

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1993

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HOUSE BILL 1014

Short Title: Candidate Multiple Filing. (Public)

Sponsors: Representatives Grady; and J. Preston.

Referred to: Judiciary I.

April 19, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW PERSONS TO BE CANDIDATES IN MORE THAN ONE
3 PARTY PRIMARY.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 163-106 reads as rewritten:

6 **"§ 163-106. Notices of candidacy; pledge; with whom filed; date for filing;**
7 **withdrawal.**

8 (a) Notice and Pledge. – No one shall be voted for in a primary election unless he
9 shall have filed a notice of candidacy with the appropriate board of elections, State or
10 county, as required by this section. To this end every candidate for selection as the
11 nominee of a political party shall file with and place in the possession of the board of
12 elections specified in subsection (c) of this section, a notice and pledge in the following
13 form: 'Date I hereby file notice as a candidate for nomination as in the
14 party primary election to be held on, 19..... ~~I affiliate with the party, (and I~~
15 ~~certify that I am now registered on the registration records of the precinct in which I~~
16 ~~reside as an affiliate of the party.)~~

17 I pledge that if I am defeated in the primary, I will not run for any office as a
18 write-in candidate in the next general election. Signed Name of candidate

19 Witness:
20
21
22 (Title of witness)'

23 Each candidate shall sign his notice of candidacy in the presence of the chairman or
24 secretary of the board of elections, State or county, with which he files. In the

1 alternative, a candidate may have his signature on the notice of candidacy
2 acknowledged and certified to by an officer authorized to take acknowledgments and
3 administer oaths, in which case the candidate may mail his notice of candidacy to the
4 appropriate board of elections.

5 In signing his notice of candidacy the candidate shall use only his legal name and, in
6 his discretion, any nickname by which he is commonly known. A candidate may also, in
7 lieu of his legal first name and legal middle initial or middle name (if any) sign his
8 nickname, provided that he appends to the notice of candidacy an affidavit that he has
9 been commonly known by that nickname for at least five years prior to the date of
10 making the affidavit. The candidate shall also include with the affidavit the way his
11 name (as permitted by law) should be listed on the ballot if another candidate with the
12 same last name files a notice of candidacy for that office.

13 A notice of candidacy signed by an agent or any person other than the candidate
14 himself shall be invalid.

15 Prior to the date on which candidates may commence filing, the State Board of
16 Elections shall print and furnish, at State expense, to each county board of elections a
17 sufficient number of the notice of candidacy forms prescribed by this subsection for use
18 by candidates required to file with county boards of elections.

19 ~~(b) Eligibility to File. — No person shall be permitted to file as a candidate in a
20 primary if, at the time he offers to file notice of candidacy, he is registered on the
21 appropriate registration book or record as an affiliate of a political party other than that
22 in whose primary he is attempting to file. No person who has changed his political party
23 affiliation or who has changed from unaffiliated status to party affiliation as permitted
24 in G.S. 163-74(b), shall be permitted to file as a candidate in the primary of the party to
25 which he changed unless e has been affiliated with the political party in which he seeks
26 to be a candidate for at least 90 days prior to the filing date for the office for which he
27 desires to file his notice of candidacy.~~

28 ~~A person registered as 'unaffiliated' shall be ineligible to file as a candidate in a party
29 primary election.~~

30 (c) Time for Filing Notice of Candidacy. — Candidates seeking party primary
31 nominations for the following offices shall file their notice of candidacy with the State
32 Board of Elections no earlier than 12:00 noon on the first Monday in January and no
33 later than 12:00 noon on the first Monday in February preceding the primary:

- 34 Governor
- 35 Lieutenant Governor
- 36 All State executive officers
- 37 Justices of the Supreme Court, Judges of the Court of Appeals
- 38 Judges of the superior courts
- 39 Judges of the district courts
- 40 United States Senators
- 41 Members of the House of Representatives of the United States
- 42 District attorneys

43 Candidates seeking party primary nominations for the following offices shall file
44 their notice of candidacy with the county board of elections no earlier than 12:00 noon

1 on the first Monday in January and no later than 12:00 noon on the first Monday in
2 February preceding the primary:

