

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1164

Short Title: Later Primary.

(Public)

Sponsors: Representatives Gorman; and Pate.

Referred to: Election Law and Campaign Finance Reform.

April 10, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR A LATER PRIMARY WITH NO SECOND PRIMARY.

3 The General Assembly of North Carolina enacts:

4 **PART I. MOVE PRIMARY TO SEPTEMBER; CANDIDATE FILING**
5 **DEADLINE IN JULY; ABOLISH SECOND PRIMARY**

6 **SECTION 1.** G.S. 163-1(b) reads as rewritten:

7 "(b) On ~~Tuesday next after the first Monday in May~~ the first Tuesday in
8 September preceding each general election to be held in November for the officers
9 referred to in subsection (a) of this section, there shall be held in all election precincts
10 within the territory for which the officers are to be elected a primary election for the
11 purpose of nominating candidates for each political party in the State for those ~~offices.~~
12 offices, except that if that day is the day after Labor Day, it shall be held on the second
13 Tuesday in September."

14 **SECTION 2.** G.S. 163-106(c) reads as rewritten:

15 "(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary
16 nominations for the following offices shall file their notice of candidacy with the State
17 Board of Elections no earlier than 12:00 noon on the second Monday in ~~February~~ June
18 and no later than 12:00 noon on the ~~last business day in February~~ second Monday in
19 July preceding the primary:

20 Governor

21 Lieutenant Governor

22 All State executive officers

23 United States Senators

24 Members of the House of Representatives of the United States

25 District attorneys

26 Candidates seeking party primary nominations for the following offices shall file
27 their notice of candidacy with the county board of elections no earlier than 12:00 noon
28 on the second Monday in ~~February~~ June and no later than 12:00 noon on the ~~last~~
29 ~~business day in February~~ second Monday in July preceding the primary:

1 State Senators
2 Members of the State House of Representatives
3 All county offices."

4 **SECTION 3.** G.S. 163-111 reads as rewritten:

5 "**§ 163-111. Determination of primary results; ~~second primaries~~ results.**

6 (a) Nomination Determined by Substantial-Plurality; Definition of Substantial
7 Plurality. – Except as otherwise provided in this section, nominations in primary
8 elections shall be determined by a substantial-plurality of the votes cast. A substantial
9 plurality within the meaning of this section shall be determined as follows:

10 (1) ~~If a nominee for a single office is to be selected, and there is more than~~
11 ~~one person seeking nomination, the substantial plurality shall be~~
12 ~~ascertained by multiplying the total vote cast for all aspirants by forty~~
13 ~~percent (40%). Any excess of the sum so ascertained shall be a~~
14 ~~substantial plurality, and the aspirant who obtains a substantial~~
15 ~~plurality shall be declared the nominee. If two candidates receive a~~
16 ~~substantial plurality, the candidate receiving the highest vote shall be~~
17 ~~declared the nominee. When more than one person is seeking election~~
18 ~~to a single office, the candidate who receives the highest number of~~
19 ~~votes shall be declared elected.~~

20 (2) ~~If nominees for two or more offices (constituting a group) are to be~~
21 ~~selected, and there are more persons seeking nomination than there are~~
22 ~~offices, the substantial plurality shall be ascertained by dividing the~~
23 ~~total vote cast for all aspirants by the number of positions to be filled,~~
24 ~~and by multiplying the result by forty percent (40%). Any excess of~~
25 ~~the sum so ascertained shall be a substantial plurality, and the aspirants~~
26 ~~who obtain a substantial plurality shall be declared the nominees. If~~
27 ~~more candidates obtain a substantial plurality than there are positions~~
28 ~~to be filled, those having the highest vote (equal to the number of~~
29 ~~positions to be filled) shall be declared the nominees. When more~~
30 ~~persons are seeking election to two or more offices (constituting a~~
31 ~~group) than there are offices to be filled, those candidates receiving the~~
32 ~~highest number of votes, equal in number to the number of offices to~~
33 ~~be filled, shall be declared elected.~~

34 (3) ~~If two or more candidates receiving the highest number of votes each~~
35 ~~receive the same number of votes, the board of elections shall~~
36 ~~determine the winner by lot.~~

