

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 713
HOUSE BILL 1008

AN ACT TO BRING NORTH CAROLINA INTO COMPLIANCE WITH A COURT DECISION CONCERNING STRAIGHT-TICKET VOTING, AND TO PROVIDE A SEPARATE BALLOT FOR MULTI-SEAT RACES, EXCEPT WHERE MECHANICAL VOTING MACHINES ARE USED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-140 is amended by adding a new subsection to read:

"(f) Multi-seat races. The General Assembly finds that since the federal court opinion voiding the law which provided that a straight-ticket ballot shall take precedence in counting over a ballot marked for individual candidates, confusion has occurred in the counting of ballots in multi-seat races. In order to minimize the confusion of instructions for marking ballots in multi-seat races, which must be different than those in single-seat races, the General Assembly finds it necessary that these ballots be printed separately, except in the case of mechanical voting machines. On such machines, where it is physically impossible to vote both a straight-ticket and for an individual candidate, without pulling up the lever of an individual candidate, clearly showing the voter's intention, it is unnecessary to have a separate ballot for multi-seat races, and having such a separate ballot would result in more columns and rows on the machine than the mechanical machine can handle.

Multi-seat races in partisan general elections, which except as provided in this section would have appeared on the State ballot or county ballot, and except for multi-seat races on mechanical voting machines, shall be placed on a separate multi-seat ballot or ballots, which shall not be combined with any ballot other than a multi-seat ballot. Beneath the title and general instructions set out in this subsection, the ballot(s) for multi-seat races shall be divided into parallel columns separated by distinct black lines. The State Board of Elections shall assign a separate column to each political party having candidates in multi-seat races and one to unaffiliated candidates, if any. At the head of each party column the party's name shall be printed in large type, and at the head of the column for unaffiliated candidates shall be printed in large type the words 'Unaffiliated Candidates.' Below the party name in each column shall be printed a circle, one-half inch in diameter, and around which shall be plainly printed the following instruction: 'For a straight ticket, mark within this circle.' With distinct black lines, the State Board of Elections shall divide the columns into horizontal sections and, in the customary order of office, assign a separate section to each group of offices to be filled. On a single line at the top of each section shall be printed a direction as to the number of candidates for whom a vote may be cast. If candidates are to be chosen for

different terms to the same office, the term in each instance shall be printed as part of the title of the office.

The name or names of each political party's candidate or candidates for each office listed on the ballot shall be printed in the appropriate office section of the proper party column and the names of unaffiliated candidates shall be printed in the appropriate office section of the column headed 'Unaffiliated Candidates.' At the left of each name shall be printed a voting square, and in each column all voting squares shall be arranged in a perpendicular line.

On the face of the ballot, above the party and unaffiliated column division, the following instructions shall be printed in heavy red type to contrast with the type of the rest of the ballot:

- a. To vote for all candidates of one party (a straight ticket), make a cross (X) mark in the circle of the party of your choice.
- b. You may vote a split ticket in one of two ways:
 - (1) by making a cross mark opposite the name of each candidate for whom you wish to vote and making no mark in the party circle, or
 - (2) by marking the party circle and then making a cross mark opposite the name of each candidate you choose in the race(s) where you wish to vote a split ticket.
- c. If you tear or deface or wrongly mark this ballot, return it and get another.'

Ballot instructions need not be printed in red type except on the separate ballot(s) for multi-seat races."

Sec. 1.1. G.S. 163-151(5) reads as rewritten:

"(5) Split Ticket. In an election but not in a primary, if the voter desires to vote for candidates of more than one political party (a split ticket), he shall do so in either of the following ways:

- a. Omit marking in the party circle of any party and mark in the voting square opposite the name of each candidate of any party printed on the ballot for whom the voter wishes to vote.
- b. ~~If the voter should mark the party circle of one party, and also mark the voting square opposite the name of candidates of any other party, the ballot shall be counted as a straight ticket for all candidates of the party whose circle was marked and the individually marked candidates of any other party shall not be counted.~~ Mark the party circle of one party and also mark the voting square opposite the name of any candidate or candidates of any other party. The ballot shall be counted as a straight ticket for all candidates of the party whose circle was marked except for a candidate for an office for which the voter has marked the candidate of any other party, in which case the vote marked for any candidate or candidates of any other party shall be counted instead for that office.

Sec. 2. G.S. 163-151(6)d. reads as rewritten:

"d. If the voter has marked the party circle of one party, he ~~should not~~ may, except as prohibited by G.S. 163-123(f), write in the name of a person under the name of a candidate in any other party. In such case, the write-in shall ~~not~~ be counted, but and otherwise the ballot shall be counted for all candidates of the party whose circle was marked except for the office for which there is a write-in."

