



NORTH CAROLINA CENTER FOR
PUBLIC POLICY RESEARCH INC.

NEWS RELEASE

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DEBATE NEEDED OVER WHETHER TO EXPAND SECRETARY OF STATE'S ROLE, SAYS N.C. CENTER

For the first time in more than half a century, North Carolina has a new Secretary of State, and it's time to think about whether the office should be changed to reflect new political and state government realities, says the N.C. Center for Public Policy Research in an article in the latest issue of North Carolina Insight magazine.

"With the election of Rufus Edmisten to the office in 1988, the N.C. General Assembly has begun revamping the department of the Secretary of State, giving it more duties and more staff members," says Jack Betts, Insight editor and author of the article. "But before further changes are made, more consideration ought to be given to the proper role of the Secretary of State and the scope of the department's duties."

Edmisten is quoted in the article as saying he's "trying to move the office into the 20th century business world without losing the traditional aspects of it -- the ceremonial parts of applying the seal to many documents, the swearing of people into office, the cosigning of proclamations, the meeting with foreign dignitaries."

What Does a Secretary of State Do?

Most states (47) have a Secretary of State, but North Carolina's is not one of the most powerful, at least in terms of formal powers and responsibilities. The Center's research shows that North Carolina's Secretary of State has the fewest electoral duties and is below average in the number of other duties. Of the 26 major powers and duties listed by the Council of State Governments for Secretaries of State nationally, North Carolina's Secretary has but 12. This 12-of-26 figure is well below the average for Secretaries of State and puts North Carolina's office among the 13 least powerful in the land, at least in terms of common duties and responsibilities. Nationally, the Secretaries of State have an average of 15.6 of the 26 major duties, or 60 percent. North Carolina has just 46 percent.

The Department of the Secretary of State has always been among the state's smallest, and even as late as 1975 it had only 28 employees. Since then, it has grown to nearly 100 employees. The office began growing rapidly in the 1980s to cope with increasing demands for services. These demands were heaviest in the Securities Division, which acts as a sort of state-level Securities and Exchange Commission, and in the Corporations Division, which issues corporate charters for businesses and prevents duplication of corporate names.

Just in the last few years, the Secretary of State's workload has risen steadily. For instance, from 1985 to 1988, the number of:

- complaints to the Secretary of State about securities rose from a few hundred to 578;
- telephone calls to the Corporation Division went from less than 129,000 to nearly 159,000;
- lobbyists registered with the Secretary of State went from 777 to 828;
- trademarks registered jumped from 550 to 742;
- document authentications increased from 650 to 1,000;
- requests for information about liens against commercial and agricultural property rose from 19,675 to 22,607; and
- notaries public appointed went from 25,154 to 26,744.

Because of those changes, Edmisten has ambitious plans for the office. "I'm trying to modernize, to upgrade, to add more personnel, and to make it a department that does not just react, but which can be a leader for the business community," says Edmisten.

Still, the office's critics believe that it has not kept up with technology available for such functions as records management. Former state Rep. Raymond Warren (R-Mecklenburg), a 1988 candidate for the Republican nomination for Secretary of State, says, "Edmisten is absolutely right to begin the process of bringing the office into the computer age. To a large extent, the Secretary of State's office is an information source. As a data processing and recording facility, it cannot continue to store and process data in the manner Thad Eure encountered in 1936 [when Eure first took office]."

Edmisten's Desire To Expand the Duties of the Office Gets Mixed Results in '89 Legislature

Going into the 1989 General Assembly, Edmisten had high hopes of considerably expanding the policymaking duties of the office. A number of bills were introduced at Edmisten's request to expand the department's powers and give Edmisten more to do -- including taking a greater role in economic development. Other bills expanding the office came from different sources, but they all would have added to the power of the Secretary of State. Some of those bills passed -- including (1) the creation of an N.C. Commodities Act to regulate trading in commodity futures (contracts to deliver supplies of agricultural and other products at a future date), and (2) a long-planned rewrite of the state's Business Corporation Act. But Edmisten did not get much of what he asked for -- such as a 46-employee increase and new law enforcement powers that some say rivaled those of the state Attorney General. The legislature was not quite ready to grant new powers to Edmisten without more debate on the subject. And that is what the Center says is needed -- a good debate about the future role of this office.

"We recommend that the General Assembly carefully examine the new roles of the office of the Secretary of State," says the Center's Betts.

