1981 bill which placed the issue on the ballot. Rep. Parks Helms, Democrat from Mecklenburg County, has been a leading opponent of four-year terms. In the following articles, Sen. Barnes and Rep. Helms argue their cases.

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by Parks Helms

Those who propose four-year terms for legislators do so with a legitimate concern: maintenance of a "citizen" legislature, which has served the people of North Carolina with distinction and ability. Over the last ten years, our General Assembly has lost many of its most capable and respected members. Some have gone on to offices such as judgeships and executive appointments, while others have returned to private life. Why this "drop-out" rate among legislators? Among other factors, it stems from the time-consuming job of serving in the General Assembly, the relatively low pay legislators receive, and the tremendous increase in campaign costs. These factors have combined to make legislative service an activity few working men and women can afford. The danger in allowing this trend to continue is that our General Assembly could become dominated by very wealthy or retired persons and lose its character as a citizen legislature.

A four-year term, however, does not solve the problem of getting and keeping competent "citizen" representatives and senators. It ignores the issue of legislator responsiveness and accountability to the people. It would reinforce the existing imbalance of power between the executive and legislative branches. And paradoxically, it would not even solve the problem it is supposed to correct. For philosophical and practical reasons, the four-year term should be defeated.

Philosophical Issues

Our state and federal governments were designed so that elected officials in at least one branch would have to face the voters every few years. Frequent elections serve to reflect the current mood of the people. In North Carolina, this proposition took formal shape in Article I, Section 9 of the constitution: "For redress of grievances and for amending and strengthening the law, elections shall be often held."

The desirability of frequent elections is no less important today than it was when our constitution was adopted. The people we elect to our General Assembly should represent our present views, on how government should be conducted.

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lasted until July. Then in the fall, the legislature reconvened on two occasions, for a "budget" session and a "redistricting" session. In addition, a legislator on the Appropriations Committee (about half of the 170 representatives and senators) went to Raleigh to prepare the budget, and members of the Redistricting Committee had to meet prior to the opening of the redistricting session. Meanwhile, many legislators serve on several study commissions or boards, some of which meet monthly. Even when the legislature was not in session in 1981, a legislator often spent at least one day a week in Raleigh on official business.

In 1982, a "short session" year, legislators have already gone to Raleigh in February and April for redistricting sessions, and they will return in the summer for a "budget session of some six weeks. Moreover, legislators will have to campaign in a primary and a general election during the year. During the 1981-82 biennium, legislators will spend as much as 20 of the 24 months either in session or running for office.

Historically, a citizen legislator has had a full-

time job at home and a part-time job as a legislator. A legislator's pay remains at the part-time level, \$578 a month plus expenses for food and lodging (\$50 per day) and travel during sessions. But the nature of a legislator's responsibilities have changed to such an extent that few lawmakers can maintain a full-time job at home. While many good people serve in the legislature, few can stay long. The only people who can afford to serve as legislators for any length of time are the wealthy, the retired, or those whose employer views the time spent in Raleigh as a public service or as good public relations.

There is no longer a part-time legislator. Consider your own situation. Should a member of your occupation or profession be represented in the General Assembly? If the answer is "yes," then ask yourself if your employer would allow you or a colleague to take 16 to 20 of the next 24 months to serve as a legislator. If your answer is "no," then you have effectively eliminated your occupation or profession from serving in the General Assembly.

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The immediate dissemination of information through the electronic media has made the average citizen prone to change his stance on important issues much more often than once every four years. Thus, a legislature which is isolated from the voters for four years is a legislature that does not reflect the true sense of the times in which it functions.

A legislator with a four-year term is less accountable to his constituents than one with a two-year term. Some members may be tempted with a four-year term to pay more attention to the well-heeled special interest groups and less attention to the needs and wishes of the constituents in their districts, hoping that time will cause the people they represent to forget what they have or have not done. By creating a legislature which insulates its members from challenge for four years, the proposed constitutional amendment contradicts representative government as we have come to know it in North Carolina.

At a time when the credibility of government at every level is in question, any change in constitutional principles should be carefully studied.

In addition, the legislative districts have just undergone a great change in the redistricting process that takes place at the beginning of every decade; the effects of this process remain uncertain. Meanwhile, federal budget cuts and President Reagan's proposed "new federalism" are forcing the General Assembly to assume an increased policymaking role. Now more than ever, it is important that constituents' views be reflected in the state's public policy decisions. It is not a time to move to four-year terms.

Practical Issues

Proponents of four-year terms argue that the majority of states already have precedents for such a system. At best, this is a half-argument. North Carolina, along with eleven other states, has a legislature in which both representatives and senators serve two-year terms. But should voters approve this proposed amendment, North Carolina would become one of only five states which grant four-year terms to *all lawmakers* (see box at end). The proposal, then, takes our state from one

In addition to working part-time, a citizen legislator cannot be tied to any special-interest group. A true citizen legislator runs for office and raises sufficient funds from family and friends to run a casual campaign. That theory worked when you could call most people in a district by first name. Now, there are so many people in each district it is necessary to go to the media to reach them. A one page advertisement in a newspaper costs from \$200 to \$3000. One minute on the radio can run from \$30 to \$90.