37 (b) ~~Right to Demand Second Primary.~~— If an insufficient number of aspirants
38 receive a substantial plurality of the votes cast for a given office or group of offices in a
39 primary, a second primary, subject to the conditions specified in this section, shall be
40 held:

41 (1) ~~If a nominee for a single office is to be selected and no aspirant~~
42 ~~receives a substantial plurality of the votes cast, the aspirant receiving~~
43 ~~the highest number of votes shall be declared nominated by the~~
44 ~~appropriate board of elections unless the aspirant receiving the second~~

1 highest number of votes shall request a second primary in accordance
2 with the provisions of subsection (c) of this section. In the second
3 primary only the two aspirants who received the highest and next
4 highest number of votes shall be voted for.

5 (2) If nominees for two or more offices (constituting a group) are to be
6 selected and aspirants for some or all of the positions within the group
7 do not receive a substantial plurality of the votes, those candidates
8 equal in number to the positions remaining to be filled and having the
9 highest number of votes shall be declared the nominees unless some
10 one or all of the aspirants equal in number to the positions remaining
11 to be filled and having the second highest number of votes shall
12 request a second primary in accordance with the provisions of
13 subsection (c) of this section. In the second primary to select nominees
14 for the positions in the group remaining to be filled, the names of all
15 those candidates receiving the highest number of votes and all those
16 receiving the second highest number of votes and demanding a second
17 primary shall be printed on the ballot.

18 (e) Procedure for Requesting Second Primary.—

19 (1) A candidate who is apparently entitled to demand a second primary,
20 according to the unofficial results, for one of the offices listed below,
21 and desiring to do so, shall file a request for a second primary in
22 writing or by telegram with the Executive Director of the State Board
23 of Elections no later than 12:00 noon on the seventh day (including
24 Saturdays and Sundays) following the date on which the primary was
25 conducted, and such request shall be subject to the certification of the
26 official results by the State Board of Elections. If the vote certification
27 by the State Board of Elections determines that a candidate who was
28 not originally thought to be eligible to call for a second primary is in
29 fact eligible to call for a second primary, the Executive Director of the
30 State Board of Elections shall immediately notify such candidate and
31 permit him to exercise any options available to him within a 48-hour
32 period following the notification:

33 Governor,

34 Lieutenant Governor,

35 All State executive officers,

36 District Attorneys of the General Court of Justice,

37 United States Senators,

38 Members of the United States House of Representatives,

39 State Senators in multi-county senatorial districts, and

40 Members of the State House of Representatives in multi-county
41 representative districts.

42 (2) A candidate who is apparently entitled to demand a second primary,
43 according to the unofficial results, for one of the offices listed below
44 and desiring to do so, shall file a request for a second primary in

~~writing or by telegram with the chairman or director of the county board of elections no later than 12:00 noon on the seventh day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the county board of elections:~~

~~State Senators in single county senatorial districts,~~

~~Members of the State House of Representatives in single county representative districts, and~~

~~All county officers.~~

~~(3) Immediately upon receipt of a request for a second primary the appropriate board of elections, State or county, shall notify all candidates entitled to participate in the second primary, by telephone followed by written notice, that a second primary has been requested and of the date of the second primary.~~

~~(d) Tie Votes; How Determined.—~~

~~(1) In the event of a tie for the highest number of votes in a first primary between two candidates for party nomination for a single county, or single county legislative district office, the board of elections of the county in which the two candidates were voted for shall conduct a recount and declare the results. If the recount shows a tie vote, a second primary shall be held on the date prescribed in subsection (e) of this section between the two candidates having an equal vote, unless one of the aspirants, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections with which he filed notice of candidacy. Should that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision, no recount shall be held, but all of the tied candidates shall be entered in a second primary.~~

~~(2) In the event of a tie for the highest number of votes in a first primary between two candidates for a State office, for United States Senator, or for any district office (including State Senator in a multi county senatorial district and member of the State House of Representatives in a multi county representative district), no recount shall be held solely by reason of the tie, but the two candidates having an equal vote shall be entered in a second primary to be held on the date prescribed in subsection (e) of this section, unless one of the two candidates files a written notice of withdrawal with the State Board of Elections within three days after the result of the first primary has been officially declared and published. Should that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision,~~

1 no recount shall be held, but all of the tied candidates shall be entered
2 in a second primary.