3 State Senators

4 Members of the State House of Representatives

5 All county offices.

6 (d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any
7 primary in which there are two or more vacancies for Chief Justice and associate
8 justices of the Supreme Court, two or more vacancies for judge of the Court of Appeals,
9 or two vacancies for United States Senator from North Carolina or two or more
10 vacancies for the office of district court judge to be filled by nominations, each
11 candidate shall, at the time of filing notice of candidacy, file with the State Board of
12 Elections a written statement designating the vacancy to which he seeks nomination.
13 Votes cast for a candidate shall be effective only for his nomination to the vacancy for
14 which he has given notice of candidacy as provided in this subsection.

15 A person seeking party nomination for a specialized district judgeship established
16 under G.S. 7A-147 shall, at the time of filing notice of candidacy, file with the State
17 Board of Elections a written statement designating the specialized judgeship to which he
18 seeks nomination.

19 (e) Withdrawal of Notice of Candidacy. – Any person who has filed notice of
20 candidacy for an office shall have the right to withdraw it at any time prior to the date
21 on which the right to file for that office expires under the terms of subsection (c) of this
22 section. If a candidate does not withdraw before the filing deadline, except as provided
23 in G.S. 163-112, his name shall be printed on the primary ballot, any votes for him shall
24 be counted, and he shall not be refunded his filing fee.

25 (f) Candidates required to file their notice of candidacy with the State Board of
26 Elections under subsection (c) of this section shall file along with their notice a
27 certificate signed by the chairman of the board of elections or the supervisor of elections
28 of the county in which they are registered to vote, stating that the person is registered to
29 vote in that county, ~~stating the party with which the person is affiliated, and that the~~
30 ~~person has not changed his affiliation from another party or from unaffiliated within~~
31 ~~three months prior to the filing deadline under subsection (c) of this section.~~ In issuing
32 such certificate, the chairman or supervisor shall check the registration records of the
33 county to verify such information. During the period commencing 36 hours immediately
34 preceding the filing deadline the State Board of Elections shall accept, on a conditional
35 basis, the notice of candidacy of a candidate who has failed to secure the verification
36 ordered herein subject to receipt of verification no later than three days following the
37 filing deadline. The State Board of Elections shall prescribe the form for such
38 certificate, and distribute it to each county board of elections no later than the last
39 Monday in December of each odd-numbered year.

40 (g) When any candidate files a notice of candidacy with a county board of
41 elections under subsection (c) of this section or under G.S. 163-291(2), the chairman or
42 supervisor of elections shall, immediately upon receipt of the notice of candidacy,
43 inspect the registration records of the county, and cancel the notice of candidacy of any
44 person who is not eligible under subsection (c) of this section. The Board shall give

1 notice of cancellation to any candidate whose notice of candidacy has been cancelled
2 under this subsection by mail or by having the notice served on him by the sheriff.

3 (h) No person may file a notice of candidacy for more than one office described
4 in subsection (c) of this section for any one election. If a person has filed a notice of
5 candidacy with a board of elections under this section for one office, then a notice of
6 candidacy may not later be filed for any other office under this section when the
7 election is on the same date unless the notice of candidacy for the first office is
8 withdrawn under subsection (e) of this section; provided that this subsection shall not
9 apply unless the deadline for filing notices of candidacy for both offices is the same.
10 Notwithstanding this subsection, a person may file a notice of candidacy for a full term
11 as United States Senator, and also file a notice of candidacy for the remainder of the
12 unexpired term of that same seat in an election held under G.S. 163-12, and may file a
13 notice of candidacy for a full term as a member of the United States House of
14 Representatives, and also file a notice of candidacy for the remainder of the unexpired
15 term in an election held under G.S. 163-13.

16 (i) No person may file a notice of candidacy for superior court judge unless that
17 person is at the time of filing the notice of candidacy a resident of the judicial district as
18 it will exist at the time the person would take office if elected. No person may be
19 nominated as a superior court judge under G.S. 163-114 unless that person is at the time
20 of nomination a resident of the judicial district as it will exist at the time the person
21 would take office if elected. This subsection implements Article IV Section 9 (1) of the
22 North Carolina Constitution which requires regular Superior Court Judges to reside in
23 the district for which elected.

