

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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SENATE BILL 861

Short Title: Election Protection During COVID-19 Emergency. (Public)

Sponsors: Senators Marcus, Chaudhuri, and Foushee (Primary Sponsors).

Referred to: Rules and Operations of the Senate

June 1, 2020

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE LAWS PERTAINING TO 2020
3 ELECTIONS AND PROVIDE RELIEF IN RESPONSE TO THE COVID-19
4 EMERGENCY.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. PURPOSE/DEFINITIONS**

8 **SECTION 1.1.** The purpose of this act is to provide various forms of relief and
9 flexibility to ensure proper safety for elections held in 2020 in response to the COVID-19
10 emergency.

11 **SECTION 1.2.** Unless the context clearly indicates otherwise, the following
12 definitions apply in this act:

- 13 (1) CARES Act. – The Coronavirus Aid, Relief, and Economic Security Act of
14 2020, P.L. 116-136.
15 (2) COVID-19. – Coronavirus disease 2019.
16 (3) COVID-19 emergency. – The period beginning March 10, 2020, and ending
17 on the date the Governor signs an executive order rescinding Executive Order
18 No. 116, Declaration of a State of Emergency to Coordinate Response and
19 Protective Actions to Prevent the Spread of COVID-19.
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21 **PART II. APPROPRIATIONS IN SUPPORT OF SECURING 2020 ELECTIONS**

22 **SECTION 2.1.(a)** There is appropriated the sum of ten million nine hundred
23 eighty-seven thousand two hundred ninety-five dollars (\$10,987,295) in federal CARES Act
24 funds and the sum of two million one hundred twenty thousand four hundred ninety-seven dollars
25 (\$2,120,497) as the required match from the State General Fund to the State Board of Elections,
26 Budget Code 28025, for the 2019-2020 fiscal year to respond to the COVID-19 emergency for
27 the 2020 federal election cycle. These funds may be used for any of the following, including, but
28 not limited:

- 29 (1) Establishing healthy polling places by providing personal protective
30 equipment, social distancing tools, and cleaning and sanitizing supplies.
31 (2) Offsetting increased costs to county boards of elections for the projected
32 voting by absentee ballot participation, including prepaid postage for return
33 envelopes.
34 (3) Ensuring an adequate number of poll workers by offering incentive
35 compensation and overtime pay and establishing an online portal to recruit
36 poll workers consistent with Section 3.3 of this act.



1 (4) Establishing an online portal for absentee ballot requests.

2 (5) Training election employees and volunteers and educating the public
3 regarding changes for elections held in 2020 in response to the COVID-19
4 emergency.

5 **SECTION 2.1.(b)** Any unspent funds remaining on June 30, 2020, shall be carried
6 forward into the 2020-2021 fiscal year and are hereby appropriated for the 2020-2021 fiscal year.
7 The funds shall be used for the purposes described in this section and the requirements and
8 limitations set forth in the CARES Act.

9 **SECTION 2.2.(a)** There is appropriated the sum of eleven million six hundred
10 seventy-seven thousand four hundred forty-one dollars (\$11,677,441) from federal Help America
11 Vote Act (HAVA) funds and the sum of two million three hundred thirty-five thousand four
12 hundred eighty-eight dollars (\$2,335,488) as the required match from the State General Fund to
13 the State Board of Elections, Budget Code 28025, for the 2019-2020 fiscal year to further
14 improve the administration of elections, including cybersecurity enhancements, training, and
15 other improvements. If funds provided in Section 2.1 of this Part are insufficient to respond to
16 the COVID-19 emergency, the federal HAVA funds appropriated in this section may be used for
17 those purposes.

18 **SECTION 2.2.(b)** Any unspent funds remaining on June 30, 2020, shall be carried
19 forward into the 2020-2021 fiscal year and are hereby appropriated for the 2020-2021 fiscal year.
20 The funds shall be used for the purposes described in this section. Unspent funds on June 30,
21 2021, shall revert to Budget Code 28025 and shall remain until appropriated by the General
22 Assembly.

