

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 934

Short Title: Open Ballot Access.

(Public)

Sponsors: Representatives Pope; Jones, Justus, and Miller.

Referred to: Courts, Justice, Constitutional Amendments, and Referenda.

April 19, 1991

A BILL TO BE ENTITLED

AN ACT TO OPEN BALLOT ACCESS FOR CANDIDATES OF NEW POLITICAL PARTIES AND INDEPENDENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-96 reads as rewritten:

**"§ 163-96. 'Political party' defined; ~~creation of new party~~ placement of candidates of a new party on the ballot.**

(a) Definition. – A political party ~~within the meaning of~~ for the purpose of the placement of candidates on the ballot under the election laws of this State shall be either:

- (1) Any group of voters which, at the last preceding general State election, polled for its candidate for Governor, or for presidential electors, at least ~~ten percent (10%)~~ one percent (1%) of the entire vote cast in the State for Governor or for presidential electors; or
- (2) Any group of voters which shall have filed with the State Board of Elections petitions for the ~~formulation~~ placement on the ballot of candidates of a new political party which are signed by registered and qualified voters in this State equal in number to ~~two percent (2%)~~ one-half of one percent (0.5%) 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.~~ To be effective, the petitioners must file their petitions with the State Board of Elections before 12:00 noon on the first day of June preceding the day on which is to be held the first

1 general State election in which the new political party desires to  
2 participate. The State Board of Elections shall forthwith determine the  
3 sufficiency of petitions filed with it and shall immediately  
4 communicate its determination to the State chairman of the proposed  
5 new political party.

6 (b) Petitions for New Political Party. – ~~Petitions for the creation~~purpose of  
7 placement of candidates of a new political party on the appropriate ballots shall contain  
8 on the heading of each page of the petition in bold print or all in capital letters the  
9 words: 'THE UNDERSIGNED REGISTERED VOTERS IN ... .. COUNTY  
10 ~~HEREBY PETITION FOR THE FORMATION OF A NEW POLITICAL PARTY TO BE~~  
11 TO PLACE ON THE APPROPRIATE BALLOTS IN THE NEXT SUCCEEDING  
12 GENERAL ELECTION THE CANDIDATES OF THE NEW POLITICAL PARTY  
13 NAMED ... .. AND WHOSE STATE CHAIRMAN IS ... .. ,  
14 RESIDING AT ... .. AND WHO CAN BE REACHED BY  
15 TELEPHONE AT ... .. THE SIGNERS OF THIS PETITION INTEND TO  
16 ORGANIZE A NEW POLITICAL PARTY TO PARTICIPATE IN THE NEXT  
17 SUCCEEDING GENERAL ELECTION.'

18 All printing required to appear on the heading of the petition shall be in type no smaller  
19 than 10 point or in all capital letters, double spaced typewriter size. In addition to the  
20 form of the petition, the organizers and petition circulators shall inform the signers of  
21 the general purpose and intent of the new party.

22 The petitions must specify the name selected for the proposed political party. The  
23 State Board of Elections shall reject petitions for the formation of a new party if the  
24 name chosen contains any word that appears in the name of any existing political party  
25 recognized in this State or if, in the Board's opinion, the name is so similar to that of an  
26 existing political party recognized in this State as to confuse or mislead the voters at an  
27 election.

28 The petitions must state the name and address of the State chairman of the proposed  
29 new political party.

30 The validity of the signatures on the petitions shall be proved in accordance with one  
31 of the following alternative procedures:

- 32 (1) The signers may acknowledge their signatures before an officer  
33 authorized to take acknowledgments, after which that officer shall  
34 certify the validity of the signatures by appropriate notation attached to  
35 the petition, or
- 36 (2) A person in whose presence a petition was signed may go before an  
37 officer authorized to take acknowledgments and, after being sworn,  
38 testify to the genuineness of the signatures on the petition, after which  
39 the officer before whom he has testified shall certify his testimony by  
40 appropriate notation attached to the petition.

41 Each petition shall be presented to the chairman of the board of elections of the  
42 county in which the signatures were obtained, and it shall be the chairman's duty:

- 1 (1) To examine the signatures on the petition and place a check mark on  
 2 the petition by the name of each signer who is qualified and registered  
 3 to vote in his county.
- 4 (2) To attach to the petition his signed certificate  
 5 a. Stating that the signatures on the petition have been checked  
 6 against the registration records and  
 7 b. Indicating the number found qualified and registered to vote in  
 8 his county.
- 9 (3) To return each petition, together with the certificate required by the  
 10 preceding subdivision, to the person who presented it to him for  
 11 checking.

