

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1004

Short Title: Death of Candidate.

(Public)

Sponsors: Representatives Locks; and Blue.

Referred to: Judiciary.

April 4, 1989

A BILL TO BE ENTITLED

AN ACT TO RESTORE THE FORMER LAW RELATING TO DEATH OF A CANDIDATE FOR A PRIMARY, SO THAT VOTES FOR A DECEASED CANDIDATE ARE COUNTED, TO THE END THAT IF THE DECEASED CANDIDATE WINS THE PRIMARY, THE PROPER PARTY EXECUTIVE COMMITTEE SHALL CHOOSE THE NOMINEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-112 reads as rewritten:

"§ 163-112. Death of candidate before primary; vacancy in single office.

(a) Death of One of Two Candidates within 30 Days after the Filing Period Closes. – If at the time the filing period closes, only two persons have filed notice of candidacy for nomination by a political party to a single office, and one of the candidates dies within 30 days after the filing period closes, then the proper board of elections shall, upon notice of the death, reopen the filing period for that party contest, for an additional three days. Should a candidate or candidates file during that additional period, the name or names shall be printed on the ballot and the name of the deceased candidate shall not be printed on the ballot. Should no candidate file during the three days, the board of elections shall certify the remaining candidate as the nominee of his party as provided in G.S. 163-110.

(b) Death of One of More Than Two Candidates within 30 Days after the Filing Period Closes. – If at the close of the filing period more than two candidates have filed for a single office, and within 30 days after the filing period closes the board of elections receives notice of a candidate's death, the board shall immediately open the filing period for that party contest, for three additional days in order for candidates to

1 file for that office. The name of the deceased candidate shall not be printed on the
2 ballot.

3 In the event a candidate's death occurs more than 30 days after the closing of the
4 original filing period, the names of the ~~remaining~~ candidates shall be printed on the
5 ballot. ~~If the ballots have been printed at the time death occurs, the~~ The ballots shall not be
6 reprinted and any votes cast for a deceased candidate shall not be counted or considered
7 for any purpose. In the event the death of a candidate or candidates leaves only one candidate,
8 then such candidate shall be certified as the party's nominee for that office. be counted. In
9 such a case, should the deceased candidate poll the highest number of votes in a primary
10 for party nomination to the office he sought, even though short of a majority, the proper
11 party executive committee shall appoint the nominee under the provisions of G.S. 163-
12 114. Should no candidate receive a majority of the votes cast in the primary, a
13 candidate who is not deceased receive the highest number of votes, and the second
14 highest number of votes are cast for a deceased candidate, no second primary shall be
15 held, and the proper board of election shall declare the candidate receiving the highest
16 number of votes the party's nominee for that office.

17 (c) Vacancy in Group Offices within 30 Days after the Filing Period Closes. – If
18 at the time the filing period closes more persons have filed notice of candidacy for
19 nomination by a political party to an office constituting a group than there are positions
20 to be filled, and a candidate or candidates dies within 30 days after the filing period
21 closes, and there remains only the number of candidates equal to or fewer than the
22 number of positions to be filled, the appropriate board of elections shall reopen the
23 filing period for that party contest, for three days for that office. Should a candidate or
24 candidates file during that additional period, the name or names shall be printed on the
25 ballot and the name of the deceased candidate shall not be printed on the ballot. Should
26 no persons file during the three-day period, then those candidates already filed shall be
27 certified as the party nominees for that office.

28 (d) Vacancy in Group Offices More Than 30 Days after the Filling Period
29 Closes. – In the event a candidate or candidates death occurs more than 30 days after the
30 original filing period closes for an office constituting a group, then regardless of the
31 number of candidates filed for nomination, the board of elections shall be governed as
32 follows:

- 33 (1) ~~If the ballots have not been printed at the time the board of elections~~
34 ~~receives notice of the death, the deceased candidate's name shall not be~~
35 ~~printed on the ballot.~~
- 36 (2) ~~If the ballots have been printed at the time the board of elections~~
37 ~~receives notice of the death, the~~ The ballots shall not be reprinted but
38 votes cast for the deceased candidate shall not be counted for any
39 purpose.
- 40 (3) ~~In the event the death of a candidate or candidates results in the~~
41 ~~number of candidates being equal to or less than the number of~~
42 ~~positions to be filled for that office, then the remaining candidates~~
43 ~~shall be certified as the party nominees for that office and no primary~~
44 ~~shall be held for that office. be counted. In such a case, should the~~

1 deceased candidate poll a number of votes in a primary for party
2 nomination which would entitle that person to nomination to the office
3 he sought, even though short of a majority, the proper party executive
4 committee shall appoint a nominee in place of the deceased person
5 under the provisions of G.S. 163-114. Should not enough candidates
6 receive a majority of the votes cast in the primary to fill all the
7 positions to be filled, and a number of votes are cast for a deceased
8 candidate which would entitle that deceased candidate to call for a
9 second primary, then the proper board of elections shall declare the
10 candidate receiving the highest number of votes but not a majority to
11 be one of the party's nominees for that office as if that candidate had
12 received a majority.

13 ~~(4) If death, resignation or disqualification of~~

14 (2) If resignation or disqualification of candidates results in the number of
15 candidates being less than the number of positions to be filled for that
16 office, then the appropriate party executive committee shall, in
17 accordance with G.S. 163-114, make nominations of persons equal to
18 the number of positions to be filled and no primary shall be held and
19 those names shall be printed on the general election ballot."

20 Sec. 2. This act shall become effective with respect to primary elections
21 occurring on or after January 1, 1990.