23 **SECTION 2.3.** This Part is effective when it becomes law.
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25 **PART III. KEEP OUR POLLING PLACES OPEN AND SAFE**

26 **ENSURE RECRUITMENT OF ADEQUATE NUMBER OF POLL WORKERS**

27 **SECTION 3.1.** Precinct Requirements. – Notwithstanding G.S. 163-41(c) or
28 G.S. 163-42, for an election held in 2020, a county board of elections by unanimous vote of all
29 its members may eliminate the requirement that a majority of the three positions of chief judge
30 and judges and the majority of precinct assistants who are otherwise qualified to vote in the
31 county reside in that precinct.

32 **SECTION 3.2.** Student Poll Workers. – Notwithstanding G.S. 163-42.1, for an
33 election held in 2020, a county board of elections by unanimous vote of all its members may
34 allow students who are at least 16 years of age to serve as chief judges and judges, as well as
35 precinct assistants. If the student's school is closed due to the COVID-19 emergency at the time
36 the student is appointed, a recommendation from the principal at the student's school is not
37 required. Any student serving as a poll worker during an election held in 2020 in accordance with
38 this section may use this service as an approved school field trip, provided it complies with any
39 requirements of the student's respective school or local board of education. Nothing in this section
40 modifies the requirement in G.S. 163-41(3) that chief judges and judges be appointed from
41 recommendations provided by the political parties.

42 **SECTION 3.3.** Temporary Staffing. – For an election held in 2020, a county board
43 of elections, in consultation with the State Board of Elections, may use temporary staffing
44 agencies and establish an online portal to recruit poll workers, as necessary.

45 **SECTION 3.4.** Poll Worker Compensation. – Notwithstanding G.S. 163-46, for an
46 election held in 2020, the minimum pay for poll workers shall be a competitive rate set by the
47 county board of elections.

48 **SECTION 3.5.** Unemployment Benefits. – Notwithstanding any provision of law to
49 the contrary, for an election held in 2020, if an individual serving as a poll worker is also
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1 receiving unemployment benefits, those unemployment benefits shall not be affected by the
2 individual's service.

3 4 **SAFETY MEASURES FOR POLLING PLACES**

5 **SECTION 3.6.** The State Board of Elections, in collaboration with local boards of
6 elections and for an election held in 2020, shall ensure the safety of poll workers and polling
7 places by doing the following:

- 8 (1) Personal protective equipment and supplies. – Providing appropriate amounts
9 and types of personal protective equipment, including gloves and masks, and
10 ensuring proper measures are followed to protect public health and safety as
11 related to the COVID-19 emergency, including, but not limited to, the
12 availability of proper sanitizing and disinfectant agents and touch-free
13 thermometers, as applicable.
- 14 (2) Voter assistance at polls. – Establishing more efficient curbside or
15 "drive-through" voting options for those who have disabilities, are ill, or are
16 in a high-risk category for COVID-19 or otherwise can not leave their vehicle
17 to vote.
- 18 (3) Voting safeguards. – Providing for efficient and safe crowd management at
19 the polls, including following social distancing guidelines as outlined by the
20 North Carolina Department of Health and Human Services and the federal
21 Centers for Disease Control and Prevention (CDC) and designating the
22 appropriate markings, as well as applying best practices to avoid long lines of
23 voters in close proximity to one another for extended periods of time.
- 24 (4) Flexibility for one-stop sites and hours. – Notwithstanding G.S. 163-227.6(c),
25 allowing a county board of elections by unanimous vote of all its members to
26 adopt a Plan for Implementation that establishes alternative options for sites
27 and weekday hours for the opening and closing of one-stop early voting sites
28 other than 7:00 A.M. to 7:00 P.M.

29 30 **2020 ELECTION DAY AS PAID STATE HOLIDAY**

31 **SECTION 3.7.(a)** Notwithstanding G.S. 126-4(5), election day in 2020 shall be a
32 paid State holiday for purposes of State employment and the public school calendar.

