

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 408
HOUSE BILL 559

AN ACT TO ALLOW UNAFFILIATED VOTERS TO VOTE IN THE PRIMARY ELECTION OF THE PARTY WHICH AUTHORIZES THAT VOTER TO VOTE, SO AS TO COMPLY WITH A DECISION OF THE SUPREME COURT OF THE UNITED STATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-74 is amended by adding a new subsection to read:

"(a1) Voting by unaffiliated voter in party primary. If a political party has, by action of its State Executive Committee reported to the State Board of Elections by resolution delivered no later than the first day of December preceding a primary, provided that unaffiliated voters may vote in the primary of that party, an unaffiliated voter may vote in the primary of that party by announcing that intention under G.S. 163-150(a). For a party to withdraw its permission, it must do so by action of its State Executive Committee, similarly reported to the State Board of Elections no later than the first day of December preceding the primary where the withdrawal is to become effective."

Sec. 2. G.S. 163-150(a) reads as rewritten:

"(a) Checking Registration. A person seeking to vote shall enter the voting enclosure at the voting place through the appropriate entrance and shall at once state his name and place of residence to one of the judges of election. In a primary election, the voter shall also state the political party with which he affiliates and in whose primary he desires to vote, or if the voter is an unaffiliated voter permitted to vote in the primary of a particular party under G.S. 163-74(a1), the voter shall state the name of the authorizing political party in whose primary he wishes to vote. The judge to whom the voter gives this information shall announce the name and residence of the voter in a distinct tone of voice. After examining the precinct registration records, the registrar shall state whether the person seeking to vote is duly registered."

Sec. 3. G.S. 163-150(b) reads as rewritten:

"(b) Distribution of Ballots; Information. If the voter is found to be registered and is not challenged, or, if challenged and the challenge is overruled as provided in G.S. 163-88, the responsible judge of election shall hand him an official ballot of each kind he is entitled to vote. In a primary election the voter shall be furnished ballots of the political party with which he affiliates and no others, except that unaffiliated voters who are permitted to vote in a party primary under G.S. 163-74(a1) shall be furnished ballots for that primary. No such unaffiliated voter shall vote in the primary of more than one party on the same day. It shall be the duty of the registrar and judges holding the

primary or election to give any voter any information he desires in regard to the kinds of ballots he is entitled to vote and the names of the candidates on the ballots. In response to questions asked by the voter, the registrar and judges shall communicate to him any information necessary to enable him to mark his ballot as he desires."

Sec. 4. G.S. 163-59 reads as rewritten:

"§ 163-59. **Right to participate or vote in party primary.**—No person shall be entitled to vote or otherwise participate in the primary election of any political party unless he

- (1) Is a registered voter, and
- (2) Has declared and has had recorded on the registration book or record the fact that he affiliates with the political party in whose primary he proposes to vote or participate, and
- (3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. 163-74(a1) may also vote in the primary if the voter is otherwise eligible to vote in that primary except for subdivisions (2) and (3) of the previous paragraph.

Any person who will become qualified by age or residence to register and vote in the general election or regular municipal election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general or regular municipal election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the 21st day (excluding Saturdays and Sundays) prior to the primary."

Sec. 5. G.S. 163-283 reads as rewritten:

"§ 163-283. **Right to participate or vote in party primary.**—No person shall be entitled to vote or otherwise participate in the primary election of any political party unless he

- (1) Is a registered voter, and
- (2) Has declared and has had recorded on the registration book or record the fact that he affiliates with the political party in whose primary he proposes to vote or participate, and
- (3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. 163-74(a1) may also vote in the primary if the voter is otherwise eligible to vote in that primary except for subdivisions (2) and (3) of the previous paragraph.

Any person who will become qualified by age or residence to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary election, shall be entitled to register while the registration books are open during the regular registration period prior to the primary and then to vote in the primary after being registered, provided however, under full-time and permanent registration, such an individual may register not earlier than 60 days nor later than the 21st day prior to the primary."

Sec. 6. G.S. 163-74(a) reads as rewritten:

"(a) Statement of Party Affiliation or Unaffiliated Status; Record Thereof. Every person who registers to vote shall, at the time application is made, (i) state his desired political party affiliation or (ii) state that he wishes to be recorded as an 'unaffiliated'

voter. The person before whom the voter is registering shall record the affiliation requested by the voter. Such recorded party affiliation, or unaffiliated designation, shall thereafter be permanent unless, or until, the registrant changes it under the provisions of subsection (b) of this section.

If the applicant (registrant) refuses to declare his party affiliation upon request, or if the applicant refuses further to state that he desires to be recorded as unaffiliated, then the registrar or other officer shall inform the applicant that although he may register, his record shall be designated 'unaffiliated' and he shall not be eligible to vote in any political party primary, except as authorized by a political party under G.S. 163-74(a1), but may vote in any general election."

Sec. 7. G.S. 163-87 reads as rewritten:

"§ 163-87. Challenges allowed on day of primary or election.—On the day of a primary or election, at the time a registered voter offers to vote, any other registered voter of the precinct may exercise the right of challenge, and when he does so may enter the voting enclosure to make the challenge, but he shall retire therefrom as soon as the challenge is heard.

On the day of a primary or election, any other registered voter of the precinct may challenge a person for one or more of the following reasons:

- (1) One or more of the reasons listed in G.S. 163-85(c), or
- (2) That the person has already voted in that primary or election, or
- (3) That the person presenting himself to vote is not who he represents himself to be.

On the day of a party primary, any voter of the precinct who is registered as a member of the political party conducting the primary may, at the time any registrant proposes to vote, challenge his right to vote upon the ground that he does not affiliate with the party conducting the primary or does not in good faith intend to support the candidates nominated in that party's primary, and it shall be the duty of the registrar and judges of election to determine whether or not the challenged registrant has a right to vote in that primary according to the procedures prescribed in G.S. 163-88; provided that no challenge may be made on the grounds specified in the paragraph against an unaffiliated voter voting in the primary under G.S. 163-74(a1).

If a person is challenged under this subsection, and the challenge is sustained under G.S. 163-85(c)(3), the voter may still transfer his registration under G.S. 163-72.3, if eligible under that section, and the registration shall not be cancelled under G.S. 163-90.2(a) if the transfer is made. A person who has transferred his registration under G.S. 163-72.3 may be challenged at the precinct to which the registration is being transferred."

Sec. 8. This act shall become effective with respect to primaries held on or after January 1, 1988.

In the General Assembly read three times and ratified this the 18th day of June, 1987.