

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**HOUSE BILL 831
Committee Substitute Favorable 4/16/01
Committee Substitute #2 Favorable 4/23/01**

Short Title: Election Changes.

(Public)

Sponsors:

Referred to:

March 28, 2001

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE A GREATER ROLE FOR THE STATE BOARD OF
2 ELECTIONS IN PERSONNEL DECISIONS CONCERNING COUNTY
3 ELECTION DIRECTORS; TO ENHANCE THE CERTIFICATION PROGRAM
4 FOR ELECTION OFFICIALS; TO REMOVE LIMITATIONS ON TWO
5 PROVISIONS CONCERNING PRECINCTS; TO CHANGE THE LENGTH OF
6 THE ONE-STOP VOTING PERIOD; TO ALLOW COUNTY BOARDS OF
7 ELECTIONS, WITH STATE BOARD APPROVAL, TO USE OTHER ONE-STOP
8 SITES INSTEAD OF THE COUNTY BOARD OFFICE; TO ALLOW LATER
9 ACCEPTANCE OF VOTER REGISTRATION APPLICATIONS; TO PROVIDE
10 FOR ELECTRONIC TRANSFER OF VOTER REGISTRATION APPLICATIONS
11 FROM THE DIVISION OF MOTOR VEHICLES; TO UPDATE THE STATUTES
12 CONCERNING VOTER REGISTRATION LIST MAINTENANCE; TO APPLY
13 THE WRITE-IN STATUTE TO SUPERIOR COURT JUDGE ELECTIONS; TO
14 CORRECT A REFERENCE IN THE CAMPAIGN FINANCE LAW; AND TO
15 RENAME THE EXECUTIVE SECRETARY-DIRECTOR OF THE STATE
16 BOARD OF ELECTIONS THE "EXECUTIVE DIRECTOR".

17 The General Assembly of North Carolina enacts:

18 **--CHANGES CONCERNING COUNTY ELECTION DIRECTORS.**

19 **SECTION 1.(a)** G.S. 163-35(b) reads as rewritten:

20 "(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the
21 county board of elections stating that the nominee for director of elections is submitted
22 for appointment upon majority selection by the county board of elections the Executive
23 Secretary-Director shall issue a letter of appointment of such nominee to the chairman
24 of the county board of elections within 10 days after receipt of the nomination.
25 Thereafter, the county board of elections shall enter in its official minutes the specified
26 duties, responsibilities and designated authority assigned to the director by the county
27

1 board of elections. A copy of the specified duties, responsibilities and designated
2 authority assigned to the director shall be filed with the State Board of Elections.

3 The county board of elections may, by petition signed by a majority of the board,
4 recommend to the Executive Secretary-Director of the State Board of Elections the
5 termination of the employment of the county board's director of elections. The petition
6 shall clearly state the reasons for termination. Upon receipt of the petition, the
7 Executive Secretary-Director shall forward a copy of ~~same the petition~~ by certified mail,
8 return receipt requested, to the county director of elections involved. The county
9 director of elections may reply to ~~said the petition~~ within 15 days of receipt thereof.
10 Within 20 days of receipt of the county director of elections' reply or the expiration of
11 the time period allowed for the filing of ~~said the reply~~, the State Executive
12 Secretary-Director shall render a decision as to the termination or retention of the
13 county director of elections. The decision of the Executive Secretary-Director of the
14 State Board of Elections shall be final unless ~~such the decision shall, is,~~ within 20 days
15 from the official date on which it was made, ~~be deferred by the State Board of Elections,~~
16 ~~Elections. in which event a public hearing shall be conducted by State Board or any~~
17 ~~single member designated by the remaining four members, in the county seat of the~~
18 ~~county involved. Following the conduct of public hearing and a decision by the State~~
19 ~~Board of Elections, the chairman of said Board shall notify the Executive~~
20 ~~Secretary Director of the State Board of Elections, in writing, of the decision resulting~~
21 ~~from the public hearing. If the State Board defers the decision, then the State Board~~
22 ~~shall make a final decision on the termination after giving the county director of~~
23 ~~elections an opportunity to be heard and to present witnesses and information to the~~
24 ~~State Board, and then notify the Executive Secretary-Director of its decision in writing.~~
25 If the decision, rendered by the State Board of Elections, results in concurrence with the
26 decision entered by the Executive Secretary-Director, the decision becomes final. If the
27 decision rendered by the Board is contrary to that entered by the Executive
28 Secretary-Director, then the Executive Secretary-Director shall, within 15 days from the
29 written notification, enter an amended decision consistent with the results of the
30 decision by the State Board of Elections. ~~The employment of any director of elections~~
31 ~~presently employed or hereafter employed shall not be terminated except in compliance~~
32 ~~with the procedures herein prescribed. For the purposes of this subsection the individual~~
33 ~~designated by the remaining four members of the State Board shall possess the same~~
34 ~~authority conferred upon the chairman pursuant to G.S. 163-23.~~