12 The group of petitioners shall submit the petitions to the chairman of the county  
 13 board of elections in the county in which the signatures were obtained no later than 5:00  
 14 P.M. on the fifteenth day preceding the date the petitions are due to be filed with the  
 15 State Board of Elections as provided in subsection (a)(2) of this section. Provided the  
 16 petitions are timely submitted, the chairman of the county board of elections shall  
 17 require a fee of five cents (5¢) for each signature appearing and shall proceed to  
 18 examine and verify the signatures under the provisions of this subsection. Verification  
 19 shall be completed within two weeks from the date such petitions are presented and the  
 20 required fee received."

21 Sec. 2. G.S. 163-97 reads as rewritten:

22 "**§ 163-97. Termination of status as political party entitled to ballot placement.**

23 When any political party fails to poll for its candidate for governor, or for  
 24 presidential electors, at least ~~ten percent (10%)~~ one percent (1%) of the entire vote cast in  
 25 the State for governor or for presidential electors at a general election, it shall cease to  
 26 ~~be a political party within the meaning of the primary and general election laws and all other~~  
 27 ~~provisions of this Chapter to qualify for placement of its candidates on the ballot in~~  
 28 ~~elections conducted on a partisan basis."~~  
elections conducted on a partisan basis."

29 Sec. 3. G.S. 163-98 reads as rewritten:

30 "**§ 163-98. General election participation by new political party.**

31 In the first general election following the date on which a new political party  
 32 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its  
 33 candidates for ~~State, congressional, and national offices~~ all offices elected on a partisan  
 34 basis printed on the official ballots, but it shall not be entitled to have the names of  
 35 ~~candidates for other offices printed on State, district, or county ballots at that election.~~

36 For the first general election following the date on which it qualifies under G.S. 163-  
 37 96, a new political party shall select its candidates by party convention. Following  
 38 adjournment of the nominating convention, but not later than the first day of July prior  
 39 to the general election, the president of the convention shall certify to the State Board of  
 40 Elections the names of persons chosen in the convention as the new party's candidates  
 41 for ~~State, congressional, and national offices~~ offices elected on a partisan basis in the  
 42 ensuing general election. The State Board of Elections shall print names thus certified  
 43 on the appropriate ballots as the nominees of the new party."

44 Sec. 4. G.S. 163-122(a) reads as rewritten:

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

- 4           (1) If the office is a statewide office, file written petitions with the State  
5 Board of Elections supporting his candidacy for a specified office.  
6 These petitions must be filed with the State Board of Elections on or  
7 before 12:00 noon on the last Friday in June preceding the general  
8 election and must be signed by qualified voters of the State equal in  
9 number to ~~two percent (2%)~~ one-half of one percent (0.5%) of the total  
10 number of registered voters in the State as reflected by the most recent  
11 statistical report issued by the State Board of Elections. Each petition  
12 shall be presented to the chairman of the board of elections of the  
13 county in which the signatures were obtained. The chairman shall  
14 examine the names on the petition and place a check mark on the  
15 petition by the name of each signer who is qualified and registered to  
16 vote in his county and shall attach to the petition his signed certificate.  
17 Said certificates shall state that the signatures on the petition have been  
18 checked against the registration records and shall indicate the number  
19 of signers to be qualified and registered to vote in his county. The  
20 chairman shall return each petition, together with the certificate  
21 required in this section, to the person who presented it to him for  
22 checking. Verification by the chairman of the county board of  
23 elections shall be completed within two weeks from the date such  
24 petitions are presented and a fee of five cents (5¢) for each name  
25 appearing on the petition has been received.
- 26           (2) If the office is a district office comprised of two or more counties, file  
27 written petitions with the State Board of Elections supporting his  
28 candidacy for a specified office. These petitions must be filed with the  
29 State Board of Elections on or before 12:00 noon on the last Friday in  
30 June preceding the general election and must be signed by qualified  
31 voters of the State equal in number to ~~five percent (5%)~~ one-half of one  
32 percent (0.5%) of the total number of registered voters in the district as  
33 reflected by the latest statistical report issued by the State Board of  
34 Elections. Each petition shall be presented to the chairman of the board  
35 of elections of the county in which the signatures were obtained. The  
36 chairman shall examine the names on the petition and the procedure  
37 for certification shall be the same as specified in (1) above.
- 38           (3) If the office is a county office or a single county legislative district, file  
39 written petitions with the chairman or supervisor of the county board  
40 of elections supporting his candidacy for a specified county office.  
41 These petitions must be filed with the county board of elections on or  
42 before 12:00 noon on the last Friday in June preceding the general  
43 election and must be signed by qualified voters of the county equal in  
44 number to ~~ten percent (10%)~~ one-half of one percent (0.5%) of the total

1 number of registered voters in the county as reflected by the most  
2 recent statistical report issued by the State Board of Elections. Each  
3 petition shall be presented to the chairman or supervisor of the county  
4 board of elections. The chairman shall examine, or cause to be  
5 examined, the names on the petition and the procedure for certification  
6 shall be the same as specified in (1) above.