If the average person in North Carolina is going to be able to run for the legislature, we must do something about the increasing cost of campaigns. A person must raise several thousand dollars for each campaign. The easiest way to do that is from large donors, especially special-interest groups. The election system is forcing more and more legislators to accept — even depend upon — large contributions from special-interest donors. Regardless of how well you serve in the General Assembly, if your opponent has an ad in the newspaper, you had better have an ad that is

bigger and better. If you don't, your friends and supporters will feel your campaign is "losing steam." Four-year terms would tend to bring the staggering cost of campaigns under some control.

Fears of Opponents

Opponents of four-year terms have expressed fears of this change. I intentionally use the word "fears" because the opponents generally do not cite facts to support their allegations. The most-often expressed concern is that a legislator will be less responsive to the people if he or she is elected for four rather than two years. That is hogwash. A person is responsive if he or she is a conscientious and hard-working legislator. If he or she is not conscientious, the length of the term doesn't matter. If the fear of less responsiveness is valid, we should be making every effort to go to annual sessions. I have heard no one suggest that. Has anyone complained that county commissioners or city aldermen are less responsive now than they were when they served two-year terms?

minority category to an even more isolated one. The argument that we should adopt a four-year system because other states have done it does not examine the whole statistical picture.

For government to be truly responsive, it must permit voters to participate often in the electoral process. The state constitution speaks to this necessity, and it is too important a principle to be abandoned. In terms of voter participation, the four-year term would undoubtedly reduce the number of people participating in election of our legislators. The elections would be in "off years" — when a governor and President are not being elected. Absent any prominent statewide or national races, off-year elections have less press coverage, less public interest, and not surprisingly, significantly lower voter turnout. One could argue that people who do not vote deserve the government they get, but that position overlooks the fact that those of us who do vote get that same government.

Aside from its effect on the General Assembly, the four-year term would have a significant impact on the executive branch as well. North Carolina's

governor is already the only chief executive in the nation without veto power. And, in recent years, the General Assembly has sought to encroach more and more on duties traditionally performed by the governor and the executive branch. The North Carolina Supreme Court recently ruled that the legislature had overstepped its constitutional bounds by placing some of its members on the state Environmental Management Commission (*State ex rel. Wallace v. Bone*, see article on page 36). A four-year term would increase such intrusions into the executive branch and would make relations between the governor's office and the legislature even more difficult.

In a recent issue of *N.C. Insight*, Thad Beyle, a political science professor at the University of North Carolina and an expert on state government, rated North Carolina's governor as one of the five weakest chief executives in the nation, primarily because he lacks exclusive authority over the budget, shares power with other elected officials, and does not have veto power.* Gov. James B.

* "How Powerful is the North Carolina Governor?" Vol. 4, No. 4, December 1981.

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Opponents also fear that legislators will run for other offices — such as governor or a Council of State seat — without having to resign, since a four-year legislative term would overlap the term of those offices. County commissioners in 96 counties and elected municipal officials throughout the state currently are serving four-year terms. Their terms overlap each other as well as the terms of legislators. But rarely does a person run for another office while serving as a commissioner or alderman. That pattern suggests that few legislators, while serving a four-year term, would run for another office. But even if they do, what is the problem? Certainly we don't want to build a fence around any particular office.

Opponents fear that a lower percentage of people would vote for four-year-term legislators because elections would be held in "off years," those even-numbered years such as 1986 when a president and governor are not elected. But legislators, now elected every two years, are presently elected in off-year elections. The fact that the legislators would be running for a four-year term might create more interest in the election; the turnout could be better in the off years than it

is now. Presently, when the legislature is elected at the same time as the president, governor and Council of State offices, the legislative races attract little attention. An off-year election would make the legislator's records subject to closer review, which could result in better performance.

Opponents claim that having four-year terms will upset the balance of power between the legislature and the governor. North Carolinians are historically concerned about concentrating too much power in the executive branch. That is why our governor does not have a veto. In 1977, the voters approved a constitutional amendment which allows the governor and lieutenant governor to succeed themselves. Prior to 1977, a legislator had to be elected only twice to be in office for the same period as the governor. But now a legislator must be elected four times — he or she must serve eight years — to be in office the same length as the governor. Four-year terms will strengthen the legislature and restore the balance between the legislative and executive branches.