24 (j) A person who is qualified for an office may file a notice of candidacy for that
25 office in the primary of more than one party, regardless of the party affiliation the
26 person has stated as a registered voter. If nominated by more than one party, the person
27 may appear on the general election ballot as the nominee of any party that has
28 nominated him."

29 Sec. 2. G.S. 163-213.5 reads as rewritten:

30 **"§ 163-213.5. Nomination by petition.**

31 Any person seeking ~~the endorsement by the national political party for the office of~~
32 the office of President of the United States, or any group organized in this State on
33 behalf of, and with the consent of, such person, may file with the State Board of
34 Elections petitions signed by 10,000 persons who, at the time they signed are registered
35 and qualified voters in this State and are affiliated, by such registration, with the ~~same~~
36 political party as the candidate for whom the petitions are filed. political party at whose
37 primary the petitions are directed. The candidate whom the petitioners seek to place on
38 their political party's primary ballot need not be affiliated with that party and may be a
39 person who has qualified or will qualify to appear on the presidential primary ballot of
40 another party. Such petitions shall be presented to the county board of elections 10 days
41 before the filing deadline and shall be certified promptly by the chairman of the board
42 of elections of the county in which the signatures were obtained and shall be filed by the
43 petitioners with the State Board of Elections no later than 5:00 P.M. on the date the
44 State Board of Elections is required to meet as directed by G.S. 163-213.4.

1 The petitions must state the name of the candidate for nomination, along with a letter
2 of approval signed by such candidate. Said petitions must also state the name and
3 address of the chairman of any such group organized to circulate petitions authorized
4 under this section. The requirement for signers of such petitions shall be the same as
5 now required under provisions of G.S. 163-96(b)(1) and (2). The requirement of the
6 respective chairmen of county boards of elections shall be the same as now required
7 under the provisions of G.S. 163-96(b)(1) and (2) as they relate to the chairman of the
8 county board of elections.

9 The group of petitioners shall pay to the chairman of the county board of elections a
10 fee of ten cents (10¢) for each signature he is required to examine under the provisions
11 of this section.

12 The State Board of Elections shall forthwith determine the sufficiency of petitions
13 filed with it and shall immediately communicate its determination to the chairman of
14 such group organized to circulate petitions. The form and style of petition shall be as
15 prescribed by the State Board of Elections."

16 Sec. 3. G.S. 163-11 is repealed.

17 Sec. 4. Article 2 of Chapter 163 of the General Statutes is amended by
18 adding a new section to read:

19 "**§ 163-11.1. Filling vacancy in General Assembly.**

20 (a) Special Election. – If a vacancy shall occur in the General Assembly by
21 death, vacancy, or otherwise than by expiration of term, the Governor shall issue a writ
22 of election, and by proclamation fix the date on which an election to fill the vacancy
23 shall be held in the appropriate House or Senate district.

24 (b) Nominating Procedures. – If a General Assembly vacancy occurs beginning
25 on the tenth day before the filing period ends under G.S. 163-106(c) preceding the next
26 succeeding general election, candidates for the special election to fill the vacancy shall
27 not be nominated in primaries. Instead, nominations may be made by the political party
28 House or Senate district executive committees in the district in which the vacancy
29 occurs. The chairman and secretary of each political party House or Senate district
30 executive committee nominating a candidate shall immediately certify his name and
31 party affiliation to the State Board of Elections so that it may be printed on the special
32 election ballots.

33 If the General Assembly vacancy occurs before the tenth day before the filing period
34 ends under G.S. 163-106(c) prior to the next succeeding general election, the
35 Governor shall call a special primary for the purpose of nominating candidates to be
36 voted on in a special election called by the Governor in accordance with the provisions
37 of subsection (a) of this section. Such a primary election shall be conducted in
38 accordance with the general laws governing primaries, except that the opening and
39 closing dates for filing notices of candidacy with the appropriate board of elections shall
40 be fixed by the Governor in his call for the special primary. The Governor may also fix
41 the absentee voting period for the special election and for the special first primary."