Among other things, Edmisten is seeking a greater role in recruiting new industry to North Carolina. He thinks it's a natural role, and former Gov. Jim Hunt, who emphasized industrial development while in office, agrees. "I think a role uniquely suited for Rufus Edmisten is to be an advocate for the corporate climate in this state," says Hunt, who thinks Edmisten ought to recruit companies to incorporate in this state.

Not surprisingly, state Commerce Secretary James T. Broyhill is wary of Edmisten's desire to be involved in attracting new businesses to North Carolina. "He's not talked with me about this," says Broyhill, "and I have no idea about what he really wants. But the statutes clearly give the Department of Commerce the lead authority for economic development in this state -- for existing industry and for inviting new industry, for small business development, for travel and tourism, for film-making. He [Edmisten] does not have the staff or expertise to do that." The Department of Commerce has recently been renamed the Department of Economic and

Community Development. Broyhill is still smarting over the 1987-88 General Assembly's decision to put the new Business License Information Office not in Commerce, where Gov. Jim Martin wanted it, but in the Department of the Secretary of State.

A Steppingstone To Higher Office?

Though Edmisten steadfastly denies planning another run for the governorship, Edmisten's allies may still view the Secretary of State's office as a steppingstone to higher office. After all, other Secretaries of State -- such as New York's Mario Cuomo and Indiana's Birch Bayh Jr. -- have gone on to the governorship. But Thad Beyle, a UNC-Chapel Hill political science professor and an expert on the governorship, says that in the 20th century, there have been 1,087 governors, and only 20 of them served as Secretary of State prior to becoming governor. That's a rate of 1.8 percent. "This is not a stampede," points out Beyle. Of the 20 Secretaries of State who did become governor, 13 succeeded to the office when the governorship became vacant and they were next in line constitutionally -- most recently Rose Mofford in Arizona, who succeeded Gov. Evan Mecham after he was impeached and removed for taking bribes.

New Elections Duties?

The new Secretary also wants greater responsibility in registering voters and operating a statewide registration system to increase voter registration. "I believe very strongly we should be removing some of these barriers to registration," says Edmisten. That would include allowing voters to register up to seven days before an election rather than the current 30-day cutoff. "I think the Secretary of State has a role in educating the public and removing barriers to voting," adds Edmisten. Edmisten already has the authority to set up a central voter file system in his office, but because the 100 county boards of elections use different registration systems, creating that central file has been difficult.

Alex K. Brock, executive director of the State Board of Elections, is not thrilled by Edmisten's ideas. "As a private citizen and an elected official, he can educate the public all he wants," says Brock. "If I was shaping things, I'd let the Secretary of State do anything the General Assembly would let him do except get involved in the election laws and the administration of elections.... He [Edmisten] ought to be worried more about getting things updated over there."

Brock said too many of the records maintained by the Secretary of State's office were kept in stacks on the floor or in poorly-marked cardboard boxes in the department's storerooms. Ironically, the North Carolina elections board once was under the aegis of the Secretary of State's office (in 1971 and 1972), but neither Eure nor Brock enjoyed the association, and both asked the General Assembly to restore independent status to the elections board.

In many states, the Secretary of State has a strong role in supervising campaigns and particularly in requiring extensive disclosure of campaign finance matters. The Secretaries in Alaska, Missouri, Oregon, and West Virginia each go beyond routine disclosure and require special reports detailing how money was raised and spent.

A Champion For Open Meetings and Records?

Some policymakers say that the Secretary of State should become an advocate for open government, particularly as a champion of the state open meetings and public records laws. The open meetings law requires all governmental meetings to be conducted in public, except for a certain few exemptions. The public records law gives the public the right to see almost any government record. Despite these laws, there continue to be abuses at both the state and local levels. As the Secretary of State of North Carolina, and as the most senior [in succession] of the Council of State officers after the Lieutenant Governor, Edmisten could perhaps best mount a campaign for strict adherence to the spirit and the letter of the open meetings and public records laws, the Center says. Such a stance would fit well with the office's 300-year tradition of maintaining open public records.

The Role of Regulating Lobbyists

Yet another area that represents a fertile field for debate over the proper role of the Secretary of State's office is ethics in government. The office already has responsibility for registering lobbyists and maintaining financial records. But critics say that North Carolina's lobbyist registration law is a weak one, with so many loopholes as to make the financial disclosure law the laughingstock of the country. That law requires lobbyists to report the fees they are paid for lobbying, but if they are on retainer or on salary, they do not have to report that income. Nor do lobbyists have to report in detail what they spend on lobbying, or name the individuals they entertain in attempting to influence legislation.