- 7 (4) If the office is a partisan municipal office, file written petitions with  
8 the chairman or supervisor of the county board of elections in the  
9 county wherein the municipality is located supporting his candidacy  
10 for a specified municipal office. These petitions must be filed with the  
11 county board of elections on or before the time and date specified in  
12 G.S. 163-296 and must be signed by the number of qualified voters  
13 specified in G.S. 163-296. The procedure for certification shall be the  
14 same as specified in (1) above.

15 Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the  
16 board of elections with which the petitions and affidavit have been timely filed shall  
17 cause the unaffiliated candidate's name to be printed on the general election ballots in  
18 accordance with G.S. ~~163-140~~163-140.

19 An individual whose name appeared on the ballot in a primary election preliminary  
20 to the general election shall not be eligible to have his name placed on the general  
21 election ballot as an unaffiliated candidate for the same office in that year."

22 Sec. 5. G.S. 115C-527 reads as rewritten:

23 "**§ 115C-527. Use of schools and other public buildings for political meetings.**

24 The governing authority having control over schools or other public buildings which  
25 have facilities for group meetings, or where polling places are located, is hereby  
26 authorized and directed to permit the use of such buildings without charge, except  
27 custodial and utility fees, by political parties, ~~as defined in~~ entitled to placement of its  
28 candidates on the ballot under G.S. 163-96, for the express purpose of annual or  
29 biennial precinct meetings and county and district conventions: Provided, that the use of  
30 such buildings by political parties shall not be permitted at times when school is in  
31 session or which would interfere with normal school activities or functions normally  
32 carried on in such school buildings, and such use shall be subject to reasonable rules and  
33 regulations of the school boards and other governing authorities."

34 Sec. 6. G.S. 163-1(c) reads as rewritten:

35 "(c) On Tuesday next after the first Monday in November in the year 1968, and every  
36 four years thereafter, or on such days as the Congress of the United States shall direct,  
37 an election shall be held in all of the election precincts of the State for the election of  
38 electors of President and Vice-President of the United States. The number of electors to  
39 be chosen shall be equal to the number of Senators and Representatives in Congress to  
40 which this State may be entitled. Presidential electors shall not be nominated by primary  
41 election; instead, they shall be nominated in a State convention of each political party as  
42 ~~defined in~~ entitled to placement of its candidates on the ballot under G.S. 163-96 unless  
43 otherwise provided by the plan of organization of the political party. One presidential

1 elector shall be nominated from each congressional district and two from the state-at-  
2 large."

3 Sec. 7. G.S. 163-66 reads as rewritten:

4 **"§ 163-66. Custody of registration records and pollbooks; access; obtaining copies.**

5 In all counties the registration records, books, registration certificates, indexes,  
6 computer lists, discs, labels and tapes and other records of registration and voting shall  
7 be and remain in the possession of the county board of elections. The county board of  
8 elections shall keep all such records in a safe and secure place where they may not be  
9 tampered with, stolen or destroyed. If possible, the board shall keep them in a fireproof  
10 vault or file. The board may exercise supervision and control of these records through  
11 its properly designated officers and employees. It shall be the duty of the county board  
12 of elections, on application of any candidate, or the county chairman of any political  
13 party, or any other person, to furnish a list of the persons registered to vote in the county  
14 or in any precinct or precincts therein. No registrar shall furnish lists of registered voters  
15 or permit the registration records of his precinct to be copied. The county board of  
16 elections shall furnish such lists and upon request, it may furnish selective lists  
17 according to party affiliation, sex, race, date of registration, or any other reasonable  
18 category. In all instances, however, the county board of elections shall require persons  
19 to whom any list is furnished to make full reimbursement for the expense incurred in  
20 preparing it. Notwithstanding the above, however, the chairman of each political party  
21 in the county, ~~as defined in~~ entitled to placement of its candidates on the ballot under  
22 G.S. 163-96, shall be entitled biennially, upon written request, to one free list of all  
23 registered voters in his county showing the name, address, sex, political affiliation and  
24 precinct of each registered voter, provided, that in counties having voter records  
25 maintained on electronic data processing equipment, such lists shall not be furnished  
26 biennially but instead on the following schedule: once in each odd-numbered year, once  
27 during the first six calendar months of each even-numbered year, and once during the  
28 last six months of each even-numbered year. In addition to the typed, mimeographed,  
29 xeroxed or computer print-out lists required hereinabove, each county that provides  
30 voters' lists from computers shall, upon written request from the State chairman of each  
31 political party, provide once in each odd-numbered year, once during the first six  
32 calendar months of each even-numbered year, and once during the last six months of  
33 each even-numbered year a computer disc or tape containing the name, address, sex,  
34 race, age, political affiliation and precinct of each registered voter and it shall be the  
35 responsibility of each State chairman receiving such discs or tapes to provide them to  
36 candidates for election who are candidates of their respective political parties and who  
37 request the discs or tapes in writing. The free list to be furnished to the county chairman  
38 of each political party shall group the registered voters by precinct and shall be  
39 furnished as soon as practicable but no later than 30 days after said request. The discs or  
40 tapes to be furnished to the State chairman shall be furnished as soon as practicable but  
41 no later than 30 days after the request, and the State chairman is required to return the  
42 tapes or discs to the county board of elections within 30 days after receiving them."