35 Upon majority vote on the recommendation of the Executive Secretary-Director, the
36 State Board of Elections may initiate proceedings for the termination of a county
37 director of elections for just cause. If the State Board votes to initiate proceedings for
38 termination, the State Board shall state the reasons for the termination in writing and
39 send a copy by certified mail, return receipt requested, to the county director of
40 elections. The director has 15 days to reply in writing to the notice. The State Board
41 shall make a final decision on the termination after giving the county director of

1 elections an opportunity to be heard, present witnesses, and information to the State
2 Board.

3 A county director of elections may be suspended, with pay, without warning for
4 causes relating to personal conduct detrimental to service to the county or to the State
5 Board of Elections, pending the giving of written reasons, in order to avoid the undue
6 disruption of work or to protect the safety of persons or property or for other serious
7 reasons. Any suspension may be initiated by the Executive Secretary-Director but may
8 not be for more than five days. Upon placing a county director of elections on
9 suspension, the Executive Secretary-Director shall, as soon as possible, reduce to
10 writing the reasons for the suspension and forward copies to the county director of
11 elections, the members of the county board of elections, and the State Board of
12 Elections. If no action for termination has been taken within five days, the county
13 director of elections shall be fully reinstated.

14 Termination of any county director of elections shall comply with this subsection.
15 For the purposes of this subsection, the individual designated by the remaining four
16 members of the State Board shall possess the same authority conferred upon the
17 chairman pursuant to G.S. 163-23."

18 **SECTION 1.(b)** G.S. 163-35 is amended by adding a new subsection to
19 read:

20 "(e) **Training and Certification.** – The State Board of Elections shall conduct a
21 training program consisting of four weeks for each new county director of elections.
22 The director shall complete that program. Each director appointed after May 1995 shall
23 successfully complete a certification program as provided in G.S. 163-82.24(b) within
24 three years after appointment or by January 1, 2003, whichever occurs later."

25 **SECTION 1.(c)** This section becomes effective January 1, 2002.

26 **--CERTIFICATION OF ELECTION OFFICIALS.**

27 **SECTION 2.(a)** G.S. 163-82.24 reads as rewritten:

28 **"§ 163-82.24. Statewide training and certification for election officials.**

29 (a) **Training.** – The State Board of Elections shall conduct training programs in
30 election law and procedures. Every county elections director shall receive training
31 conducted by the State Board at least as often as required in the following schedule:

- 32 (1) Once during each odd-numbered year before the municipal election
33 held in the county;
- 34 (2) Once during each even-numbered year before the first partisan
35 primary; and
- 36 (3) Once during each even-numbered year after the partisan primaries but
37 before the general election.

38 Every member of a county board of elections shall receive training conducted by the
39 State Board at least once during the six months after the member's initial appointment
40 and at least once again during the first two years of the member's service. The State
41 Board of Elections shall promulgate rules for the training of precinct officials, which
42 shall be followed by the county boards of elections.