3 (3) In the event one candidate receives the highest number of votes cast in
4 a first primary, but short of a substantial plurality, and two or more of
5 the other candidates receive the second highest number of votes cast in
6 an equal number, the proper board of elections shall declare the
7 candidate having the highest vote to be the party nominee, unless all
8 but one of the tied candidates give written notice of withdrawal to the
9 proper board of elections within three days after the result of the first
10 primary has been officially declared. If all but one of the tied
11 candidates withdraw within the prescribed three-day period, and the
12 remaining candidate demands a second primary in accordance with the
13 provisions of subsection (c) of this section, a second primary shall be
14 held between the candidate who received the highest vote and the
15 remaining candidate who received the second highest vote.

16 (e) Date of Second Primary; Procedures. — If a second primary is required under
17 the provisions of this section, the appropriate board of elections, State or county, shall
18 order that it be held four weeks after the first primary.

19 There shall be no registration of voters between the dates of the first and second
20 primaries. Persons whose qualifications to register and vote mature after the day of the
21 first primary and before the day of the second primary may register on the day of the
22 second primary and, when thus registered, shall be entitled to vote in the second
23 primary. The second primary is a continuation of the first primary and any voter who
24 files a proper and timely affidavit of transfer of precinct, under the provisions of G.S.
25 163-82.15, before the first primary may vote in the second primary without having to
26 refile the affidavit of transfer if he is otherwise qualified to vote in the second primary.
27 Subject to this provision for registration, the second primary shall be held under the
28 laws, rules, and regulations provided for the first primary.

29 (f) No Third Primary Permitted. — In no case shall there be a third primary. The
30 candidates receiving the highest number of votes in the second primary shall be
31 nominated. If in a second primary there is a tie for the highest number of votes between
32 two candidates, the proper party executive committee shall select the party nominee for
33 the office in accordance with the provisions of G.S. 163-114."

34 PART II. CONFORMING CHANGES

35 **SECTION 3.1.** G.S. 163-22(k) reads as rewritten:

36 "(k) Notwithstanding the provisions contained in Article 20 or Article 21 of
37 Chapter 163 the State Board of Elections shall be authorized, by resolution adopted
38 prior to the printing of the primary ballots, to reduce the time by which absentee ballots
39 are required to be printed and distributed for the primary election from 50 days to 45-40
40 days to 35 days. This authority shall not be authorized for absentee ballots to be voted in
41 the general election."

42 **SECTION 4.** G.S. 163-82.6(d) reads as rewritten:

43 "(d) Instances When Person May Register and Vote on Election Day. — If a person
44 has become qualified to register and vote between the twenty-fifth day before an

1 election and election day, then that person may apply to register on election day by
2 submitting an application form described in G.S. 163-82.3(a) or (b) to:

- 3 (1) A member of the county board of elections;
- 4 (2) The county director of elections; or
- 5 (3) The chief judge or a judge of the precinct in which the person is
6 eligible to vote,

7 and, if the application is approved, that person may vote the same day. The official in
8 subdivisions (1) through (3) of this subsection to whom the application is submitted
9 shall decide whether the applicant is eligible to vote. The applicant shall present to the
10 official written or documentary evidence that the applicant is the person he represents
11 himself to be. The official, if in doubt as to the right of the applicant to register, may
12 require other evidence satisfactory to that official as to the applicant's qualifications. If
13 the official determines that the person is eligible, the person shall be permitted to vote in
14 the election and the county board shall add the person's name to the list of registered
15 voters. If the official denies the application, the person shall be permitted to vote a
16 challenged ballot under the provisions of G.S. 163-88.1, and may appeal the denial to
17 the full county board of elections. The State Board of Elections shall promulgate rules
18 for the county boards of elections to follow in hearing appeals for denial of election day
19 applications to register. ~~No person shall be permitted to register on the day of a second
20 primary unless he shall have become qualified to register and vote between the date of
21 the first primary and the date of the succeeding second primary."~~