42 Sec. 5. G.S. 153A-27 is repealed.

43 Sec. 6. G.S. 153A-27.1 is repealed.

1 Sec. 7. Article 4 of Chapter 153A of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 153A-27.2. Vacancy on the board of commissioners.**

4 (a) Special Election. – If a vacancy shall occur in the board of commissioners by
5 death, vacancy, or otherwise than by expiration of term, the county board of elections
6 shall call a special election to fill the vacancy to be held in the county or the appropriate
7 county-commissioner district.

8 (b) Nominating Procedures. – If a vacancy on the board of commissioners occurs
9 beginning on the tenth day before the filing period ends under G.S. 163-106(c)
10 preceding the next succeeding general election, candidates for the special election to fill
11 the vacancy shall not be nominated in primaries. Instead, nominations may be made by
12 the political party county committees in the county in which the vacancy occurs.
13 Whenever, because of G.S. 153A-58(3)b. or because of any local act, only the qualified
14 voters of an area which is less than the entire county were eligible to vote in the general
15 election for the member whose seat is vacant, the political party county executive
16 committee must restrict voting to committee members who represent precincts all or
17 part of which were within the territorial area of the district of the county commissioner.
18 The chairman and secretary of each political party county executive committee
19 nominating a candidate shall immediately certify his name and party affiliation to the
20 county board of elections so that it may be printed on the special election ballots.

21 If the vacancy on the board of commissioners occurs before the tenth day before the
22 filing period ends under G.S. 163-106(c) prior to the next succeeding general election,
23 the county board of elections shall call a special primary for the purpose of nominating
24 candidates to be voted on in a special election called by the county board of elections in
25 accordance with the provisions of subsection (a) of this section. Such a primary election
26 shall be conducted in accordance with the general laws governing primaries, except that
27 the opening and closing dates for filing notices of candidacy with the county board of
28 elections shall be fixed by the county board of elections in its call for the special
29 primary. The county board of elections may also fix the absentee voting period for the
30 special election and for the special first primary."

31 Sec. 8. G.S. 161-5 is repealed.

32 Sec. 9. Article 1 of Chapter 161 of the General Statutes is amended by
33 adding a new section to read:

34 **"§ 161-5.1. Filling vacancy in office of register of deeds.**

35 (a) Special Election. – If a vacancy shall occur in the office of register of deeds
36 by death, vacancy, or otherwise than by expiration of term, the county board of
37 elections shall call a special election to fill the vacancy.

38 (b) Nominating Procedures. – If a register of deeds vacancy occurs beginning on
39 the tenth day before the filing period ends under G.S. 163-106(c) preceding the next
40 succeeding general election, candidates for the special election to fill the vacancy shall
41 not be nominated in primaries. Instead, nominations may be made by the political party
42 county executive committees in the county in which the vacancy occurs. The chairman
43 and secretary of each political party county executive committee nominating a candidate

1 shall immediately certify his name and party affiliation to the county board of elections
2 so that it may be printed on the special election ballots.

3 If the register of deeds vacancy occurs before the tenth day before the filing period
4 ends under G.S. 163-106(c) prior to the next succeeding general election, the
5 county board of elections shall call a special primary for the purpose of nominating
6 candidates to be voted on in a special election called by the county board of elections in
7 accordance with the provisions of subsection (a) of this section. Such a primary election
8 shall be conducted in accordance with the general laws governing primaries, except that
9 the opening and closing dates for filing notices of candidacy with the county board of
10 elections shall be fixed by the county board of elections in its call for the special
11 primary. The county board of elections may also fix the absentee voting period for the
12 special election and for the special first primary."

13 Sec. 10. G.S. 162-5 is repealed.

14 Sec. 11. G.S. 162-5.1 is repealed.

15 Sec. 12. Article 1 of Chapter 162 of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 162-5.2. Filling vacancy in office of sheriff.**

18 (a) Duties Performed by Coroner or Chief Deputy. – If any vacancy occurs in the
19 office of sheriff, the coroner of the county shall execute all process directed to the
20 sheriff and perform all the duties of the sheriff until a special election is held in
21 accordance with this section. In those counties where the office of coroner has been
22 abolished, the chief deputy sheriff, or if there is no chief deputy, then the senior deputy
23 in years of service, shall perform all the duties of the sheriff until a special election is
24 held in accordance with this section.

