

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 78

Short Title: Primary Date Changed.

(Public)

Sponsors: Senators Winner of Buncombe, Kaplan; Martin of Guilford and Seymour.

Referred to: Constitution and Election Laws.

February 8, 1993

A BILL TO BE ENTITLED  
AN ACT TO CHANGE THE DATE OF THE PRIMARY TO THE FIRST TUESDAY  
IN SEPTEMBER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-1(b) reads as rewritten:

"(b) On ~~Tuesday next after the first Monday in May~~ the first Tuesday in September  
preceding each general election to be held in November for the officers referred to in  
subsection (a) of this section, there shall be held in all election precincts within the  
territory for which the officers are to be elected a primary election for the purpose of  
nominating candidates for each political party in the State for those offices."

Sec. 2. G.S. 163-96(a)(2) reads as rewritten:

"(2) Any group of voters which shall have filed with the State Board of  
Elections petitions for the formulation of a new political party which  
are signed by registered and qualified voters in this State equal in  
number to two percent (2%) of the total number of voters who voted in  
the most recent general election for Governor. Also the petition must  
be signed by at least 200 registered voters from each of four  
congressional districts in North Carolina. To be effective, the  
petitioners must file their petitions with the State Board of Elections  
before 12:00 noon on the first day of ~~June~~ August preceding the day on  
which is to be held the first general State election in which the new  
political party desires to participate. The State Board of Elections shall  
forthwith determine the sufficiency of petitions filed with it and shall

1 immediately communicate its determination to the State chairman of  
2 the proposed new political party."

3 Sec. 3. G.S. 163-98 reads as rewritten:

4 **"§ 163-98. General election participation by new political party.**

5 In the first general election following the date on which a new political party  
6 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its  
7 candidates for State, congressional, and national offices printed on the official ballots,  
8 but it shall not be entitled to have the names of candidates for other offices printed on  
9 State, district, or county ballots at that election.

10 For the first general election following the date on which it qualifies under G.S. 163-  
11 96, a new political party shall select its candidates by party convention. Following  
12 adjournment of the nominating convention, but not later than the first day of ~~July~~  
13 September prior to the general election, the president of the convention shall certify to  
14 the State Board of Elections the names of persons chosen in the convention as the new  
15 party's candidates for State, congressional, and national offices in the ensuing general  
16 election. The State Board of Elections shall print names thus certified on the appropriate  
17 ballots as the nominees of the new party."

18 Sec. 4. G.S. 163-106(c) reads as rewritten:

19 "(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary  
20 nominations for the following offices shall file their notice of candidacy with the State  
21 Board of Elections no earlier than 12:00 noon on the ~~first Monday in January~~ last Monday  
22 in June and no later than 12:00 noon on the ~~first Monday in February~~ third Monday  
23 thereafter preceding the primary:

24 Governor  
25 Lieutenant Governor  
26 All State executive officers  
27 Justices of the Supreme Court, Judges of the Court of Appeals  
28 Judges of the superior courts  
29 Judges of the district courts  
30 United States Senators  
31 Members of the House of Representatives of the United States  
32 District attorneys

33 Candidates seeking party primary nominations for the following offices shall file  
34 their notice of candidacy with the county board of elections no earlier than 12:00 noon  
35 on the ~~first Monday in January~~ last Monday in June and no later than 12:00 noon on the  
36 ~~first Monday in February~~ third Monday thereafter preceding the primary:

37 State Senators  
38 Members of the State House of Representatives  
39 All county offices."

40 Sec. 5. G.S. 163-111(e) reads as rewritten:

41 "(e) Date of Second Primary; Procedures. – If a second primary is required under  
42 the provisions of this section, the appropriate board of elections, State or county, shall  
43 order that it be held ~~four~~ three weeks after the first primary.