22 **SECTION 5.** G.S. 163-82.17(a) reads as rewritten:

23 "(a) Registrant's Duty to Report. – Any registrant who desires to have the record
24 of his party affiliation or unaffiliated status changed on the registration list shall, no
25 later than the last day for making application to register under G.S. 163-82.6 before the
26 election, indicate the change on an application form as described in G.S. 163-82.3 or on
27 a voter registration card described in G.S. 163-82.8. No registrant shall be permitted to
28 change party affiliation or unaffiliated status for a ~~primary, second primary, primary~~ or
29 special or general election after the deadline for registration applications for that
30 election as set out in G.S. 163-82.6."

31 **SECTION 6.** G.S. 163-98 reads as rewritten:

32 "**§ 163-98. General election participation by new political party.**

33 In the first general election following the date on which a new political party
34 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its
35 candidates for national, State, congressional, and local offices printed on the official
36 ballots.

37 For the first general election following the date on which it qualifies under G.S.
38 163-96, a new political party shall select its candidates by party convention. Following
39 adjournment of the nominating convention, but not later than the ~~first day of July day of~~
40 the primary under G.S. 163-1(b) prior to the general election, the president of the
41 convention shall certify to the State Board of Elections the names of persons chosen in
42 the convention as the new party's candidates for State, congressional, and national
43 offices in the ensuing general election. The State Board of Elections shall print names
44 thus certified on the appropriate ballots as the nominees of the new party. The State

1 Board of Elections shall send to each county board of elections the list of any new party
 2 candidates so that the county board can add those names to the appropriate ballot."

3 **SECTION 7.** G.S. 163-106(f) reads as rewritten:

4 "(f) Candidates required to file their notice of candidacy with the State Board of
 5 Elections under subsection (c) of this section shall file along with their notice a
 6 certificate signed by the chairman of the board of elections or the director of elections of
 7 the county in which they are registered to vote, stating that the person is registered to
 8 vote in that county, stating the party with which the person is affiliated, and that the
 9 person has not changed his affiliation from another party or from unaffiliated within
 10 three months prior to the filing deadline under subsection (c) of this section. In issuing
 11 such certificate, the chairman or director shall check the registration records of the
 12 county to verify such information. During the period commencing 36 hours immediately
 13 preceding the filing deadline the State Board of Elections shall accept, on a conditional
 14 basis, the notice of candidacy of a candidate who has failed to secure the verification
 15 ordered herein subject to receipt of verification no later than three days following the
 16 filing deadline. The State Board of Elections shall prescribe the form for such
 17 certificate, and distribute it to each county board of elections no later than the last
 18 Monday in ~~December of each odd-numbered~~ April of each even-numbered year."

19 **SECTION 8.** G.S. 163-114 reads as rewritten:

20 **"§ 163-114. Filling vacancies among party nominees occurring after nomination
 21 and before election.**

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

27
 28 Position

29
 30
 31 President Vacancy is to be filled by appointment
 32 Vice President of national executive committee of
 33 political party in which vacancy occurs
 34

35 Presidential elector or Vacancy is to be filled by appointment
 36 alternate elector of State executive committee of
 37 Any elective State office political party in which vacancy
 38 United States Senator occurs
 39

40 A district office, including: Appropriate district executive
 41 Member of the United States committee of political party in
 42 House of Representatives which vacancy occurs
 43 District Attorney
 44 State Senator in a multi-county

1	senatorial district	
2	Member of State House of	
3	Representatives in a multi-county	
4	representative district	
5		
6	State Senator in a single-county	County executive committee of
7	senatorial district	political party in which vacancy
8	Member of State House of	occurs, provided, in the case of the
9	Representatives in a single-county	State Senator or State
10	representative district	Representative in a single-county
11	Any elective county office	district where not all the county is
12		located in that district, then in voting,
13		only those members of the county
14		executive committee who reside within
15		the district shall vote
16		