1 **(b) Certification.** – The State Board of Elections shall conduct a program for
2 certification of election officials. The program shall include training in election law and
3 procedures. Before issuing certification to an election official, the State Board shall
4 administer an examination designed to determine the proficiency of the official in
5 election law and procedures. The State Board shall set adequate standards for the
6 passage of the examination."

7 **SECTION 2.(b)** This section is effective when this act becomes law.

8 **--REMOVE SUNSET FROM OUT-OF-PRECINCT VOTING PLACE**
9 **PROVISION.**

10 **SECTION 3.(a)** Section 3(b) of S.L. 1999-426 reads as rewritten:

11 "Section 3.(b) This section is effective when this act becomes ~~law and expires~~
12 ~~January 1, 2002. law.~~"

13 **SECTION 3.(b)** This section is effective when this act becomes law.

14 **--REMOVE SUNSET AND 3-COUNTY PILOT LIMITATION FROM**
15 **2-VOTING-PLACE-PER-PRECINCT PROVISION.**

16 **SECTION 4.(a)** G.S. 163-130.2 reads as rewritten:

17 **"§ 163-130.2. Temporary use of two voting places for certain ~~precincts; pilot~~**
18 **~~program. precincts.~~**

19 A county board of elections, by unanimous vote of all its members, may propose to
20 designate two voting places to be used temporarily for the same precinct. The temporary
21 designation of a voting place shall continue only for the term of office of the county
22 board of elections making the designation. For any precinct that is temporarily given
23 two voting places, the county board shall assign every voter to one or the other of those
24 voting places.

25 The county board's proposal is subject to approval by the Executive
26 Secretary-Director of the State Board of Elections. The county board shall submit its
27 proposal in writing to the Executive Secretary-Director. ~~The Executive Secretary-~~
28 ~~Director may approve a proposal under this section in not more than three counties, to~~
29 ~~be a pilot program.~~ The Executive Secretary-Director shall approve that proposal only if
30 it finds all of the following:

- 31 (1) That the precinct has more registered voters than can adequately be
32 accommodated by any single potential voting place available for the
33 precinct.
- 34 (2) That no boundary line that complies with Article 12A of this Chapter
35 can be identified that adequately divides the precinct.
- 36 (3) That the county board can account for, by street address number, the
37 location of every registered voter in the precinct and fix that voter's
38 residence with certainty on a map.
- 39 (4) That no more than three other precincts in the same county will have
40 two voting places.
- 41 (5) That both voting places for the precinct would have adequate facilities
42 for the elderly and disabled.

1 (6) That the proposal provides adequately for security against fraud.

2 (7) That the proposal does not unfairly favor or disfavor voters with regard
3 to race or party affiliation.

4 The county board shall designate a full set of precinct officials, in the manner set forth
5 in Article 5 of this Chapter, for each voting place designated for the precinct."

6 **SECTION 4.(b)** Section 4(b) of S.L. 1999-426 reads as rewritten:

7 "Section 4.(b) This section becomes effective January 2, 2000, and expires January
8 ~~2, 2002.~~ 2000. The Executive Secretary-Director of the State Board of Elections shall
9 study the operation and consequences of the pilot program created by this section and
10 report findings and recommendations to the 2001 General Assembly by February 1,
11 2001."

12 **SECTION 4.(c)** This section is effective when this act becomes law.