Sec. 3. G.S. 163-170(5)d.2. reads as rewritten:

"2. If the voter has marked the party circle at the top of the column of a political party, and has made a write-in under the name of a candidate printed in a column of a different political party, except as prohibited by G.S. 163-123(f), the write-in shall ~~not~~ be counted, and otherwise the ballot shall be counted as a vote for all candidates of the party in whose circle he has marked except for the office for which there is a write-in."

Sec. 4. G.S. 163-170(6)a. reads as rewritten:

"a. If the voter has marked the party circle of one party and also marked the voting square of individual candidates of another party, the ballot shall be counted as a straight ballot and ~~counted as a vote for every candidate for the party whose circle has been marked~~ ticket for all candidates of the party whose circle was marked except for a candidate for an office for which the voter has marked the candidate of any other party, in which case the vote marked for any candidate or candidates of any other party shall be counted instead for that office."

Sec. 5. G.S. 163-151 is amended by adding the following new subdivision:

"(7) Multi-seat races. If the voter should mark the party circle of one party and also mark the voting square opposite the name of candidates of any other party in a multi-seat race, only those candidates of any party beside whose name the voting square is marked shall receive a vote."

Sec. 6. G.S. 163-170(5)d. is amended by adding the following new subparagraph:

"3. In a multi-seat race, if the voter has marked the party circle at the top of the column of a political party and has made a write-in under the name of a candidate printed in a column of a different political party, only the write-in and those other candidates of any party beside whose name the voting square is marked shall receive a vote. This subparagraph does not apply if the write-in cannot be counted because of G.S. 163-123(f)."

Sec. 7. G.S. 163-170(6) is amended by adding the following new subparagraph:

"c. In a multi-seat race, if the voter has marked the party circle at the top of the column of a political party and has marked the voting square of a candidate of any other party, only those candidates of any party beside whose names the voting squares are marked shall receive a vote."

Sec. 8. G.S. 163-140(b)(2) reads as rewritten:

"(2) Ballot for United States Senator: Beneath the title and general instructions set out in this subsection, the ballot for United States Senator shall be divided into parallel columns separated by distinct black lines. The State Board of Elections shall assign a separate column to each political party having a candidate for the office and one to unaffiliated candidates, if any. At the head of each party column the party's name shall

be printed in large type, and at the head of the column for unaffiliated candidates shall be printed in large type the words 'Unaffiliated Candidates.' The name of each political party's candidate for United States Senator shall be printed in the appropriate party column, and the names of unaffiliated candidates for the office shall be printed in the column headed 'Unaffiliated Candidates.' At the left of each name shall be printed a voting square, and in each column all voting squares shall be arranged in a perpendicular line. On the face of the ballot, above the party and unaffiliated column division, the following instructions shall be printed in heavy black type:

- 'a. Vote for only one candidate.
- b. If you tear or deface or wrongly mark this ballot, return it and get another.'

On the bottom of the ballot shall be printed an identified facsimile of the signature of the Chairman of the State Board of Elections.

When the ballot for United States Senator is combined with a ballot for another office, below the party name in each column shall be printed a circle, one-half inch in diameter, around which shall be plainly printed the following instruction: 'For a straight ticket, mark within this circle.' The following instructions, in lieu of those specified in the preceding paragraph, shall be printed in heavy black type on the face of the combined ballot to the top above the party and unaffiliated column division:

- 'a. To vote for all candidates of one party (a straight ticket), make a cross (X) mark in the circle of the party for whose candidates you wish to vote.
- b. ~~To vote for candidates of more than one party (a split ticket), do not mark in any party circle, but make a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote. You may vote a split ticket by marking a cross (X) mark in the party circle and then making a cross (X) mark in the square opposite the name of the candidate(s) of a different party for whom you wish to vote.~~
- c. You may also vote a split ticket by not marking a cross (X) mark in the party circle, but by making a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote.
- e-d. If you tear or deface or wrongly mark this ballot, return it and get another.'"

Sec. 9. G.S. 163-140(b)(3) reads as rewritten:

"(3) Ballot for Member of the United States House of Representatives: Beneath the title and general instructions set out in this subsection, the congressional district ballot for member of the United States House of Representatives shall be divided into parallel columns separated by distinct black lines. The State Board of Elections shall assign a separate column to each political party having a candidate for the office and one to unaffiliated candidates, if any. At the head of each party column the party's name shall be printed in large type, and at the head of the column for unaffiliated candidates shall be printed in large type the words 'Unaffiliated Candidates.' The name of each political party's candidate for member of the United States House of Representatives from the congressional district shall be printed in the appropriate party column, and the names of

unaffiliated candidates for the office shall be printed in the column headed 'Unaffiliated Candidates.' At the left of each name shall be printed a voting square, and in each column all voting squares shall be arranged in a perpendicular line. On the face of the ballot, above the party and unaffiliated column division, the following instructions shall be printed in heavy black type:

- 'a. Vote for only one candidate.
- b. If you tear or deface or wrongly mark this ballot, return it and get another.'

