

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 782
May 3, 2021
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40494-ST-8A

Short Title: Elections Certainty Act.

(Public)

Sponsors: Representative Mills.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE DATE AND TIME THAT MAIL-IN ABSENTEE BALLOTS
3 MUST BE RETURNED TO THE COUNTY BOARD IN ORDER TO BE COUNTED AND
4 TO EXTEND THE EARLY ONE-STOP VOTING PERIOD BY THREE DAYS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1.(a) G.S. 163-231(b) reads as rewritten:

7 "(b) Transmitting Executed Absentee Ballots to County Board of Elections. – The sealed
8 container-return envelope in which executed absentee ballots have been placed shall be
9 transmitted to the county board of elections who issued those ballots as follows:

10 (1) All ballots issued under the provisions of this Article and Article 21A of this
11 Chapter shall be transmitted by mail or by commercial courier service, at the
12 voter's expense, or delivered in person, or by the voter's near relative or
13 verifiable legal guardian and received by the county board not later than 5:00
14 p.m. on the day of the statewide primary or general election or county bond
15 election. Ballots issued under the provisions of Article 21A of this Chapter
16 may also be electronically transmitted.

17 (2) If ballots are received later than the hour stated in subdivision (1) of this
18 subsection, those ballots shall not be accepted unless ~~one of the following~~
19 ~~applies:~~ federal law so requires.

20 a. ~~Federal law so requires.~~

21 b. ~~The ballots issued under this Article are postmarked and that postmark~~
22 ~~is dated on or before the day of the statewide primary or general~~
23 ~~election or county bond election and are received by the county board~~
24 ~~of elections not later than three days after the election by 5:00 p.m.~~

25 e. ~~The ballots issued under Article 21A of this Chapter are received by~~
26 ~~the county board of elections not later than the end of business on the~~
27 ~~business day before the canvass conducted by the county board of~~
28 ~~elections held pursuant to G.S. 163-182.5."~~

29 SECTION 1.(b) G.S. 163-258.10 reads as rewritten:

30 "§ 163-258.10. Timely casting of ballot.

31 To be valid, a military-overseas ballot shall ~~either~~ be received by the appropriate county board
32 of elections no later than the close of the polls, ~~or the covered voter shall submit the ballot for~~
33 ~~mailing, electronic transmission, or other authorized means of delivery not later than 12:01 A.M.,~~
34 ~~at the place where the voter completes the ballot, polls~~ on the date of the election."

35 SECTION 1.(c) G.S. 163-258.12 is repealed.

36 SECTION 2.(a) G.S. 163-234 reads as rewritten:



* D R H 4 0 4 9 4 - S T - 8 A *

1 "§ 163-234. Counting absentee ballots by county board of elections.

2 All absentee ballots returned to the county board of elections in the container-return
3 envelopes shall be retained by the board to be counted by the county board of elections as follows:

4 (1) Only those absentee ballots returned to the county board of elections no later
5 than 5:00 p.m. on ~~the day before~~ election day in a properly executed
6 container-return envelope or absentee ballots received pursuant to
7 ~~G.S. 163-231(b)(2)b. or c. G.S. 163-231(b)(2)~~ shall be counted, ~~except to the~~
8 ~~extent federal law requires otherwise counted.~~

9 (2) The county board of elections shall meet at 5:00 p.m. on election day in the
10 board office or other public location in the county courthouse for the purpose
11 of counting all absentee ballots except those which have been challenged
12 before 5:00 p.m. on election day and those received pursuant to
13 ~~G.S. 163-231(b)(2)b. or c. G.S. 163-231(b)(2)~~. Any elector of the county shall
14 be permitted to attend the meeting and allowed to observe the counting
15 process, so long as the elector does not in any manner interfere with the
16 election officials in the discharge of their duties.

17 The county board of elections may begin counting absentee ballots issued
18 under Article 21A of this Chapter between the hours of 9:00 a.m. and 5:00
19 p.m. and may begin counting all absentee ballots between the hours of 2:00
20 p.m. and 5:00 p.m. upon the adoption of a resolution at least two weeks prior
21 to the election in which the hour and place of counting absentee ballots shall
22 be stated. The resolution also may provide for an additional meeting following
23 the day of the election and prior to the day of canvass to count absentee ballots
24 received pursuant to ~~G.S. 163-231(b)(2)b. or c. G.S. 163-231(b)(2)~~ as
25 provided in subdivision (11) of this section. A copy of the resolution shall be
26 published once a week for two weeks prior to the election, in a newspaper
27 having general circulation in the county. Notice may additionally be made on
28 a radio or television station or both, but the notice shall be in addition to the
29 newspaper and other required notice. The count shall be continuous until
30 completed and the members shall not separate or leave the counting place
31 except for unavoidable necessity, except that if the count has been completed
32 prior to the time the polls close, it shall be suspended until that time pending
33 receipt of any additional ballots. Nothing in this section prohibits a county
34 board of elections from taking preparatory steps for the count earlier than the
35 times specified in this section, as long as the preparatory steps do not reveal
36 to any individual not engaged in the actual count election results before the
37 times specified in this subdivision for the count to begin. By way of
38 illustration and not limitation, a preparatory step for the count would be the
39 entry of tally cards from direct record electronic voting units into a computer
40 for processing. The board shall not announce the result of the count before
41 7:30 p.m.