13 **--CHANGES CONCERNING ONE-STOP VOTING.**

14 **SECTION 5.(a)** G.S. 163-227.2(b) reads as rewritten:

15 "(b) Not earlier than the ~~first business day after the twenty fifth day~~ third
16 Thursday before an election, in which absentee ballots are authorized, in which a voter
17 seeks to vote and not later than ~~5:00-1:00 p.m.~~ P.M. on the ~~Friday prior to last Saturday~~
18 before that election, the voter shall appear in person only at the office of the county
19 board of elections, except as provided in subsection ~~(f1)~~ (g) of this section. A county
20 board of elections shall conduct one-stop voting on the last Saturday before the election
21 until 1:00 P.M. and may conduct it until 5:00 P.M. on that Saturday. That voter shall
22 enter the voting enclosure at the board office through the appropriate entrance and shall
23 at once state his or her name and place of residence to an authorized member or
24 employee of the board.

25 In a primary election, the voter shall also state the political party with which the
26 voter affiliates and in whose primary the voter desires to vote, or if the voter is an
27 unaffiliated voter permitted to vote in the primary of a particular party under G.S.
28 163-119, the voter shall state the name of the authorizing political party in whose
29 primary he wishes to vote. The board member or employee to whom the voter gives this
30 information shall announce the name and residence of the voter in a distinct tone of
31 voice. After examining the registration records, an employee of the board shall state
32 whether the person seeking to vote is duly registered. If the voter is found to be
33 registered that voter may request that the authorized member or employee of the board
34 furnish the voter with an application form as specified in G.S. 163-227. The voter shall
35 complete the application in the presence of the authorized member or employee of the
36 board, and shall deliver the application to that person."

37 **SECTION 5.(b)** G.S. 163-227.2(f) reads as rewritten:

38 "(f) Notwithstanding the exception specified in G.S. 163-36, counties which
39 operate a modified full-time office shall remain open five days each week during
40 regular business hours consistent with daily hours presently observed by the county
41 board of elections, commencing with the date prescribed in G.S. 163-227.2(b) and
42 continuing until 5:00 p.m. on the Friday prior to that election ~~or primary.~~ and shall also

1 be open on the last Saturday before the election. The boards of county commissioners
2 shall provide necessary funds for the additional operation of the office during that time."

3 **SECTION 5.(c)** G.S. 163-227.2(g) reads as rewritten:

4 "(g) Notwithstanding any other provision of this section, a county board of
5 elections by unanimous vote of all its members may provide for one or more sites in that
6 county for absentee ballots to be applied for and cast under this section. Any site other
7 than the county board of elections office shall be in any building or part of a building
8 that the county board of elections is entitled under G.S. 163-129 to demand and use as a
9 voting place. Every individual staffing any of those sites shall be a member or full-time
10 employee of the county board of elections or an employee of the county board of
11 elections whom the board has given training equivalent to that given a full-time
12 employee. Those sites must be approved by the State Board of Elections as part of a
13 Plan for Implementation approved by both the county board of elections and by the
14 State Board of Elections which shall also provide adequate security of the ballots and
15 provisions to avoid allowing persons to vote who have already voted. The Plan for
16 Implementation shall include a provision for the presence of political party observers at
17 each one-stop site equivalent to the provisions in G.S. 163-45 for party observers at
18 voting places on election day. A county board of elections may propose in its Plan not
19 to offer one-stop voting at the county board of elections office but to rely exclusively on
20 the other sites; the State Board shall approve that proposal in a Plan only if it finds that
21 the other sites provide adequate coverage of the county's electorate. If a county board of
22 elections has considered a proposed Plan or Plans for Implementation and has been
23 unable to reach unanimity in favor of a Plan, a member or members of that county board
24 of elections may petition the State Board of Elections to adopt a plan for it. If petitioned,
25 the State Board may also receive and consider alternative petitions from another
26 member or members of that county board. The State Board of Elections may adopt a
27 Plan for that county. The State Board, in that plan, shall take into consideration factors
28 including geographic, demographic, and partisan interests of that county."

29 **SECTION 5.(d)** This section becomes effective with respect to primaries
30 and elections held on or after January 1, 2002.