33 **SECTION 3.7.(b)** The General Assembly encourages private employers in this State
34 to treat election day as a paid day off to enable employees to vote on election day.

35 **SECTION 3.7.(c)** This section is effective when it becomes law and applies to the
36 2020 general election only.

37 38 **POSTPONE PHOTO ID FOR 2020 ELECTION**

39 **SECTION 3.8.** Notwithstanding any other provision of law to the contrary, due to
40 the COVID-19 pandemic when voters do not have access to agencies needed to obtain updated
41 identification, implementation of the photo identification requirement is prohibited for the 2020
42 general election.

43 **SECTION 3.9.** Except as otherwise provided, this Part is effective when it becomes
44 law and applies to elections held on or after that date and expires upon certification of the 2020
45 general election.

46 47 **PART IV. EXPAND AND IMPROVE ABSENTEE BALLOT OPTIONS**

48 49 **EXPAND OPTIONS FOR SUBMITTING ABSENTEE BALLOT REQUEST FORMS**

50 **SECTION 4.1.** For an election held in 2020, notwithstanding G.S. 163-230.2, a
51 completed written request for absentee ballots may be delivered either in person or by mail,

1 e-mail, or fax, to the county board of elections by the voter, the voter's near relative or verifiable
2 legal guardian, or any individual working as part of a multipartisan team trained and authorized
3 by the county board of elections pursuant to G.S. 163-226.3. A request for absentee ballots shall
4 be valid if it is returned to the county board of elections through one of the following methods:
5 (i) hand-delivered to the county board of elections by a person listed in G.S. 163-230.2(c), (ii)
6 mailed to the county board by the United States Postal Service, or a designated delivery service
7 authorized pursuant to 26 U.S.C. § 7502(f)(2), by a person listed in G.S. 163-230.2(c), or (iii)
8 e-mailed or faxed to the county board of elections by a person listed in G.S. 163-230.2(c).

9 **SECTION 4.2.** G.S. 163-230.2(a), as amended by S.L. 2019-239, reads as rewritten:

10 "(a) Valid Types of Written Requests. – A completed written request form for absentee
11 ballots as required by G.S. 163-230.1 is valid only if it is on a form created by the State Board
12 and signed by the voter requesting absentee ballots or that voter's near relative or verifiable legal
13 guardian. The State Board shall make the blank request form available at its offices, online, and
14 in each county board of elections office, and that blank request form may be reproduced. A voter
15 may call a county board of elections office and request that the blank request form be sent to the
16 voter by mail, e-mail, or fax. The request form created by the State Board shall require at least
17 the following information:

- 18 (1) The name and address of the residence of the voter.
- 19 (2) The name and address of the voter's near relative or verifiable legal guardian
20 if that individual is making the request.
- 21 (3) The address of the voter to which the application and absentee ballots are to
22 be mailed if different from the residence address of the voter.
- 23 (4) One of the following:
 - 24 a. The number of the applicant's North Carolina drivers license issued
25 under Article 2 of Chapter 20 of the General Statutes, including a
26 learner's permit or a provisional license.
 - 27 b. The number of the applicant's special identification card for
28 nonoperators issued under G.S. 20-37.7.
 - 29 c. The last four digits of the applicant's social security number.
- 30 (5) The voter's date of birth.
- 31 (6) The signature of the voter or of the voter's near relative or verifiable legal
32 guardian if that individual is making the request.
- 33 (7) A clear indicator of the date the election generating the request is to be held,
34 except for annual calendar year requests in accordance with G.S. 163-226(b)."

35 **SECTION 4.3.(a)** Article 20 of Chapter 163 of the General Statutes is amended by
36 adding a new section to read:

37 "**§ 163-230.3. Online request for absentee ballots.**

38 (a) Notwithstanding G.S. 163-230.1 and G.S. 163-230.2, a qualified voter who is eligible
39 to vote by absentee ballot under G.S. 163-226, or that voter's near relative or verifiable legal
40 guardian, may submit a request for absentee ballots online using the procedures set forth in this
41 section in lieu of the completed written request on a form established by the State Board. All
42 other provisions in G.S. 163-230.1 and G.S. 163-230.2 shall apply.