25 (b) Special Election. – If a sheriff vacancy shall occur by death, vacancy, or
26 otherwise than by expiration of term, the county board of elections shall call a special
27 election to fill the vacancy.

28 (c) Nominating Procedures. – If a sheriff vacancy occurs beginning on the tenth
29 day before the filing period ends under G.S. 163-106(c) preceding the next succeeding
30 general election, candidates for the special election to fill the vacancy shall not be
31 nominated in primaries. Instead, nominations may be made by the political party county
32 executive committees in the county in which the vacancy occurs. The chairman and
33 secretary of each political party county executive committee nominating a candidate
34 shall immediately certify his name and party affiliation to the county board of elections
35 so that it may be printed on the special election ballots.

36 If the sheriff vacancy occurs before the tenth day before the filing period ends under
37 G.S. 163-106(c) prior to the next succeeding general election, the county board of
38 elections shall call a special primary for the purpose of nominating candidates to be
39 voted on in a special election called by the county board of elections in accordance with
40 the provisions of subsection (b) of this section. Such a primary election shall be
41 conducted in accordance with the general laws governing primaries, except that the
42 opening and closing dates for filing notices of candidacy with the county board of
43 elections shall be fixed by the county board of elections or in its call for the special

1 primary. The county board of elections may also fix the absentee voting period for the
2 special election and for the special first primary."

3 Sec. 13. G.S. 152-1 reads as rewritten:

4 **"§ 152-1. Election; vacancies in office; appointment by clerk in special cases.**

5 (a) In each county a coroner shall be elected by the qualified voters thereof in the
6 same manner and at the same time as the election of members of the General Assembly,
7 and shall hold office for a term of four years, or until his successor is elected and
8 qualified.

9 ~~A vacancy in the office of coroner shall be filled by the county commissioners, and~~
10 ~~the person so appointed shall, upon qualification, hold office until his successor is~~
11 ~~elected and qualified. If the coroner were elected as the nominee of a political party,~~
12 ~~then the county commissioners shall consult with the county executive committee of~~
13 ~~that political party before filling the vacancy, and shall appoint the person~~
14 ~~recommended by that committee if the party makes a recommendation within 30 days~~
15 ~~of the occurrence of the vacancy; this sentence shall apply only to the counties of~~
16 ~~Alamance, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus,~~
17 ~~Caldwell, Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood,~~
18 ~~Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk,~~
19 ~~Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey.~~

20 When the coroner shall be out of the county, or shall for any reason be unable to hold
21 the necessary inquest as provided by law, or there is a vacancy existing in the office of
22 coroner which has not been filled ~~by the county commissioners~~ and it is made to appear
23 to the clerk of the superior court by satisfactory evidence that a deceased person whose
24 body has been found within the county probably came to his death by the criminal act or
25 default of some person, it is the duty of the clerk to appoint some suitable person to act
26 as coroner in such special case.

27 (b) Special Election. – If a coroner vacancy shall occur by death, vacancy, or
28 otherwise than by expiration of term, the county board of elections shall call a special
29 election to fill the vacancy.

30 (c) Nominating Procedures. – If a coroner vacancy occurs beginning on the tenth
31 day before the filing period ends under G.S. 163-106(c) preceding the next succeeding
32 general election, candidates for the special election to fill the vacancy shall not be
33 nominated in primaries. Instead, nominations may be made by the political party county
34 executive committees in the county in which the vacancy occurs. The chairman and
35 secretary of each political party county executive committee nominating a candidate
36 shall immediately certify his name and party affiliation to the county board of elections
37 so that it may be printed on the special election ballots.