17 The party executive making a nomination in accordance with the provisions of this
 18 section shall certify the name of its nominee to the chairman of the board of elections,
 19 State or county, charged with the duty of printing the ballots on which the name is to
 20 appear. If at the time a nomination is made under this section the general election ballots
 21 have already been printed, the provisions of G.S. 163-165.3(c) shall apply. ~~If a vacancy
 22 occurs in a nomination of a political party and that vacancy arises from a cause other
 23 than death and the vacancy in nomination occurs more than 120 days before the general
 24 election, the vacancy in nomination may be filled under this section only if the
 25 appropriate executive committee certifies the name of the nominee in accordance with
 26 this paragraph at least 75 days before the general election.~~

27 In a county not all of which is located in one congressional district, in choosing the
 28 congressional district executive committee member or members from that area of the
 29 county, only the county convention delegates or county executive committee members
 30 who reside within the area of the county which is within the congressional district may
 31 vote.

32 In a county which is partly in a multi-county senatorial district or which is partly in a
 33 multi-county House of Representatives district, in choosing that county's member or
 34 members of the senatorial district executive committee or House of Representatives
 35 district executive committee for the multi-county district, only the county convention
 36 delegates or county executive committee members who reside within the area of the
 37 county which is within that multi-county district may vote."

38 **SECTION 9.** G.S. 163-122(a) reads as rewritten:

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

- 42 (1) If the office is a statewide office, file written petitions with the State
- 43 Board of Elections supporting his candidacy for a specified office.
- 44 These petitions must be filed with the State Board of Elections on or

1 before 12:00 noon on the last Friday in ~~June~~July preceding the general
2 election and must be signed by qualified voters of the State equal in
3 number to two percent (2%) of the total number of registered voters in
4 the State as reflected by the most recent statistical report issued by the
5 State Board of Elections. No later than 5:00 p.m. on the fifteenth day
6 preceding the date the petitions are due to be filed with the State Board
7 of Elections, each petition shall be presented to the chairman of the
8 board of elections of the county in which the signatures were obtained.
9 Provided the petitions are timely submitted, the chairman shall
10 examine the names on the petition and place a check mark on the
11 petition by the name of each signer who is qualified and registered to
12 vote in his county and shall attach to the petition his signed certificate.
13 Said certificates shall state that the signatures on the petition have been
14 checked against the registration records and shall indicate the number
15 of signers to be qualified and registered to vote in his county. The
16 chairman shall return each petition, together with the certificate
17 required in this section, to the person who presented it to him for
18 checking. Verification by the chairman of the county board of
19 elections shall be completed within two weeks from the date such
20 petitions are presented.

21 (2) If the office is a district office comprised of two or more counties, file
22 written petitions with the State Board of Elections supporting his
23 candidacy for a specified office. These petitions must be filed with the
24 State Board of Elections on or before 12:00 noon on the last Friday in
25 ~~June~~July preceding the general election and must be signed by
26 qualified voters of the district equal in number to four percent (4%) of
27 the total number of registered voters in the district as reflected by the
28 latest statistical report issued by the State Board of Elections. Each
29 petition shall be presented to the chairman of the board of elections of
30 the county in which the signatures were obtained. The chairman shall
31 examine the names on the petition and the procedure for certification
32 and deadline for submission to the county board shall be the same as
33 specified in (1) above.

34 (3) If the office is a county office or a single county legislative district, file
35 written petitions with the chairman or director of the county board of
36 elections supporting his candidacy for a specified county office. These
37 petitions must be filed with the county board of elections on or before
38 12:00 noon on the last Friday in ~~June~~July preceding the general
39 election and must be signed by qualified voters of the county equal in
40 number to four percent (4%) of the total number of registered voters in
41 the county as reflected by the most recent statistical report issued by
42 the State Board of Elections, except if the office is for a district
43 consisting of less than the entire county and only the voters in that
44 district vote for that office, the petitions must be signed by qualified

1 voters of the district equal in number to four percent (4%) of the total
2 number of voters in the district according to the most recent figures
3 certified by the State Board of Elections. Each petition shall be
4 presented to the chairman or director of the county board of elections.
5 The chairman shall examine, or cause to be examined, the names on
6 the petition and the procedure for certification shall be the same as
7 specified in (1) above.

