

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-3
HOUSE BILL 100

AN ACT TO RESTORE PARTISAN JUDICIAL ELECTIONS FOR NORTH CAROLINA
SUPERIOR AND DISTRICT COURTS AND TO CHANGE THE TIME FOR
SUBMISSION OF PETITIONS FOR UNAFFILIATED CANDIDATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18C-112(e)(1) reads as rewritten:

"(e) If any member takes any of the following actions, the member vacates office as a member of the Commission and the vacancy shall be filled as provided by G.S. 18C-111(c):

(1) Files a notice of candidacy under G.S. 163-106 ~~or G.S. 163-323~~ or a petition under ~~G.S. 163-107.1 or G.S. 163-325~~ G.S. 163-107.1."

SECTION 2. G.S. 163-1(b) reads as rewritten:

"(b) On Tuesday next after the first Monday in May 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, and nonpartisan candidates as to offices elected under the provisions of Article 25 of this Chapter, offices.~~"

SECTION 3. G.S. 163-22.3 reads as rewritten:

"§ 163-22.3. State Board of Elections littering notification.

At the time an individual files with the State Board of Elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, ~~163-294.2, or 163-323, or 163-294.2,~~ is certified to the State Board of Elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, is certified to the State Board of Elections by a new political party as that party's nominee pursuant to G.S. 163-98, qualifies with the State Board of Elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates a candidacy with the State Board of Elections pursuant to any statute or local act, the State Board of Elections shall notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department of Transportation pursuant to G.S. 136-18."

SECTION 4. G.S. 163-82.10B reads as rewritten:

"§ 163-82.10B. Confidentiality of date of birth.

Boards of elections shall keep confidential the date of birth of every voter-registration applicant and registered voter, except in the following situations:

(1) When a voter has filed notice of candidacy for elective office under G.S. 163-106, 163-122, 163-123, or 163-294.2, ~~or 163-323,~~ has been nominated as a candidate under G.S. 163-98 or G.S. 163-114, or has otherwise formally become a candidate for elective office. The exception of this subdivision does not extend to an individual who meets the definition of "candidate" only by beginning a tentative candidacy by receiving funds or making payments or giving consent to someone else to receive funds or transfer something of value for the purpose of exploring a candidacy.



- (2) When a voter is serving in an elective office.
- (3) When a voter has been challenged pursuant to Article 8 of this Chapter.
- (4) When a voter-registration applicant or registered voter expressly authorizes in writing the disclosure of that individual's date of birth.
- (5) When requested by a county jury commission established pursuant to G.S. 9-1 for purposes of preparing the master jury list in that county pursuant to G.S. 9-2.

The disclosure of an individual's age does not constitute disclosure of date of birth in violation of this section.

The county board of elections shall give precinct officials access to a voter's date of birth where necessary for election administration, consistent with the duty to keep dates of birth confidential.

Disclosure of a date of birth in violation of this section shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of a date of birth in violation of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable."

SECTION 5. G.S. 163-106, as amended by Section 21(a) of S.L. 2016-125, reads as rewritten:

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

...

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

- Governor
- Lieutenant Governor
- All State executive officers
- Justices of the Supreme Court
- Judges of the Court of Appeals
- Judges of the superior court
- Judges of the district court
- United States Senators
- Members of the House of Representatives of the United States
- District attorneys

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

- State Senators
- Members of the State House of Representatives
- All county offices.

(d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any primary in which there are two or more vacancies for associate justices for the Supreme Court, two or more vacancies for the Court of Appeals, ~~or two or more vacancies for district court judge,~~ or two vacancies for United States Senator from North Carolina, each candidate shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the vacancy to which the candidate seeks nomination. A person seeking election for a specialized district judgeship established under G.S. 7A-147 shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the specialized judgeship to which the person seeks nomination. Votes cast for a candidate shall be

effective only for nomination to the vacancy for which the candidate has given notice of candidacy as provided in this subsection.