There shall be no registration of voters between the dates of the first and second primaries. Persons whose qualifications to register and vote mature after the day of the first primary and before the day of the second primary may register on the day of the second primary and, when thus registered, shall be entitled to vote in the second primary. The second primary is a continuation of the first primary and any voter who files a proper and timely affidavit of transfer of precinct, under the provisions of G.S. 163-72(c), before the first primary may vote in the second primary without having to refile the affidavit of transfer if he is otherwise qualified to vote in the second primary. Subject to this provision for registration, the second primary shall be held under the laws, rules, and regulations provided for the first primary."

Sec. 6. G.S. 163-114 reads as rewritten:

**"§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position	Vacancy is to be filled by
Any elective State office	appointment of State
United States Senator	executive committee of
	political party in which
	vacancy occurs
A district office, including:	
Member of the United States	
House of Representatives	
Judge of superior court	
Judge of district court	Appropriate district executive
District Attorney	committee of political party
State Senator in a multi-	in which vacancy occurs
county senatorial district	
Member of State House of	
Representatives in a multi-	
county representative	
district	
State Senator in a single-	County executive committee
county senatorial district	of political party in which
Member of State House of	vacancy occurs, provided, in
Representatives in a	the case of the State
single-county	Senator or State
representative district	Representative in a

1 Any elective county office | single-county district where  
 2 not all the county is  
 3 located in that district,  
 4 then in voting, only those  
 5 members of the county  
 6 executive committee who  
 7 reside within the  
 8 district shall vote  
 9

10 Judge of Superior Court in a | County executive committee  
 11 single-county superior | of political party in  
 12 court district where the | which vacancy occurs;  
 13 district is the whole | provided, in the case of  
 14 county or part of the | a superior court judge in a  
 15 county single-county district where  
 16 not all the county is  
 17 located in that district,  
 18 then in voting, only those  
 19 members of the county  
 20 executive committee who  
 21 reside within the  
 22 district shall vote  
 23

24 Judge of Superior Court in a | Appropriate district  
 25 multi-county superior | executive committee of  
 26 court district | political party in which  
 27 vacancy occurs.

28 The party executive making a nomination in accordance with the provisions of this  
 29 section shall certify the name of its nominee to the chairman of the board of elections,  
 30 State or county, charged with the duty of printing the ballots on which the name is to  
 31 appear. If at the time a nomination is made under this section the general election ballots  
 32 have already been printed, the provisions of G.S. 163-139 shall apply. ~~If any person~~  
 33 ~~nominated as a candidate of a political party vacates such nomination and such vacancy arises~~  
 34 ~~from a cause other than death and the vacancy in nomination occurs more than 120 days before~~  
 35 ~~the general election, the vacancy in nomination may be filled under this section only if the~~  
 36 ~~appropriate executive committee certifies the name of the nominee in accordance with this~~  
 37 ~~paragraph at least 75 days before the general election.~~

38 In a county which is partly in a multi-county superior court district, in choosing that  
 39 county's member or members of the superior court district executive committee for the  
 40 multi-county district, only the county convention delegates or county executive  
 41 committee members who reside within the area of the county which is within that multi-  
 42 county district may vote.

43 In a county not all of which is located in one congressional district, in choosing the  
 44 congressional district executive committee member or members from that area of the

1 county, only the county convention delegates or county executive committee members  
2 who reside within the area of the county which is within the congressional district may  
3 vote.

4 In a county which is partly in a multi-county senatorial district or which is partly in a  
5 multi-county House of Representatives district, in choosing that county's member or  
6 members of the senatorial district executive committee or House of Representatives  
7 district executive committee for the multi-county district, only the county convention  
8 delegates or county executive committee members who reside within the area of the  
9 county which is within that multi-county district may vote."