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

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

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

23 **SECTION 10.** G.S. 163-123(c) reads as rewritten:

24 "(c) Petitions for Write-in Candidacy. – An applicant for write-in candidacy shall:

- 25 (1) If the office is a statewide office, file written petitions with the State
26 Board of Elections supporting his candidacy for a specified office.
27 These petitions shall be filed on or before noon on the ~~90th~~^{50th} day
28 before the general election. They shall be signed by 500 qualified
29 voters of the State. No later than 5:00 p.m. on the fifteenth day
30 preceding the date the petitions are due to be filed with the State Board
31 of Elections, each petition shall be presented to the board of elections
32 of the county in which the signatures were obtained. A petition
33 presented to a county board of elections shall contain only names of
34 voters registered in that county. Provided the petitions are timely
35 submitted, the chairman of the county board of elections shall examine
36 the names on the petition and place a check mark by the name of each
37 signer who is qualified and registered to vote in his county. The
38 chairman of the county board shall attach to the petition his signed
39 certificate. On his certificate the chairman shall state that the
40 signatures on the petition have been checked against the registration
41 records and shall indicate the number of signers who are qualified and
42 registered to vote in his county and eligible to vote for that office. The
43 chairman shall return each petition, together with the certificate
44 required in this section, to the person who presented it to him for

1 checking. The chairman of the county board shall complete the
2 verification within two weeks from the date the petition is presented.

3 (2) If the office is a district office comprising all or part of two or more
4 counties, file written petitions with the State Board of Elections
5 supporting his candidacy for a specified office. These petitions must be
6 filed with the State Board of Elections on or before noon on the ~~90th~~
7 50th day before the general election and must be signed by 250
8 qualified voters. Before being filed with the State Board of Elections,
9 each petition shall be presented to the board of elections of the county
10 in which the signatures were obtained. A petition presented to a county
11 board of elections shall contain only names of voters registered in that
12 county who are eligible to vote for that office. The chairman of the
13 county board shall examine the names on the petition and the
14 procedure for certification shall be the same as specified in subdivision
15 (1).

16 (3) If the office is a county office, or is a school administrative unit office
17 elected on a partisan basis, or is a legislative district consisting of a
18 single county or a portion of a county, file written petitions with the
19 county board of elections supporting his candidacy for a specified
20 office. A petition presented to a county board of elections shall contain
21 only names of voters registered in that county. These petitions must be
22 filed on or before noon on the ~~90th~~50th day before the general election
23 and must be signed by 100 qualified voters who are eligible to vote for
24 the office, unless fewer than 5,000 persons are eligible to vote for the
25 office as shown by the most recent records of the appropriate board of
26 elections. If fewer than 5,000 persons are eligible to vote for the office,
27 an applicant's petition must be signed by not less than one percent
28 (1%) of those registered voters. Before being filed with the county
29 board of elections, each petition shall be presented to the county board
30 of elections for examination. The chairman of the county board of
31 elections shall examine the names on the petition and the procedure for
32 certification shall be the same as specified in subdivision (1)."

33 **SECTION 11.** G.S. 163-226(c) reads as rewritten:

34 "(c) The Term "Election". – As used in this Subchapter, unless the context clearly
35 requires otherwise, the term "election" includes a general, primary, ~~second primary,~~
36 runoff election, bond election, referendum, or special election."

37 **SECTION 12.** G.S. 163-227.1 is repealed.

38 **SECTION 13.** G.S. 163-227.3 reads as rewritten:

39 **"§ 163-227.3. Date by which absentee ballots must be available for voting.**

40 (a) A board of elections shall provide absentee ballots of the kinds needed ~~50-40~~
41 days prior to the date on which the election shall be conducted unless ~~45~~ 35 days is
42 authorized by the State Board of Elections under G.S. 163-22(k) or there shall exist an
43 appeal before the State Board or the courts not concluded, in which case the board shall
44 provide the ballots as quickly as possible upon the conclusion of such an appeal.

1 However, in the case of municipal elections, absentee ballots shall be made available no
2 later than 30 days before an election. In every instance the board of elections shall exert
3 every effort to provide absentee ballots, of the kinds needed by the date on which
4 absentee voting is authorized to commence.