31 **--LATER REGISTRATION DEADLINE ON FINAL DAY.**

32 **SECTION 6.(a)** G.S. 163-82.6(c) reads as rewritten:

33 "(c) Registration Deadlines for an Election. – In order to be valid for an election,
34 the form:

- 35 (1) If submitted by mail, must be postmarked at least 25 days before the
36 election, except that any mailed application on which the postmark is
37 missing or unclear is validly submitted if received in the mail not later
38 than 20 days before the election,
39 (2) If submitted in person, must be received by the county board of
40 elections by 5:00 p.m. a time established by that board, but no earlier
41 than 5:00 P.M., on the twenty-fifth day before the election,

1 (3) If submitted through a delegatee who violates the duty set forth in
2 subsection (a) of this section, must be signed by the applicant and
3 given to the delegatee not later than 25 days before the election,
4 except as provided in subsection (d) of this section."

5 **SECTION 6.(b)** This section becomes effective with respect to primaries
6 and elections held on or after January 1, 2002.

7 **--ELECTRONIC TRANSFER OF DMV REGISTRATIONS.**

8 **SECTION 7.(a)** G.S. 163-82.19 reads as rewritten:

9 "**§ 163-82.19. Voter registration at drivers license offices.**

10 The Division of Motor Vehicles shall, pursuant to the rules adopted by the State
11 Board of Elections, modify its forms so that any eligible person who applies for original
12 issuance, renewal or correction of a drivers license, or special identification card issued
13 under G.S. 20-37.7 may, on a part of the form, complete an application to register to
14 vote or to update his registration if the voter has changed his address or moved from one
15 precinct to another or from one county to another. The person taking the application
16 shall ask if the applicant is a citizen of the United States. If the applicant states that the
17 applicant is not a citizen of the United States, or declines to answer the question, the
18 person taking the application shall inform the applicant that it is a felony for a person
19 who is not a citizen of the United States to apply to register to vote. Any person who
20 willfully and knowingly and with fraudulent intent gives false information on the
21 application is guilty of a Class I felony. The application shall state in clear language the
22 penalty for violation of this section. The necessary forms shall be prescribed by the
23 State Board of Elections. The form must ask for the previous voter registration address
24 of the voter, if any. If a previous address is listed, and it is not in the county of residence
25 of the applicant, the appropriate county board of elections shall treat the application as
26 an authorization to cancel the previous registration and also process it as such under the
27 procedures of G.S. 163-82.9. If a previous address is listed and that address is in the
28 county where the voter applies to register, the application shall be processed as if it had
29 been submitted under G.S. 163-82.9.

30 Registration shall become effective as provided in G.S. 163-82.7. Applications to
31 register to vote accepted at a drivers license office under this section until the deadline
32 established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no
33 person who completes an application at that drivers license office shall be denied the
34 vote in that election for failure to apply earlier than that deadline.

35 All applications shall be forwarded by the Department of Transportation to the
36 appropriate board of elections not later than five business days after the date of
37 acceptance, according to rules which shall be promulgated by the State Board of
38 Elections. Those rules shall provide for a paperless, instant, electronic transfer of
39 applications to the appropriate county board of elections."

40 **SECTION 7.(b)** This section becomes effective with respect to primaries
41 and elections held on or after January 1, 2002.

1 --UPDATING OF VOTER REGISTRATION LIST MAINTENANCE
2 PROVISION TO REFLECT CURRENT FEDERALLY APPROVED
3 PRACTICE.

4 SECTION 8.(a) G.S. 163-82.14(d) reads as rewritten:

5 "(d) Change of Address. – A county board of elections shall conduct a systematic
6 program to remove from its list of registered voters those who have moved out of the
7 county, and to update the registration records of persons who have moved within the
8 county. The county board shall remove a person from its list if the registrant:

9 (1) Gives confirmation in writing of a change of address for voting
10 purposes out of the county. "Confirmation in writing" for purposes of
11 this subdivision shall include:

- 12 a. A report to the county board from the Department of
13 Transportation or from a voter registration agency listed in G.S.
14 163-82.20 that the voter has reported a change of address for
15 voting purposes outside the county;
16 b. A notice of cancellation received under G.S. 163-82.9; or
17 c. A notice of cancellation received from an election jurisdiction
18 outside the State.