10 Sec. 7. G.S. 163-122(a) reads as rewritten:

11 "(a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. –  
12 Any qualified voter who seeks to have his name printed on the general election ballot as  
13 an unaffiliated candidate shall:

14 (1) If the office is a statewide office, file written petitions with the State  
15 Board of Elections supporting his candidacy for a specified office.  
16 These petitions must be filed with the State Board of Elections on or  
17 before 12:00 noon on the last Friday in ~~June~~August preceding the  
18 general election and must be signed by qualified voters of the State  
19 equal in number to two percent (2%) of the total number of registered  
20 voters in the State as reflected by the most recent statistical report  
21 issued by the State Board of Elections. Each petition shall be  
22 presented to the chairman of the board of elections of the county in  
23 which the signatures were obtained. The chairman shall examine the  
24 names on the petition and place a check mark on the petition by the  
25 name of each signer who is qualified and registered to vote in his  
26 county and shall attach to the petition his signed certificate. Said  
27 certificates shall state that the signatures on the petition have been  
28 checked against the registration records and shall indicate the number  
29 of signers to be qualified and registered to vote in his county. The  
30 chairman shall return each petition, together with the certificate  
31 required in this section, to the person who presented it to him for  
32 checking. Verification by the chairman of the county board of  
33 elections shall be completed within two weeks from the date such  
34 petitions are presented and a fee of five cents (5¢) for each name  
35 appearing on the petition has been received.

36 (2) If the office is a district office comprised of two or more counties, file  
37 written petitions with the State Board of Elections supporting his  
38 candidacy for a specified office. These petitions must be filed with the  
39 State Board of Elections on or before 12:00 noon on the last Friday in  
40 ~~June~~August preceding the general election and must be signed by  
41 qualified voters of the district equal in number to four percent (4%) of  
42 the total number of registered voters in the district as reflected by the  
43 latest statistical report issued by the State Board of Elections. Each  
44 petition shall be presented to the chairman of the board of elections of

the county in which the signatures were obtained. The chairman shall examine the names on the petition and the procedure for certification shall be the same as specified in (1) above.

(3) If the office is a county office or a single county legislative district, file written petitions with the chairman or supervisor of the county board of elections supporting his candidacy for a specified county office. These petitions must be filed with the county board of elections on or before 12:00 noon on the last Friday in ~~June~~ August preceding the general election and must be signed by qualified voters of the county equal in number to four percent (4%) of the total number of registered voters in the county as reflected by the most recent statistical report issued by the State Board of Elections, except if the office is for a district consisting of less than the entire county and only the voters in that district vote for that office, the petitions must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of voters in the district according to the most recent figures certified by the State Board of Elections. Each petition shall be presented to the chairman or supervisor of the county board of elections. The chairman shall examine, or cause to be examined, the names on the petition and the procedure for certification shall be the same as specified in (1) above.

(4) If the office is a partisan municipal office, file written petitions with the chairman or supervisor of the county board of elections in the county wherein the municipality is located supporting his candidacy for a specified municipal office. These petitions must be filed with the county board of elections on or before the time and date specified in G.S. 163-296 and must be signed by the number of qualified voters specified in G.S. 163-296. The procedure for certification shall be the same as specified in (1) above.

Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the board of elections with which the petitions and affidavit have been timely filed shall cause the unaffiliated candidate's name to be printed on the general election ballots in accordance with G.S. 163-140.

An individual whose name appeared on the ballot in a primary election preliminary to the general election shall not be eligible to have his name placed on the general election ballot as an unaffiliated candidate for the same office in that year."

Sec. 8. G.S. 163-22(k) reads as rewritten:

"(k) Notwithstanding the provisions contained in ~~Article 20 or Article 21~~ Articles 13, 20, or 21 of Chapter 163 the State Board of Elections shall be authorized, by one or more resolutions ~~resolution~~ resolution adopted prior to the printing of the primary ballots, the first day of the election year, to reduce the time by which ballots and absentee ballots are required to be printed and distributed for the primary and general election, and the dates on which county boards of elections are to meet to approve absentee ballot applications from 50 days to 45 days ~~the dates provided by law~~ to a lesser number of days which will

1 be the maximum amount of time that is administratively feasible given the date of the  
2 primary being on the first Tuesday in September. This authority shall not be authorized for  
3 absentee ballots to be voted in the general election. In such resolution, the State Board of  
4 Elections may also provide special forms of absentee ballots which may be required for  
5 federal office under the Uniformed and Overseas Citizens Absentee Voting Act (42  
6 YSC 1973ff-1 et. seq.) which may be required because of the primary date."

7           Sec. 9. This act is effective upon ratification.