5 ~~(b) Second Primary.—The board of elections shall provide absentee ballots, of
6 the kinds needed, as quickly as possible after the ballot information for a second
7 primary has been determined."~~

8 **SECTION 14.** G.S. 163-255 reads as rewritten:

9 **"§ 163-255. Absentee voting at office of board of elections.**

10 Notwithstanding any other provisions of Chapter 163 of the General Statutes, any
11 person eligible to vote an absentee ballot pursuant to G.S. 163-245 shall be permitted to
12 vote an absentee ballot pursuant to G.S. 163-227.2 if the person has not already voted an
13 absentee ballot which has been returned to the board of elections, and if he will not be in
14 the county on the day of the primary or election.

15 In the event an absentee application or ballot has already been mailed to such person
16 applying to vote pursuant to G.S. 163-227.2, the board of elections shall void the
17 application and ballot unless the voted absentee ballot has been received by the board of
18 elections. Such person shall be eligible to vote pursuant to G.S. 163-227.2 no later than
19 5:00 P.M. on the day next preceding the ~~primary, second primary~~ primary or election."

20 **SECTION 15.** G.S. 163-278.6(8) reads as rewritten:

21 "(8) The term "election" means any general or special election, a first ~~or~~
22 ~~second~~ primary, a run-off election, or an election to fill a vacancy. The
23 term "election" shall not include any local or statewide referendum."

24 **SECTION 16.** G.S. 163-278.13(d) reads as rewritten:

25 "(d) For the purposes of this section, the term "an election" means any ~~primary,~~
26 ~~second primary,~~ primary or general election in which the candidate or political
27 committee may be involved, without regard to whether the candidate is opposed or
28 unopposed in the election, ~~except that where a candidate is not on the ballot in a second~~
29 ~~primary, that second primary is not "an election" with respect to that~~
30 ~~candidate.election."~~

31 **SECTION 17.** G.S. 163-278.13B(d) is repealed.

32 **SECTION 18.** G.S. 163-278.40B reads as rewritten:

33 **"§ 163-278.40B. Campaign report; partisan election.**

34 In any city election conducted on a partisan basis in accordance with G.S.
35 163-279(a)(2) and 163-291, the following reports shall be filed in addition to the
36 organizational report:

37 (1) Thirty-five-day Report. – The treasurer shall file a report with the
38 board 35 days before the primary.

39 (1a) Pre-primary Report. – The treasurer shall file a report with the board
40 no later than the tenth day preceding each primary election.

41 (2) Pre-election Report. – The treasurer shall file a report 10 days before
42 the election, ~~unless a second primary is held and the candidate~~
43 ~~appeared on the ballot in the second primary, in which case the report~~
44 ~~shall be filed 10 days before the second primary.election.~~

1 (3) Repealed by Session Laws 1985, c. 164, s. 2.

2 (4) Semiannual Reports. – If contributions are received or expenditures
3 made during any part of a calendar year, for which no reports are
4 otherwise required by this section, any and all those contributions and
5 expenditures shall be reported on semiannual reports due on the last
6 Friday in July, covering the period through June 30, and due on the last
7 Friday in January, covering the period through December 31 of the
8 previous year."

9 **SECTION 19.** G.S. 163-279(a) reads as rewritten:

10 "(a) Primaries and elections for offices filled by election of the people in cities,
11 towns, incorporated villages, and special districts shall be held in 1973 and every two or
12 four years thereafter as provided by municipal charter on the following days:

13 (1) If the election is nonpartisan and decided by simple plurality, the
14 election shall be held on Tuesday after the first Monday in November.

15 (2) If the election is partisan, the election shall be held on Tuesday after
16 the first Monday in November, and the first primary shall be held on
17 the ~~sixth-fourth~~ Tuesday before the ~~election, and the second primary, if~~
18 ~~required, shall be held on the third Tuesday before the election.~~

19 (3) If the election is nonpartisan and the nonpartisan primary method of
20 election is used, the election shall be held on Tuesday after the first
21 Monday in November and the nonpartisan primary shall be held on the
22 fourth Tuesday before the election.