Obviously, one possible task for the Secretary of State would be to examine what other states require in the way of lobbyist disclosure and make recommendations to the 1991 General Assembly for improvements in the state's lobby laws. Specifically, the disclosure reports could require lobbyists to indicate exactly which bills they lobbied on, who the clients were for each bill, how much money was spent to entertain each legislator, what those circumstances were, and how monies were spent on lobbying -- in addition to disclosure of the fee, retainer, or salary paid each lobbyist.

But Edmisten does not want stronger lobbying laws in North Carolina. "Obviously, we don't require as much as other places do," says Edmisten, "but in my experience as Attorney General and [as an aide to U.S. Sen. Sam Ervin] during Watergate, you can require all the things in the world and if someone is intent on violating the law, the strictest requirement in the world won't make a difference."

Retorts former Representative Ray Warren, "If Edmisten thinks that stricter lobbyist regulation is not needed, he is blind.... To allow special interests to spend virtually unlimited and unaccountable amounts of money to influence environmental protection, consumer rights, and tax policies is unconscionable. Protecting special interests and lobbyists from public scrutiny makes poor public policy, but it probably helps ensure friendly PAC [political action committee] contributions in the future."

Other Possible Roles

Still other areas that might be considered for the department are responsibility for publishing all administrative rules and serving as an umbrella agency for the 47 independent licensing boards of the state. Clyde Smith, former Deputy Secretary of State under Eure, says that filing of rules and regulations "should be returned to the Secretary of State along with publication of the North Carolina Administrative Code and the [State] Register."

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The N.C. Center for Public Policy Research is an independent, nonpartisan, nonprofit organization in Raleigh. It was formed in 1977 to study state government programs and important public policy questions in North Carolina. The Center is supported in part by grants from the Z. Smith Reynolds and Mary Reynolds Babcock Foundations, both in Winston-Salem. Other funding comes from 112 corporate contributors and more than 700 individual and organizational members. In addition to publishing North Carolina Insight magazine, the Center has conducted studies comparing the performance of for-profit and not-for-profit hospitals, examining problems with local landfills running out of space, and analyzing changes in the demographics of the N.C. General Assembly.

Copies of North Carolina Insight containing the analysis of the Secretary of State's office are available for \$6.30 (plus \$1.00 postage and handling) from the N.C. Center for Public Policy Research, P.O. Box 430, Raleigh, NC 27602, or call (919) 832-2839.

For further information about the article on the office of the Secretary of State, call Jack Betts at the N.C. Center for Public Policy Research at (919) 832-2839.

**Table 1. Number of States
with Principal Duties of
Secretary of State**

(* Asterisk Indicates North Carolina
Secretary of State has this responsibility)

Method of Selection	
Elected by Voters:	36
Appointed by Governor:	8
Elected by Legislature:	<u>3</u>
Total Number of Secretaries of State:	47
Elections Duties	
Chief Election Officer:	37
Conducts Voter Education Programs:	34
Files Campaign Reports:	33
Files Campaign Expense Reports:	28
Registration Duties	
Commissions Notaries Public:	43 *
Registers Trade Names and Trademarks:	42 *
Registers Corporations:	38 *
Prepares Extraditions and Arrest Warrants:	17
Registers Securities:	12 *
Custodial Duties	
Administers Uniform Commercial Code:	42 *
Maintains State Records and Documents:	35 *
Maintains State Agency Rules and Regulations:	34
Publications Duties	
Produces State Manual or Directory:	34 *
Publishes State Register or Agency Rules:	17
Legislative Duties	
Retains Copies of Legislative Acts:	41 *
Registers Lobbyists:	29 *

Source: The Book of the States 1988-1989,
pp. 68-70.

**Table 2. Budget and Staff Trends in
The N.C. Secretary of State's Office, 1965-1990**

Year	Staff Budget Actual Dollars	Budget in 1988 Equivalent Dollars	Staff Size
1965	\$ 111,297	\$ 431,384	19
1970	218,246	675,684	23
1975	370,060	820,532	28
1980	646,981	922,940	32
1985	1,496,946	1,687,651	56
1989	3,441,936	3,441,936	91
1990 (requested)	\$5,710,083	NA	137
1990 (actual)	\$3,701,037	NA	98

NA: Not Applicable

Note: In 25 years, staff size will have increased 416%, and the budget will have increased 957%,
correcting for the effects of inflation.

Source: Department of the Secretary of State