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

...
(j) No person may file a notice of candidacy for superior court judge, unless that person is, at the time of filing the notice of candidacy, a resident of the judicial district as it will exist at the time the person would take office if elected. No person may be nominated as a superior court judge under G.S. 163-114, unless that person is, at the time of nomination, a resident of the judicial district as it will exist at the time the person would take office if elected. This subsection implements Section 9(1) of Article IV of the North Carolina Constitution, which requires regular superior court judges to reside in the district for which elected."

SECTION 6. G.S. 163-107(a), as amended by Section 21(b) of S.L. 2016-125, reads as rewritten:

"(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate shall pay to the board of elections with which the candidate files under the provisions of G.S. 163-106 a filing fee for the office sought in the amount specified in the following tabulation:

| Office Sought | Amount of Filing Fee |
|---|--|
| Governor | One percent (1%) of the annual salary of the office sought |
| Lieutenant Governor | One percent (1%) of the annual salary of the office sought |
| All State executive offices | One percent (1%) of the annual salary of the office sought |
| All Justices of the Supreme Court, Judges of the Court of Appeals, and Justices, Judges, and District Attorneys of the General Court of Justice | One percent (1%) of the annual salary of the office sought |
| United States Senator | One percent (1%) of the annual salary of the office sought |
| Members of the United States House of Representatives | One percent (1%) of the annual salary of the office sought |
| State Senator | One percent (1%) of the annual salary of the office sought |

| | |
|--|--|
| Member of the State House of Representatives | One percent (1%) of the annual salary of the office sought |
| All county offices not compensated by fees | One percent (1%) of the annual salary of the office sought |
| All county offices compensated partly by salary and partly by fees | One percent (1%) of the first annual salary to be received (exclusive of fees) |

The salary of any office that is the basis for calculating the filing fee is the starting salary for the office, rather than the salary received by the incumbent, if different. If no starting salary can be determined for the office, then the salary used for calculation is the salary of the incumbent, as of January 1 of the election year."

SECTION 7. G.S. 163-107.1(c) reads as rewritten:

"(c) County, Municipal and District Primaries. – If the candidate is seeking one of the offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this section, or a municipal or any other office requiring a partisan primary which is not set forth in G.S. 163-106(c) or (d), ~~he~~the candidate shall file a written petition with the appropriate board of elections no later than 12:00 noon on Monday preceding the filing deadline before the primary. The petition shall be signed by five percent (5%) of the registered voters of the election area in which the office will be voted for, who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 200 registered voters regardless of said voter's political party affiliation, whichever requirement is greater. The board of elections shall verify the names on the petition, and if the petition is found to be sufficient, the candidate's name shall be printed on the appropriate primary ballot. Petitions for candidates for member of the U.S. House of Representatives, District Attorney, judge of the superior court, judge of the district court, and members of the State House of Representatives from multi-county districts or members of the State Senate from multi-county districts must be presented to the county board of elections for verification at least 15 days before the petition is due to be filed with the State Board of Elections, and such petition must be filed with the State Board of Elections no later than 12:00 noon on Monday preceding the filing deadline. The State Board of Elections may adopt rules to implement this section and to provide standard petition forms."

SECTION 8. G.S. 163-111(c)(1), as amended by Section 21(d) of S.L. 2016-125, reads as rewritten:

"(c) Procedure for Requesting Second Primary.

(1) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing with the Executive Director of the State Board of Elections no later than 12:00 noon on the ninth 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 State Board of Elections. If the vote certification by the State Board of Elections determines that a candidate who was not originally thought to be eligible to call for a second primary is in fact eligible to call for a second primary, the Executive Director of the State Board of Elections shall immediately notify such candidate and permit the candidate to exercise any options available to the candidate within a 48-hour period following the notification:

Governor,
Lieutenant Governor,
All State executive officers,

~~Justices of the Supreme Court, Judges of the Court of Appeals, or Justices, Judges, or District Attorneys of the General Court of Justice,~~
 United States Senators,
 Members of the United States House of Representatives,
 State Senators in multi-county senatorial districts, and
 Members of the State House of Representatives in multi-county representative districts."