Finally, opponents fear that four-year terms are self-serving to legislators. If the people of this state must vote on the question, how can the

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Hunt, Jr. has been very successful in getting programs passed by the General Assembly, but this success stems more from the "informal" strengths exercised by Hunt than from the formal powers granted to the office of governor. We have no guarantee that our future governors will have Hunt's extraordinary political ability. They could find themselves severely impaired when dealing with the entrenched legislature that would result from four-year terms. Gubernatorial succession, approved by the voters in 1977 and won by Hunt in 1980, has served a useful purpose in balancing the powers of the executive and legislative branches. But we must not approve "legislative succession," which would swing too much power back to the legislative side.

The final practical twist to the four-year-term debate is that longer terms will not accomplish what the proponents claim it will do — make it easier for men and women to serve in the General Assembly. This proposal does not raise the salary of a legislator, now about \$7,000 annually. A man or woman supporting a family would be just as hard-pressed to serve for four years at such low

pay as he or she would be for two years. More importantly, if the length of sessions continues to increase — the 1981 session took almost seven months — it will be just as difficult for legislators to find time to serve, no matter how long the term of office is.

Regarding campaign costs, it may be true that a four-year term would result in a legislator spending less on a re-election campaign. But if an incumbent would have to spend less in campaign costs, a challenger would have to spend more to run. A four-year incumbent would have more name identity in the home district than would a two-year incumbent. Generally speaking, the longer a legislator stays in office the more formidable opponent he or she becomes for a challenger. Hence a challenger would have to spend more against a legislator serving a four-year term. It is an unpleasant fact of political life that some talented legislators are defeated for re-election. But defeat is a risk that each person in public office assumes. No legislator, no matter how proficient he or she may be, deserves to be insulated from the voters of this state for a period of four years.

outcome be self-serving? In fact, four-year terms will serve the people of North Carolina. Four-year terms will preserve the independence of the legislative branch.

Conclusion

Historically, North Carolinians have tried to keep the General Assembly a citizen body. We have established study commissions to do legislative work between sessions and have attempted to limit the so-called "short" session in the even-numbered years to budgetary matters. But such efforts have not worked in reducing demands on legislators. If we go to a full-time legislature, we will need full-time salaries for the legislators and their staff. I want to avoid that. The cost of the General Assembly is now the third lowest among all states.

The people of North Carolina will need to decide whether they want to make some changes in the present legislative system or go to a full-time legislature. Hopefully, some changes can be made and we can continue with the citizen legislature. A four-year term is a step in that direction and should be approved by the people. □

Conclusion

Encouraging qualified men and women to run for office and serve on the General Assembly can be accomplished by means other than changing the term of office to four years. Increasing salaries for legislators would do more to encourage service in the General Assembly than would the four-year term. And attracting qualified persons to stay in the legislature might well produce more frugal policies, actually saving the state more than the cost of increased salaries.

Changes less drastic than going to four-year terms can preserve the historical character of our legislature. More efficient management of legislative sessions could reduce meeting time. For instance, by adopting a system under which committee work on bills would be done before a session — as is the case in Florida and other states — the General Assembly could transact the same amount of business while requiring legislators to spend less time in Raleigh. Standing committees

TERMS OF OFFICE FOR STATE LEGISLATURES

Unicameral 4-Year Term (1)
Nebraska

4-Year Term House and Senate (4)*
Alabama Maryland
Louisiana Mississippi

4-Year Term House and 2-Year Term Senate (0)

2-Year Term House and Senate (12)
Arizona Maine North Carolina
Connecticut Massachusetts Rhode Island
Georgia New Hampshire South Dakota
Idaho New York Vermont

4-Year Term Senate and 2-Year Term House (33)
Alaska Kentucky Oregon
Arkansas Michigan Pennsylvania
California Minnesota South Carolina
Colorado Missouri Tennessee
Delaware Montana Texas
Florida Nevada Utah
Hawaii New Jersey Virginia
Illinois New Mexico Washington
Indiana North Dakota West Virginia
Iowa Ohio Wisconsin
Kansas Oklahoma Wyoming

SOURCE: *The Book of the States 1980-81*, Council of State Governments, 1980. The Council reports that no changes have occurred since 1980.

*Legislative and gubernatorial elections occur during the same year: 1978 and every four years thereafter for Alabama and Louisiana; 1979 and every four years thereafter for Maryland and Mississippi.

could be given the authority to meet between sessions to study bills and resolutions. And we could formally limit the length of a session. Several states have in their constitutions limited the length of legislative sessions to 60, 90 or 120 days. These types of measures would produce more positive results than would four-year terms.

The N.C. General Assembly is often characterized as the most powerful legislative body in America in relation to the executive branch. After all, short of judicial reprimand, the only check on our legislature comes from the voters. The loss of many of our competent legislators is a disturbing trend that concerns all of us who treasure our status as citizen legislators. But implementing four-year terms for all legislators repudiates in a wholesale manner our long-established principle of representative government. Four-year terms will do little to make good legislators better and may go a long way toward making bad legislators worse. □