On the bottom of the ballot shall be printed an identified facsimile of the signature of the Chairman of the State Board of Elections.

When the ballot for member of the United States House of Representatives is combined with a ballot for another office, below the party name in each column shall be printed a circle, one-half inch in diameter, around which shall be plainly printed the following instruction: 'For a straight ticket, mark within this circle.' The following instructions, in lieu of those specified in the preceding paragraph, shall be printed in heavy black type on the face of the combined ballot at the top above the party and unaffiliated column division:

- 'a. To vote for all candidates of one party (a straight ticket), make a cross (X) mark in the circle of the party for whose candidates you wish to vote.
- b. ~~To vote for candidates of more than one party (a split ticket), do not mark in any party circle, but make a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote. You may vote a split ticket by marking a cross (X) mark in the party circle and then making a cross (X) mark in the square opposite the name of the candidate(s) of a different party for whom you wish to vote.~~
- c. You may also vote a split ticket by not marking a cross (X) mark in the party circle, but by making a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote.
- e-d. If you tear or deface or wrongly mark this ballot, return it and get another.'"

Sec. 10. G.S. 163-140(b)(4) reads as rewritten:

"(4) State Ballot: Beneath the title and general instructions set out in this subsection, the ballot for single-seat contests for State officers, and for all State officers where mechanical voting machines are used (including judges of the superior court) shall be divided into parallel columns separated by distinct black lines. The State Board of Elections shall assign a separate column to each political party having candidates for State offices and one to unaffiliated candidates, if any. At the head of each party column the party's name shall be printed in large type, and at the head of the column for unaffiliated candidates shall be printed in large type the words 'Unaffiliated Candidates.' Below the party name in each column shall be printed a circle, one-half inch in diameter, around which shall be plainly printed the following instruction: 'For a straight ticket, mark within this circle.' With distinct black lines, the State Board of Elections shall divide the columns into horizontal sections and, in the customary order of office,

assign a separate section to each office or group of offices to be filled. On a single line at the top of each section shall be printed a direction as to the number of candidates for whom a vote may be cast. If candidates are to be chosen for different terms to the same office, the term in each instance shall be printed as part of the title of the office.

The name or names of each political party's candidate or candidates for each office listed on the ballot shall be printed in the appropriate office section of the proper party column, and the names of unaffiliated candidates shall be printed in the appropriate office section of the column headed 'Unaffiliated Candidates.' At the left of each name shall be printed a voting square, and in each column all voting squares shall be arranged in a perpendicular line.

On the face of the ballot, above the party and unaffiliated column division, the following instructions shall be printed in heavy black type:

- a. To vote for all candidates of one party (a straight ticket), make a cross (X) mark in the circle of the party for whose candidates you wish to vote.
- b. ~~To vote for candidates of more than one party (a split ticket), do not mark in any party circle, but make a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote.~~
- e. ~~If you should insert a cross (X) mark in one of the party circles at the top of the ballot and also mark in the voting square opposite the name of any candidate of any party, your ballot will be counted as a straight ticket vote for all of the candidates of the party whose circle you marked.~~
 - b. You may vote a split ticket by marking a cross (X) mark in the party circle and then making a cross (X) mark in the square opposite the name of the candidate(s) of a different party for whom you wish to vote. In any multi-seat race where a party circle is marked and you vote for candidates of another party, in order for your vote to count for any candidates for that office of the party for which you marked the party circle you must make a cross (X) mark opposite the name of those candidate(s).
- c. You may also vote a split ticket by not marking a cross (X) mark in the party circle, but by making a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote.
- d. If you tear or deface or wrongly mark this ballot, return it and get another.'

On the bottom of the ballot shall be printed an identified facsimile of the signature of the Chairman of the State Board of Elections. If the State ballot contains no multi-seat race, then the second sentence of instruction b. shall not appear on the ballot.