SECTION 9. 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 | |
| President | Vacancy is to be filled by appointment of |
| Vice President | national executive committee of political party in which vacancy occurs |
| Presidential elector or alternate elector | Vacancy is to be filled by appointment of |
| Any elective State office | State executive committee of political party in which vacancy occurs |
| United States Senator | |
| A district office, including: | Appropriate district executive committee of political party in which vacancy occurs |
| Member of the United States House of Representatives | |
| <u>Judge of district court</u> | |
| District Attorney | |
| State Senator in a multi-county senatorial district | |
| Member of State House of Representatives in a multi-county representative district | |
| State Senator in a single-county senatorial district | County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote |
| Member of State House of Representatives in a single-county representative district | |
| Any elective county office | |
| <u>Judge of superior court in a single-county judicial district where the district is the whole county or part of the county</u> | <u>County executive committee of political party in which vacancy occurs; provided, in the case of a superior court judge in a single-county district where not all the county is located in that</u> |

Judge of superior court in a multicounty judicial district

district, then in voting, only those members of the county executive committee who reside within the district shall vote
Appropriate district executive committee of political party in which vacancy occurs.

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, that has jurisdiction over the ballot item under G.S. 163-182.4. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of G.S.163-165.3(c) shall apply. If a vacancy occurs in a nomination of a political party and that vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county which is partly in a multicounty judicial district, in choosing that county's member or members of the judicial district executive committee for the multicounty district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multicounty district may vote.

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

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

An individual whose name appeared on the ballot in a primary election preliminary to the general election shall not be eligible to be nominated to fill a vacancy in the nomination of another party for the same office in the same year."

SECTION 10. G.S. 163-122 reads as rewritten:

"§ 163-122. Unaffiliated candidates nominated by petition.

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

- (1) If the office is a statewide office, file written petitions with the State Board of Elections supporting ~~his~~ the voter's candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the ~~last Friday in June preceding the general election~~ second Wednesday prior to the primary election and must be signed by qualified voters of the 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. ~~No later than 5:00 p.m. on the fifteenth day preceding the date the petitions are due to be filed with the State Board of Elections, each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. Provided the petitions are timely submitted, the chairman~~ The petitions shall be divided into sections based on the county in which the signatures were obtained. Provided the petitions are timely filed, the State Board of Elections

shall require the filed petition be verified no later than 15 business days after canvass of the primary in one of the following ways:

a. The Executive Director shall examine the names on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in the designated county and shall attach to the petition a signed certificate. Said certificates shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers to be qualified and registered to vote in each county.

b. The chair shall examine the names on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in his-the chair's county and shall attach to the petition his-the chair's signed certificate. Said certificates shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers to be qualified and registered to vote in his-the chair's county. The chair shall return the petition and certificate to the State Board.

~~The chairman-State Board shall return a copy of each petition, together with a copy of the certificate required in this section, to the person who presented it to him for checking. Verification by the chairman of the county board of elections shall be completed within two weeks from the date such petitions are presented to the State Board.~~

(2) ~~If Except as provided in this subsection, if the office is a district office under the jurisdiction of the State Board of Elections under G.S. 163-182.4(b), file written petitions with the State Board of Elections supporting that voter's candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the last Friday in June preceding the general election-second Wednesday prior to the primary election and must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of registered voters in the district as reflected by the voter registration records of the State Board of Elections as of January 1 of the year in which the general election is to be held. Each 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 and deadline for submission to the county board shall be the same. The petitions shall be divided into sections based on the county in which the signatures were obtained. The petitions shall be verified as specified in (1) above.~~ subdivision (1) of this subsection.

(3) If the office is a county office or a single county legislative district, file written petitions with the ~~chairman~~ chair or director of the county board of elections supporting his-the voter's 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 preceding the general election-second Wednesday prior to the primary 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 voter registration records of the State Board of Elections as of January 1 of the year in which the general election is to be held, 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 voter registration records of the State Board of Elections as of January 1 of the year in which the general election is to be held. Each petition shall be presented to the chairman or director 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.~~ The chair or director of the county board of elections shall verify the filed petition no later than 15 business days after canvass as provided in sub-subdivision b. of subdivision (1) of this subsection, and shall return a copy of each petition, together with a copy of the certificate required in this section, to the person who presented it to the county board of elections.