43 (b) The State Board shall establish a secure Internet Web site to permit individuals
44 described in subsection (a) of this section to submit an online request for absentee ballots. The
45 Internet Web site must be able to track the IP address of anyone who accesses the Web site. The
46 Web site must require that the voter or the voter's near relative or verifiable legal guardian provide
47 all of the following information:

- 48 (1) All information required for a valid written request for absentee ballots in
49 G.S. 163-230.2.

1 (2) An electronic signature, as defined in G.S. 66-312 of the Uniform Electronic
2 Transaction Act, of the voter, or the voter's near relative or verifiable legal
3 guardian, if requesting on the voter's behalf.

4 (c) Upon receipt of an online request for absentee ballots, the State Board shall submit
5 the request to the county board of elections in which the voter resides. The county board of
6 elections shall process the online request in the same manner as processing a completed written
7 request for absentee ballots submitted under G.S. 163-230.1."

8 **SECTION 4.3.(b)** Notwithstanding Article 3 of Chapter 143 of the General Statutes,
9 the State Board of Elections is not required to comply with initial purchase and contract
10 requirements for establishing or securing the Internet Web site for online requests for absentee
11 ballots as required by subsection (a) of this section. This exemption expires December 31, 2020.

12 **SECTION 4.3.(c)** This section is effective when it becomes law. The State Board of
13 Elections shall have the secure Internet Web site available to voters to submit an online request
14 for absentee ballots by September 1, 2020.

15 16 **FLEXIBILITY IN CERTIFICATION REQUIREMENT FOR ABSENTEE BALLOTS**

17 **SECTION 4.4.** Notwithstanding G.S. 163-231(a), for an election held in 2020, a
18 voter is not required to complete the voter's absentee ballot in the presence of two witnesses or a
19 notary, but may satisfy the certification requirement by completing the voter's absentee ballot in
20 the presence of only one witness. The witness shall sign the absentee ballot and legibly print his
21 or her name and address. In the event a witness is not available, a voter may attest on the
22 container-return envelope to that fact and to the voter's need to use the option of signature
23 verification by the county board of elections. The State Board of Elections shall adopt emergency
24 rules to ensure the integrity of the certification process and proper matching of the signature by
25 the county board of elections when the signature verification option is used.

26 27 **UNIFORM PROTOCOL FOR INCOMPLETE OR ILLEGIBLE ABSENTEE BALLOTS**

28 **SECTION 4.5.** Notwithstanding any other provision of law to the contrary, for an
29 election held in 2020, the State Board of Elections shall adopt emergency rules establishing a
30 uniform, statewide protocol to address an absentee ballot that is incomplete or illegible and
31 include in the protocol a means to ensure that all reasonable steps are taken to cure such a ballot,
32 when possible.

33 34 **ALLOW HELP AMERICA VOTE ACT (HAVA) DOCUMENT AS SUBSTITUTE FOR** 35 **IDENTIFICATION REQUIRED IN SUBMITTING ABSENTEE BALLOT REQUEST** 36 **FORM**

37 **SECTION 4.6.** Notwithstanding G.S. 163-230.2, for an election held in 2020, a voter
38 who does not include the voter's drivers license number or the last four digits of the voter's social
39 security number with the voter's request for an absentee ballot may include a copy of a current
40 utility bill, bank statement, government check, paycheck, or other government document
41 showing the name and address of the voter as an option in meeting the requirements for
42 requesting an absentee ballot.

43 44 **PREPAID POSTAGE FOR VOTED ABSENTEE BALLOTS**

45 **SECTION 4.7.** Notwithstanding G.S. 163-230.2(c) or G.S. 163-231(b)(1), for an
46 election held in 2020, a voter submitting a valid request for an absentee ballot shall receive from
47 the applicable county board of elections a prepaid postage envelope for returning the executed
48 absentee ballot by mail.