Sec. 11. G.S. 163-140(b)(5) as amended by Chapter 491, Session Laws of 1987 reads as rewritten:

"(5) County Ballot: Beneath the title and general instructions set out in this subsection, the ballot for single-seat contests for county officers (including district attorney for the prosecutorial district in which the county is situated, district judge for

the district court district in which the county is situated, and members of the General Assembly in the senatorial and representative districts in which the county is situated), and for all county offices where mechanical voting machines are used, shall be divided into parallel columns separated by distinct black lines. The county board of elections shall assign a separate column to each political party having candidates for the offices on the ballot and one to unaffiliated candidates, if any. At the head of each party column the party's name shall be printed in large type and at the head of the column for unaffiliated candidates shall be printed in large type the words 'Unaffiliated Candidates.' Below the party name in each column shall be printed a circle, one-half inch in diameter, around which shall be plainly printed the following instruction: 'For a straight ticket, mark within this circle.' With distinct black lines, the county board of elections shall divide the columns into horizontal sections and, in the customary order of office, assign a separate section to each office or group of offices to be filled. On a single line at the top of each section shall be printed the title of the office, and directly below the title shall be printed a direction as to the number of candidates for whom a vote may be cast. If candidates are to be chosen for different terms to the same office, the term in each instance shall be printed as part of the title of the office.

The name or names of each political party's candidate or candidates for each office listed on the ballot shall be printed in the appropriate office section of the proper party column, and the names of unaffiliated candidates shall be printed in the appropriate office section of the column headed 'Unaffiliated Candidates.' At the left of each name shall be printed a voting square, and in each column all voting squares shall be arranged in a perpendicular line.

On the face of the ballot, above the party and unaffiliated column division, the following instructions shall be printed in heavy black type:

- 'a. To vote for all candidates of one party (a straight ticket), make a cross (X) mark in the circle of the party for whose candidates you wish to vote.
- ~~b. To vote for candidates of more than one party (a split ticket), do not mark in any party circle, but make a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote.~~
- ~~e. If you should insert a cross (X) mark in one of the party circles at the top of the ballot and also mark in the voting square opposite the name of any candidate of any party, your ballot will be counted as a straight ticket vote for all of the candidates of the party whose circle you marked.~~
- b. You may vote a split ticket by marking a cross (X) mark in the party circle and then making a cross (X) mark in the square opposite the name of the candidate(s) of a different party for whom you wish to vote. In any multi-seat race where a party circle is marked and you vote for candidates of another party, in order for your vote to count for any candidates for that office of the party for which you marked the party circle you must make a cross (X) mark opposite the name of those candidate(s).

- c. You may also vote a split ticket by not marking a cross (X) mark in the party circle, but by making a cross (X) mark in the square opposite the name of each candidate for whom you wish to vote.
- d. If you tear or deface or wrongly mark this ballot, return it and get another.'

On the bottom of the ballot shall be printed an identified facsimile of the signature of the chairman of the county board of elections. If the county ballot contains no multi-seat race, then the second sentence of instruction b. shall not appear on the ballot."

Sec. 12. G.S. 163-140(a) reads as rewritten:

"(a) Kinds of General Election Ballots; Right to Combine. – For purposes of general elections, there shall be seven kinds of official ballots entitled:

- (1) Ballot for presidential electors
- (2) Ballot for United States Senator
- (3) Ballot for member of the United States House of Representatives
- (4) State ballot
- (5) County ballot
- (7) Ballot for constitutional amendments and other propositions submitted to the people.

Use of official ballots shall be limited to the purposes indicated by their titles. The printing on all ballots shall be plain and legible but, unless large type is specified by this section, type larger than 10-point shall not be used in printing ballots. All general election ballots shall be prepared in such a way as to leave sufficient blank space beneath each name printed thereon in which a voter may conveniently write the name of any person for whom he may desire to vote.

Unless prohibited by this section, the board of elections, State or county, charged by law with printing ballots may, in its discretion, combine any two or more official ballots. Whenever two or more ballots are combined, the voting instructions for the State ballot set out in subsection (b)(4) of this section shall be used, except that if the two ballots being combined do not contain a multi-seat race, then the second sentence of instruction b. shall not appear on the ballot."

Sec. 12.1. Notwithstanding any other provision of this act, in the case of a multi-seat race, if a voter votes a straight-party ticket, and also votes for individual candidates of that party but not for individual candidates of another party, the ballot shall be counted for all the candidates for that multi-seat race of the party whose straight-ticket has been marked. The State Board of Elections shall by regulation amend the instructions provided by this act to effectuate this section.

Sec. 12.2. The provisions of this act are severable, and if any provision of this act is held invalid by a court of competent jurisdiction, or is unenforceable under Section 5 of the Voting Rights Act of 1965, the invalidity or unenforceability shall not affect other provisions of this act which can be given effect without the invalid or unenforceable provision.

Sec. 13. Chapter 1099, Session Laws of 1983 is repealed.

Sec. 14. This act shall become effective with respect to elections held on or after January 1, 1988.

In the General Assembly read three times and ratified this the 31st day of July, 1987.