- (4) ~~If the office is a partisan municipal office, file written petitions with the chairman~~ chair or director of the county board of elections in the county wherein the municipality is located supporting ~~his~~ the voter's 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.~~ The chair or director of the county board of elections shall verify the filed petition no later than 15 business days after canvass as provided in sub-subdivision b. of subdivision (1) of this subsection, and shall return a copy of each petition, together with a copy of the certificate required in this section, to the person who presented it to the county board of elections.
- (5) If the office is a superior court judge or a district court judge, regardless of whether the district lies entirely in one county or in more than one county, file written petitions with the State Board of Elections supporting that voter's candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the second Wednesday prior to the primary election and must be signed by qualified voters of the district equal in number to two percent (2%) of the total number of registered voters in the district as reflected by the voter registration records of the State Board of Elections as of January 1 of the year in which the general election is to be held. The petitions shall be divided into sections based on the county in which the signatures were obtained. The petitions shall be verified as specified in subdivision (1) of this subsection.

Upon compliance with the provisions of subdivisions (1), (2), (3), ~~or (4)-(4), or (5)~~ of this subsection, the board of elections with which the petitions have been timely filed shall cause the unaffiliated candidate's name to be printed on the general election ballots in accordance with Article 14A of this Chapter.

(a1) An individual whose name appeared on the ballot in a primary election preliminary to the general election shall not be eligible to have ~~his~~ that individual's name placed on the general election ballot as an unaffiliated candidate for the same office in that year.

(b) Form of Petition. – Petitions requesting an unaffiliated candidate to be placed on the general election ballot shall contain on the heading of each page of the petition in bold print or in all capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN _____ COUNTY HEREBY PETITION ON BEHALF OF _____ AS AN UNAFFILIATED CANDIDATE FOR THE OFFICE OF _____ IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT

CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT UPON COMPLIANCE WITH THE PROVISIONS CONTAINED IN G.S. 163-122."

~~(e) This section does not apply to elections under Article 25 of this Chapter.~~

(d) When any person files a petition with a board of elections under this section, the board of elections shall, immediately upon receipt of the petition, inspect the registration records of the county and cancel the petition of any person who does not meet the constitutional or statutory qualifications for the office, including residency.

The board shall give notice of cancellation to any person whose petition has been cancelled under this subsection by mail or by having the notice served on that person by the sheriff and to any other candidate filing for the same office. A person whose petition has been cancelled or another candidate for the same office affected by a substantiation under this subsection may request a hearing on the issue of constitutional or statutory qualifications for the office. If the person requests a hearing, the hearing shall be conducted in accordance with Article 11B of Chapter 163 of the General Statutes.

(e) Any candidate seeking to have that candidate's name printed on the general election ballot under this section shall pay a filing fee equal to that provided for candidates for the office in G.S. 163-107 or comply with the alternative available to candidates for the office in G.S. 163-107.1."

SECTION 11. G.S. 163-123(g) reads as rewritten:

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

SECTION 12. G.S. 163-165.5(a)(3) reads as rewritten:

"§ 163-165.5. Contents of official ballots.

(a) Except as provided in this section, each official ballot shall contain all the following elements:

...

(3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 ~~or G.S. 163-323,~~ or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent. The State Board of Elections shall establish a review procedure that local boards of elections shall follow to ensure that candidates' names appear on the official ballot in accordance with this subdivision."

SECTION 13. Article 25 of Subchapter X of Chapter 163 of the General Statutes is repealed.

SECTION 14. This act is effective with respect to primaries and elections held on or after January 1, 2018.

In the General Assembly read three times and ratified this the 9th day of March, 2017.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

VETO Roy Cooper
Governor

Became law notwithstanding the objections of the Governor at 12:26 p.m. this 23rd day of March, 2017.

s/ Sarah Lang
Senate Principal Clerk