49 50 **EXTEND THE NUMBER OF DAYS FOR COUNTING ABSENTEE BALLOTS**

1 **SECTION 4.8.** Notwithstanding G.S. 163-234(2), for an election held in 2020, a
2 county board of elections may modify the procedure for counting absentee ballots, provided that
3 those ballots received by the Saturday before the election are counted on or by Election day and
4 all other absentee ballots that are timely received after the Saturday before the election are
5 counted on the day of the canvass.

6 7 **MODIFY RESTRICTIONS FOR ASSISTANCE IN CARE FACILITIES**

8 **SECTION 4.9.** Notwithstanding G.S. 163-226.3(a)(4), for an election held in 2020,
9 trained and certified employees, also referred to as "designated assistants" for purposes of this
10 section, of a hospital, clinic, nursing home, or rest home in this State may assist a registered voter
11 who is a patient or resident in that facility in requesting, voting, or returning the voter's absentee
12 ballot, if the voter, the voter's near relative or verifiable legal guardian, or an authorized member
13 of a bipartisan assistance team (MAT), as applicable, is unable to assist the voter in requesting,
14 voting, or returning the voter's absentee ballot. The county board of elections shall ensure that,
15 in utilizing this provision, (i) the employees at the applicable facility are trained and certified by
16 the county board of elections as designated assistants, (ii) two designated assistants not of the
17 same political party, or unaffiliated, as applicable, are present any time a voter receives assistance
18 from a designated assistant under this section, and (iii) the proper chain of custody is followed in
19 returning the executed absentee ballot. The Executive Director of the State Board of Elections
20 shall specify the training required for designated assistants under this section.

21 **SECTION 4.10.** This Part is effective when it becomes law and applies to elections
22 held on or after that date and expires upon certification of the 2020 general election.

23 24 **PART V. EXPAND AND IMPROVE VOTER REGISTRATION OPTIONS**

25 26 **EXTEND DEADLINE FOR REGISTERING TO VOTE BY MAIL**

27 **SECTION 5.1.(a)** Notwithstanding G.S. 163-82.6, 163-82.19, or 163-82.20, for an
28 election held in 2020, applications for voter registration submitted by mail shall be considered
29 timely if the application is postmarked no later than the Saturday before the election.

30 **SECTION 5.1.(b)** This section is effective when it becomes law and applies to
31 elections held on or after that date and expires upon certification of the 2020 general election.

32 33 **ACCESS TO ONLINE VOTER REGISTRATION**

34 **SECTION 5.2.** Article 7A of Chapter 163 of the General Statutes is amended by
35 adding a new section to read:

36 **"§ 163-82.23A. Access to online voter registration.**

37 Notwithstanding any other provision of law to the contrary, any State agency currently
38 offering voter registration pursuant to the National Voter Registration Act (NVRA) of 1993, 52
39 U.S.C. §§ 20501, et seq., shall allow any individual whose signature is on record with that agency
40 to access that signature for online voter registration."

41 **SECTION 5.3.** Except as otherwise provided, this Part is effective when it becomes
42 law and applies to elections held on or after that date.

43 44 **PART VI. GRANT BOARD OF ELECTIONS TEMPORARY AUTHORITY TO ACT** 45 **QUICKLY**

46 47 **TEMPORARY SUSPENSION OF PURCHASE AND CONTRACTS REQUIREMENTS** 48 **FOR ELECTIONS-RELATED SUPPLIES**

49 **SECTION 6.1.** The provisions of Article 3 and Article 8 of Chapter 143 of the
50 General Statutes shall not apply to the State Board of Elections when contracting for necessary
51 supplies and other items needed to conduct elections in 2020 during the COVID-19 emergency.

