
Coates' Canons Blog: The Power to Impose Term Limits?

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Suppose a North Carolina county wishes to impose term limits on its county commissioners. May it do so? Could a city impose term limits on its mayor or council members? What about a local school unit? Could it put term limits on its elected school board members? Could the General Assembly by statute do it for the county, the city, or the school unit?

No, no, no, and no.

How come? Because the North Carolina Constitution sets out a very short list of qualifications for elective office. In essence, if you are 21 years old and eligible to vote for an office, you are eligible to be elected to that office. And that short list, our state supreme court has said, is the last word, the full and final requirement. No county may impose additional qualifications. Neither can a city or a school unit. Not even the General Assembly. The constitutional qualifications are exclusive; no others may be added.

There is, unfortunately, no sentence in the state constitution that says "Anyone 21 years old and eligible to vote for an office may be elected to that office." To reach that conclusion, you have to read around in the constitution a little bit.

Section 6 of Article VI provides that any qualified voter who is 21 years old and is not disqualified by the Constitution itself is eligible for election to office. There are three disqualifications, which are found in **Section 8**. The first provides that a person is disqualified who denies "the being of Almighty God." This provision is unenforceable under the United States Constitution. The second provides that a person is disqualified if not qualified to vote for the office. The third provides that a person is disqualified if the person has been adjudged guilty of certain crimes or corruption, or has been impeached. (Other qualifications for particular offices such as judge or district attorney, not relevant here, are set out in other provisions of the Constitution.)

The Supreme Court in *Moore v. Knightdale Board of Elections*, 331 N.C. 1 (1992), held, in effect, that this list is an exclusive list, and that no other qualifications for office may be imposed. In that case the court struck down a statute which, in general, required a holder of one elective office to resign that office before filing a notice of candidacy to run for another office if the terms would overlap. If you were a county commissioner in the middle of a four-year term and you wanted to run for a seat in the state senate, you would have to resign as commissioner in order to run. You couldn't wait to see if you won the senate race before resigning the commissioner seat. The court characterized this "resign-to-run" statute as imposing an unconstitutional "additional qualification for office." That additional qualification was that a candidate for office could not be a "holder of 'another elective office.'" 331 N.C. at 12.

The same reasoning applies to the imposition of term limits on county commissioners, or city council members, or school board members—or any other elective office in the state. An incumbent office holder who would be barred from running for reelection at the end of the imposed maximum number of terms would face an unconstitutional additional qualification for office. That additional qualification would be that a candidate for the office could not be the holder of that office for the maximum number of allowable terms.

Counties cannot impose term limits. Cities cannot impose term limits. School systems cannot impose term limits. Even the General Assembly cannot impose term limits. Only through an amendment to the North Carolina Constitution could term limits be imposed on any state or local elective office in North Carolina.



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