19 (2) Fails to respond to a confirmation mailing sent by the county board in
20 accordance with this subdivision and does not vote or appear to vote in
21 an election beginning on the date of the notice and ending on the day
22 after the date of the second general election for the United States
23 House of Representatives that occurs after the date of the notice. A
24 county board sends a confirmation notice in accordance with this
25 subdivision if the notice:

- 26 a. Is a postage prepaid and preaddressed return card, sent by
27 forwardable mail, on which the registrant may state current
28 address;
29 b. Contains or is accompanied by a notice to the effect that if the
30 registrant did not change residence but remained in the county,
31 the registrant should return the card not later than the deadline
32 for registration by mail in G.S. 163-82.6(c)(1); and
33 c. Contains or is accompanied by information as to how the
34 registrant may continue to be eligible to vote if the registrant
35 has moved outside the county.

36 A county board shall send a confirmation mailing in accordance with
37 this subdivision ~~if the to every~~ registrant ~~remains on the list, the~~
38 ~~registrant has not voted in two successive presidential elections or in~~
39 ~~any election in between, and after every congressional election if the~~
40 county board has not confirmed the registrant's address by another
41 means. ~~The county board may send a confirmation mailing in~~
42 ~~accordance with this subdivision if the registrant has been identified as~~

1 ~~residing outside the county through change of address information~~
2 ~~supplied by the Postal Service through its licensees."~~

3 **SECTION 8.(b)** This section is effective when this act becomes law.

4 **--APPLYING WRITE-IN STATUTE TO SUPERIOR COURT JUDGE**
5 **ELECTIONS.**

6 **SECTION 9.(a)** G.S. 163-123(g) reads as rewritten:

7 "(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply
8 to municipal elections conducted under Subchapter IX of Chapter 163 of the General
9 Statutes, and does not apply to nonpartisan ~~elections.~~elections except for superior court
10 judge elections under Article 25 of this Chapter."

11 **SECTION 9.(b)** This section is effective when this act becomes law.

12 **--CORRECTING REFERENCE TO FUND FOR RETURNING ILLEGAL**
13 **CONTRIBUTIONS.**

14 **SECTION 10.(a)** G.S. 163-278.14(a) reads as rewritten:

15 "(a) No individual, political committee, or other entity shall make any
16 contribution anonymously, except as provided in G.S. 163-278.8(d), or in the name of
17 another. No candidate, political committee, referendum committee, political party, or
18 treasurer shall knowingly accept any contribution made by any individual or person in
19 the name of another individual or person or made anonymously except as provided in
20 G.S. 163-278.8(d). If a candidate, political committee, referendum committee, political
21 party, or treasurer receives anonymous contributions or contributions determined to
22 have been made in the name of another, he shall pay the money over to the Board, by
23 check, and all such moneys received by the Board shall be deposited in the ~~general fund~~
24 Civil Penalty and Forfeiture Fund of the State of North Carolina."

25 **SECTION 10.(b)** This section is effective when this act becomes law.

26 **--NAME CHANGE TO EXECUTIVE DIRECTOR.**

27 **SECTION 11.** The Revisor of Statutes is authorized to change the term
28 "Executive Secretary-Director" and the term "State Executive Secretary-Director" to
29 "Executive Director" wherever it appears in the General Statutes in reference to the
30 State Board of Elections Executive Secretary-Director.

31 **SECTION 12.** The headings to the sections of this act are a convenience to
32 the reader and are for reference only. The headings do not expand, limit, or define the
33 text of this act.

34 **SECTION 13.** Except as otherwise provided in each section, this act is
35 effective when it becomes law.