38 If the coroner vacancy occurs before the tenth day before the filing period ends
39 under G.S. 163-106(c) prior to the next succeeding general election, the county
40 board of elections shall call a special primary for the purpose of nominating candidates
41 to be voted on in a special election called by the county board of elections in accordance
42 with the provisions of subsection (b) of this section. Such a primary election shall be
43 conducted in accordance with the general laws governing primaries, except that the
44 opening and closing dates for filing notices of candidacy with the county board of

1 elections shall be fixed by the county board of elections or in its call for the special
2 primary. The county board of elections may also fix the absentee voting period for the
3 special election and for the special first primary."

4 Sec. 14. G.S. 160A-63 is repealed.

5 Sec. 15. Article 5 of Chapter 160A of the General Statutes is amended by
6 adding a new section to read:

7 **"§ 160A-63.1. Filling vacancy in city elective office.**

8 (a) Special Election. – If a vacancy occurs in an elective office of a city by death,
9 vacancy, or otherwise than by expiration of term, the municipal board of elections, or if
10 there is no municipal board of elections, the county board of elections shall call a
11 special election to fill the vacancy in the city or the appropriate district of the city.

12 (b) Nominating Procedures. – If a city office is filled by partisan election and a
13 vacancy occurs in that office beginning on the tenth day before the filing period ends
14 under G.S. 163-106(c) preceding the next succeeding general election, candidates for
15 the special election to fill the vacancy shall not be nominated in primaries. Instead,
16 nominations may be made by the political party county executive committees in the
17 county in which the vacancy occurs, provided that only the members of the executive
18 committee who represent precincts all or part of which were within the territorial area
19 where residents were eligible to vote for the office in the general election. The chairman
20 and secretary of each political party county executive committee nominating a candidate
21 shall immediately certify his name and party affiliation to the appropriate board of
22 elections so that it may be printed on the special election ballots.

23 If the vacancy occurs before the tenth day before the filing period ends under G.S.
24 163-106(c) prior to the next succeeding general election, the appropriate board of
25 elections shall call a special primary for the purpose of nominating candidates to be
26 voted on in a special election called by that board of elections in accordance with the
27 provisions of subsection (a) of this section. Such a primary election shall be conducted
28 in accordance with the general laws governing primaries, except that the opening and
29 closing dates for filing notices of candidacy with the appropriate board of elections shall
30 be fixed by the appropriate board of elections in its call for the special primary. That
31 board of elections may also fix the absentee voting period for the special election and
32 for the special first primary."

33 Sec. 16. G.S. 7A-142 is repealed.

34 Sec. 17. Article 14 of Chapter 7A of the General Statutes is amended by
35 adding a new section to read:

36 **"§ 7A-142. Vacancies in office of district court judge.**

37 (a) Special Election. – If a vacancy occurs in the office of district court judge by
38 death, vacancy, or otherwise than by expiration of term, the Governor shall issue a writ
39 of election, and by proclamation fix the date on which an election to fill the vacancy
40 shall be held in the appropriate district court district.

41 (b) Nominating Procedures. – If a vacancy in the office of district court judge
42 occurs beginning on the tenth day before the filing period ends under G.S. 163-106(c)
43 preceding the next succeeding general election, candidates for the special election to fill
44 the vacancy shall not be nominated in primaries. Instead, nominations may be made by

1 the county executive committees of each political party in the district court district in
2 which the vacancy occurs. If the district comprises more than one county, the county
3 executive committees of each political party making a nomination shall meet jointly and
4 choose one nominee for each vacancy. The chairman and secretary of each political
5 party county executive committee nominating a candidate shall immediately certify his
6 name and party affiliation to the State Board of Elections so that it may be printed on
7 the special election ballots.

8 If the district court judge vacancy occurs before the tenth day before the filing period
9 ends under G.S. 163-106(c) prior to the next succeeding general election, the
10 Governor shall call a special primary for the purpose of nominating candidates to be
11 voted on in a special election called by the Governor in accordance with the provisions
12 of subsection (a) of this section. Such a primary election shall be conducted in
13 accordance with the general laws governing primaries, except that the opening and
14 closing dates for filing notices of candidacy with the appropriate board of elections shall
15 be fixed by the Governor in his call for the special primary. The Governor may also fix
16 the absentee voting period for the special election and for the special first primary."

17 Sec. 18. This act becomes effective January 1, 1994.