23 (4) If the election is nonpartisan and the election and runoff election
24 method of election is used, the election shall be held on the fourth
25 Tuesday before the Tuesday after the first Monday in November, and
26 the runoff election, if required, shall be held on Tuesday after the first
27 Monday in November."

28 **SECTION 20.** G.S. 163-291 reads as rewritten:

29 **"§ 163-291. Partisan primaries and elections.**

30 The nomination of candidates for office in cities, towns, villages, and special
31 districts whose elections are conducted on a partisan basis shall be governed by the
32 provisions of this Chapter applicable to the nomination of county officers, and the terms
33 "county board of elections," "chairman of the county board of elections," "county
34 officers," and similar terms shall be construed with respect to municipal elections to
35 mean the appropriate municipal officers and candidates, except that:

36 (1) The dates of primary and election shall be as provided in G.S.
37 163-279.

38 (2) A candidate seeking party nomination for municipal or district office
39 shall file his notice of candidacy with the board of elections no earlier
40 than 12:00 noon on the first Friday in July and no later than 12:00
41 noon on the first Friday in August preceding the election. ~~election,~~
42 ~~except:~~

43 a. ~~In 2001 a candidate seeking party nomination for municipal or~~
44 ~~district office in any city which elects members of its governing~~

1 board on a district basis, or requires that candidates reside in a
2 district in order to run, shall file his notice of candidacy with the
3 board of elections no earlier than 12:00 noon on the fourth
4 Monday in July and no later than 12:00 noon on the second
5 Friday in August preceding the election; and

6 b. ~~In 2002 if the election is held then under G.S. 160A-23.1, a~~
7 ~~candidate seeking party nomination for municipal or district~~
8 ~~office shall file his notice of candidacy with the board of~~
9 ~~elections at the same time as notices of candidacy for county~~
10 ~~officers are required to be filed under G.S. 163-106.~~

11 No person may file a notice of candidacy for more than one
12 municipal office at the same election. If a person has filed a notice of
13 candidacy for one office with the county board of elections under this
14 section, then a notice of candidacy may not later be filed for any other
15 municipal office for that election unless the notice of candidacy for the
16 first office is withdrawn first.

17 (3) The filing fee for municipal and district primaries shall be fixed by the
18 governing board not later than the day before candidates are permitted
19 to begin filing notices of candidacy. There shall be a minimum filing
20 fee of five dollars (\$5.00). The governing board shall have the
21 authority to set the filing fee at not less than five dollars (\$5.00) nor
22 more than one percent (1%) of the annual salary of the office sought
23 unless one percent (1%) of the annual salary of the office sought is less
24 than five dollars (\$5.00), in which case the minimum filing fee of five
25 dollars (\$5.00) will be charged. The fee shall be paid to the board of
26 elections at the time notice of candidacy is filed.

27 (4) The municipal ballot may not be combined with any other ballot.

28 (5) The canvass of the primary ~~and second primary~~ shall be held on the
29 third day (Sunday excepted) following the ~~primary or second primary~~.
30 In accepting the filing of complaints concerning the conduct of an
31 election, a board of elections shall be subject to the rules concerning
32 Sundays and holidays set forth in G.S. 103-5.

33 (6) ~~Candidates having the right to demand a second primary shall do so~~
34 ~~not later than 12:00 noon on the Monday following the canvass of the~~
35 ~~first primary."~~

36 **SECTION 21.** Section 2 of Session Law 2002-21 Extra Session reads as
37 rewritten:

38 "**SECTION 2.** If any members of any county board of education are elected at the
39 primary election and take office under a local act in July after the primary, ~~in 2002 only,~~
40 they shall instead take office on the same day in December after the primary, and the
41 terms of any such member which would otherwise expire in July of ~~2002~~2004 are
42 extended accordingly."

1 **SECTION 22.** Any runoff election for local office that by local act is to be
2 held on the date of the second primary shall instead be held on the date of the general
3 election.

4 **SECTION 23.** If this act conflicts with the provisions of any local act, this
5 act prevails to the extent of the conflict.

6 **SECTION 24.** This act becomes effective January 1, 2004.