1 The provisions of Article 8 of Chapter 143 of the General Statutes shall not apply to county
2 boards of elections when contracting for necessary supplies and other items needed to conduct
3 elections in 2020 during the COVID-19 emergency.

4 **SECTION 6.2.** This Part is effective when it becomes law and expires upon
5 certification of the 2020 general election.

6
7 **PART VII. EDUCATION FOR VOTERS IN RESPONSE TO THE COVID-19**
8 **EMERGENCY**

9
10 **COUNTY BOARDS OF ELECTIONS EDUCATION EFFORTS REGARDING**
11 **COVID-19**

12 **SECTION 7.1.** In response to the COVID-19 emergency, county boards of elections
13 shall educate the public about voting in elections held in 2020 as follows:

- 14 (1) Counties that maintain a board of elections Web site shall include information
15 on that Web site about:
- 16 a. Options to register to vote, including same day registration during the
17 early voting period, and how to determine residency for voting
18 purposes.
 - 19 b. Options to vote in elections held in 2020, including the use of mail-in
20 absentee voting, voting in person during the one-stop early voting
21 period, and voting in person on election day.
- 22 (2) When publishing notices of elections under G.S. 163-33(8) for an election
23 held in 2020, the notice shall include how to obtain voting information and
24 how to vote by mail.

25
26 **STATE BOARD OF ELECTIONS EDUCATION EFFORTS REGARDING COVID-19**

27 **SECTION 7.2.** In response to the COVID-19 emergency, the State Board of
28 Elections shall continue its efforts in educating the public about voting in elections held in 2020,
29 as follows:

- 30 (1) Include on its Web site information about:
- 31 a. Options to register to vote, including same day registration during the
32 early voting period, and how to determine residency for voting
33 purposes.
 - 34 b. Options to vote in elections held in 2020, including the use of mail-in
35 absentee voting, voting in person during the one-stop early voting
36 period, and voting in person on election day.
- 37 (2) Distribute information about the options to register to vote, including online
38 voter registration and same day registration during the early voting period, and
39 options to vote in elections held in 2020, including mail-in absentee voting.
- 40 (3) Coordinate with the State and federal agencies to identify and notify as many
41 persons as possible about the options to register to vote, including registration
42 available through an online voter registration Web site and same day
43 registration during the early voting period and options to vote in elections held
44 in 2020, including mail-in absentee voting and early one-stop voting. When
45 practicable, the State Board of Elections shall provide county specific
46 information as to early one-stop voting locations and times.
- 47 (4) Disseminate information about the options to register to vote, including
48 registration available through an online voter registration Web site and same
49 day registration during the early voting period and options to vote in elections
50 held in 2020, including mail-in absentee voting and early one-stop voting.

1 Information may be distributed through public service announcements, print,
2 radio, television, online, and social media.
3 (5) Assist any county board of elections altering one-stop early voting hours for
4 elections held in 2020 under Section 4.2 of this act in educating the public on
5 the changes.

6 **SECTION 7.3.** Notwithstanding G.S. 163-278.69 and G.S. 163-278.99E, there is
7 appropriated from the cash balance in Budget Code 68025 to the State Board of Elections the
8 sum of five hundred thousand dollars (\$500,000) for the 2020-2021 fiscal year for the purposes
9 of implementing this Part. Expenditures of this appropriation are not subject to the provisions of
10 Article 3 and Article 8 of Chapter 143 of the General Statutes.

11 **SECTION 7.4.** This Part becomes effective July 1, 2020, and applies to elections
12 held on or after that date.

13

14 **PART VIII. SEVERABILITY**

15 **SECTION 8.1.** If any provision of this act or its application is held invalid, the
16 invalidity does not affect other provisions or applications of this act that can be given effect
17 without the invalid provisions or application, and to this end, the provisions of this act are
18 severable.

19

20 **PART IX. EFFECTIVE DATE**

21 **SECTION 9.1.** Except as otherwise provided, this act is effective when it becomes
22 law and applies to elections held on or after that date and expires upon certification of the 2020
23 general election.