

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1999**

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HOUSE BILL 1074

Committee Substitute Reported Without Prejudice 4/21/99

Short Title: Election Law Changes – 1.

(Public)

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Sponsors:

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Referred to:

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April 15, 1999

A BILL TO BE ENTITLED

1 AN ACT TO EXEMPT THE STATE BOARD OF ELECTIONS AND ITS  
2 EXECUTIVE SECRETARY-DIRECTOR FROM THE ADMINISTRATIVE  
3 PROCEDURE ACT; TO REQUIRE THAT A SIGNED VOTER REGISTRATION  
4 FORM BE DELIVERED TO THE BOARD OF ELECTIONS BY ANYONE  
5 DELEGATED THAT RESPONSIBILITY; TO ESTABLISH THE CLASS 2  
6 MISDEMEANOR OF AN ELECTION OFFICIAL OR EMPLOYEE ALTERING  
7 VOTER REGISTRATION RECORDS WITHOUT WRITTEN AUTHORIZATION;  
8 AND TO ALLOW COUNTIES TO USE A VOTING PLACE OUTSIDE THE  
9 PRECINCT, WITH APPROVAL BY THE STATE BOARD OF ELECTIONS.  
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11 The General Assembly of North Carolina enacts:

12 – EXEMPTING THE STATE BOARD OF ELECTIONS AND ITS EXECUTIVE  
13 SECRETARY-DIRECTOR FROM THE ADMINISTRATIVE PROCEDURE ACT.

14 Section 1.(a) G.S. 150B-1(c) reads as rewritten:

15 "(c) Full Exemptions. – This Chapter applies to every agency except:

16 (1) The North Carolina National Guard in exercising its court-martial  
17 jurisdiction.

- 1           (2) The Department of Health and Human Services in exercising its  
2 authority over the Camp Butner reservation granted in Article 6 of  
3 Chapter 122C of the General Statutes.  
4           (3) The Utilities Commission.  
5           (4) The Industrial Commission.  
6           (5) The Employment Security Commission.  
7           (6) The State Board of Elections and the Executive Secretary-Director of  
8 the State Board of Elections."

9       Section 1.(b) G.S. 163-278.34(a1) reads as rewritten:

10       "(a1) The State Board shall calculate and assess the amount of the civil penalty due  
11 under subsection (a) of this section and shall notify the person who is assessed the civil  
12 penalty of the amount. The notice of assessment shall be served by any means authorized  
13 under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to  
14 contest the assessment within 30 days by filing a ~~petition for a contested case under Article 3~~  
15 ~~of Chapter 150B of the General Statutes.~~ protest or request for waiver of the penalty with the  
16 State Board of Elections. If a violator does not pay a civil penalty assessed by the Board  
17 within 30 days after it is due, the Board shall request the Attorney General to institute a  
18 civil action to recover the amount of the assessment. The civil action may be brought in  
19 the superior court of any county where the report was due to be filed or any county where  
20 the violator resides or maintains an office. A civil action must be filed within three years  
21 of the date the assessment was due. An assessment that is not contested is due when the  
22 violator is served with a notice of assessment. An assessment that is contested is due at  
23 the conclusion of the administrative and judicial review of the assessment. Consistent  
24 with G.S. 115C-437, the State Controller shall pay the clear proceeds of civil penalties  
25 collected under this section to the County School Fund in the county in which the person  
26 charged with the violation resides. The State Controller shall reduce the monies collected  
27 by the enforcement costs and the collection costs to determine the clear proceeds payable  
28 to the County School Fund. Monies set aside for the costs of enforcement and the costs of  
29 collection shall be credited to accounts of the State Board of Elections."

30       Section 1.(c) This section is effective when this act becomes law. The exemption  
31 set forth in subsection (a) of this section applies to any rules promulgated by the State  
32 Board of Elections at any time. This section applies to any contested case commenced on  
33 or after the date this act becomes law.

34 – REQUIRING THAT A SIGNED VOTER REGISTRATION FORM BE DELIVERED  
35 TO THE BOARD OF ELECTIONS BY ANYONE DELEGATED THAT  
36 RESPONSIBILITY.

37       Section 2.(a) Article 7A of Chapter 163 of the General Statutes is amended by  
38 adding a new section to read:

39 **"§ 163-82.5A. Duty to deliver form executed by another to county board of elections.**

40 Any person who has been delegated the responsibility of submitting a signed voter  
41 registration application form pursuant to G.S. 163-82.6(a) shall deliver that form to  
42 the county board of elections not later than five calendar days after gaining possession of

1 the signed form. No person shall sell or attempt to sell completed voter registration forms  
2 or to condition their delivery on payment. A violation of this section is a Class I felony."

3 Section 2.(b) This section becomes effective October 1, 1999, and applies to all  
4 offenses committed on and after that date.

5 – ESTABLISHING THE CLASS 2 MISDEMEANOR OF AN ELECTION OFFICIAL  
6 OR EMPLOYEE ALTERING VOTER REGISTRATION RECORDS WITHOUT  
7 WRITTEN AUTHORIZATION.

8 Section 3.(a) G.S. 163-274 is amended by adding a new subdivision to read:

9 "(1a) For any member, director, or employee of a board of  
10 elections to alter a voter registration application or other voter  
11 registration record without the written authorization of the  
12 applicant or voter;".

13 Section 3.(b) This section becomes effective October 1, 1999, and applies to all  
14 offenses committed on and after that date.

15 – ALLOWING COUNTIES TO USE A VOTING PLACE OUTSIDE THE PRECINCT,  
16 WITH APPROVAL BY THE STATE BOARD OF ELECTIONS.

17 Section 4.(a) Article 12 of Chapter 163 of the General Statutes is amended by  
18 adding a new section to read:

19 **"§ 163-130A. Out-of-precinct voting places.**

20 A county board of elections, by unanimous vote of all its members, may establish a  
21 voting place for a precinct that is located outside that precinct. The county board's  
22 proposal is subject to approval by the State Board of Elections. The county board shall  
23 submit its proposal in writing to the State Board. Approval by the State Board of  
24 Elections of the county's proposed plan shall be conditioned upon the county board of  
25 elections' demonstrating that:

- 26 (1) No facilities adequate to serve as a voting place are located in the  
27 precinct;  
28 (2) Adequate notification and publicity is provided to notify voters in the  
29 precinct of the new polling location;  
30 (3) The plan does not unfairly favor or disfavor voters with regard to race or  
31 party affiliation; and  
32 (4) The new voting place meets all requirements for voting places including  
33 accessibility for elderly and disabled voters.

34 Any approval granted by the State Board of Elections for a voting place outside the  
35 precinct is effective only for one primary and election and must be reevaluated by the  
36 county board of elections and the State Board of Elections annually to determine whether  
37 it is still the only available alternative for that precinct."

38 Section 4.(b) This section is effective when this act becomes law and expires  
39 January 1, 2002.

40 Section 5. This act is effective when it becomes law.