42 ...
43 (9) In the event a political party does not have a member of the county board of
44 elections present at the meeting to count absentee ballots due to illness or other
45 cause of the member, the counting shall not commence until the county party
46 ~~chairman~~ chair of the absent member, or a member of the party's county
47 executive committee, is in attendance. The person shall act as an official
48 witness to the counting and shall sign the absentee ballot abstract as an
49 "observer".

50 ...

(11) ~~The county board of elections shall meet after election day and prior to the date of canvass to determine whether the container return envelopes for absentee ballots received pursuant to G.S. 163-231(b)(2)b. or c. have been properly executed. The county board of elections shall comply with the requirements of G.S. 163-230.1 for approval of applications. Any absentee ballots received pursuant to G.S. 163-231(b)(2)b. or c. G.S. 163-231(b)(2) shall be counted by the county board of elections on the day of canvass. The county board of elections may also meet following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to G.S. 163-231(b)(2)b. or c. upon the adoption of a resolution pursuant to subdivision (2) of this section. The county board of elections shall comply with all other requirements of this section and G.S. 163-230.1 for the counting of these absentee ballots received pursuant to G.S. 163-231(b)(2)."~~

SECTION 2.(b) G.S. 163-89(a) reads as rewritten:

"(a) Time for Challenge. – The absentee ballot of any voter received by the county board of elections pursuant to G.S. 163-231(b)(1) may be challenged on the day of any statewide primary or general election or county bond election beginning no earlier than noon and ending no later than 5:00 P.M., or by the chief judge at the time of closing of the polls as provided in G.S. 163-232 and G.S. 163-258.26(b). The absentee ballot of any voter received by the county board of elections pursuant to ~~G.S. 163-231(b)(ii) or (iii)~~ G.S. 163-231(b)(2) may be challenged ~~no earlier than noon on the day following the election and no later than 5:00 p.m. on the next business day following the deadline for receipt of such absentee ballots."~~

SECTION 3. G.S. 163-227.2 reads as rewritten:

"§ 163-227.2. Alternate procedures for requesting application for absentee ballot; "one-stop" voting procedure in board office.

...

(b) Not earlier than the third ~~Thursday~~ Monday before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than 3:00 P.M. on the last Saturday before that election, the voter shall appear in person only at the office of the county board of elections, except as provided in G.S. 163-227.6. A county board of elections shall conduct one-stop voting on the last Saturday before the election from 8:00 A.M. until 3:00 P.M. That voter shall enter the voting enclosure at the board office through the appropriate entrance and shall at once state his or her name and place of residence to an authorized member or employee of the board and present photo identification in accordance with G.S. 163-166.16. In a primary election, the voter shall also state the political party with which the voter affiliates and in whose primary the voter desires to vote, or if the voter is an unaffiliated voter permitted to vote in the primary of a particular party under G.S. 163-119, the voter shall state the name of the authorizing political party in whose primary he wishes to vote. The board member or employee to whom the voter gives this information shall announce the name and residence of the voter in a distinct tone of voice. After examining the registration records, an employee of the board shall state whether the person seeking to vote is duly registered. If the voter is found to be registered that voter may request that the authorized member or employee of the board furnish the voter with an application for absentee ballots. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person.

...

(h) Notwithstanding the exception specified in G.S. 163-36, counties which operate a modified full-time office shall remain open five days each week during regular business hours consistent with daily hours presently observed by the county board of elections, commencing with the date prescribed in ~~G.S. 163-227.2(b)~~ subsection (b) of this section and continuing until 5:00 P.M. on the Friday prior to that election and shall also be open on the last Saturday before

1 the election. A county board may conduct one-stop absentee voting during evenings or on
2 weekends, as long as the hours are part of a plan submitted and approved ~~according to subsection~~
3 ~~(g) of this section~~ in accordance with G.S. 163-227.6. The boards of county commissioners shall
4 provide necessary funds for the additional operation of the office during that time.

5"

6 **SECTION 4.** This act is effective when it becomes law and applies to elections held
7 on or after that date.