43 Sec. 8. G.S. 163-99 reads as rewritten:

44 **"§ 163-99. Use of schools and other public buildings for political meetings.**

1 The governing authority having control over schools or other public buildings which  
2 have facilities for group meetings, or where polling places are located, is hereby  
3 authorized and directed to permit the use of such buildings without charge, except  
4 custodial and utility fees, by political parties, ~~as defined in~~ entitled to placement of its  
5 candidates on the ballot under G.S. 163-96, for the express purpose of annual or  
6 biennial precinct meetings and county and district conventions. Provided, that the use of  
7 such buildings by political parties shall not be permitted at times when school is in  
8 session or which would interfere with normal school activities or functions normally  
9 carried on in such school buildings, and such use shall be subject to reasonable rules and  
10 regulations of the school boards and other governing authorities."

11 Sec. 9. G.S. 163-209 reads as rewritten:

12 **"§ 163-209. Names of presidential electors not printed on ballots.**

13 The names of candidates for electors of President and Vice-President nominated by  
14 any political party ~~recognized in this State~~ entitled to placement of its candidates on the  
15 ballot under G.S. 163-96 shall be filed with the Secretary of State but shall not be  
16 printed on the ballot. In place of their names, in accordance with the provisions of G.S.  
17 163-140 there shall be printed on the ballot the names of the candidates for President  
18 and Vice-President of each political party ~~recognized in this State~~ entitled to placement of  
19 its candidates on the ballot under G.S. 163-96. A vote for the candidates named on the  
20 ballot shall be a vote for the electors of the party by which those candidates were  
21 nominated and whose names have been filed with the Secretary of State."

22 Sec. 10. G.S. 163-221(a) reads as rewritten:

23 "(a) No person may sign the name of another person to:

- 24 (1) Any petition calling for an election or referendum;
- 25 (2) Any petition under G.S. 163-96 for ~~the formulation of a new~~ political  
26 party to be entitled to placement of its candidates on the ballot;
- 27 (3) Any petition under G.S. 163-107.1 requesting a person to be a  
28 candidate;
- 29 (4) Any petition under G.S. 163-122 to have the name of an unaffiliated  
30 candidate placed on the general election ballot, or under G.S. 163-296  
31 to have the name of an unaffiliated or nonpartisan candidate placed on  
32 the regular municipal election ballot; or
- 33 (5) Any petition under G.S. 163-213.5 to place a name on the ballot under  
34 the Presidential Preference Primary Act."

35 Sec. 11. G.S. 163-232 reads as rewritten:

36 **"§ 163-232. Certified list of executed absentee ballots; distribution of list.**

37 The chairman of the county board of elections shall prepare, or cause to be prepared,  
38 a list in at least quadruplicate, of all absentee ballots returned to the county board of  
39 elections to be counted, which have been approved by the county board of elections. At  
40 the end of the list, the chairman shall execute the following certificate under oath:

41 'State of North Carolina

42 County of ... ..

43 I, ... .., chairman of the ... .. County board of elections, do  
44 hereby certify that the foregoing is a list of all executed absentee ballots to be voted in

1 the election to be conducted on the ... day of ... , 19 ... , which have been  
2 approved by the county board of elections. I further certify that I have issued ballots to  
3 no other persons than those listed herein, whose original applications or original  
4 applications made by near relatives are filed in the office of the county board of  
5 elections; and I further certify that I have not delivered ballots for absentee voting to  
6 any person other than the voter himself, by mail or in person, except as provided by law,  
7 in the case of approved applications received after 5:00 P.M. on the Tuesday or Friday  
8 before the election.

9 This the ... day of ... , 19 ...

10 .....  
11 (Signature of chairman of  
12 county board of elections)

13 Sworn to and subscribed before me this ... day of ... , 19 ... Witness  
14 my hand and official seal.

15 .....  
16 (Signature of officer  
17 administering oath)

18 .....  
19 (Title of officer)'

20 No earlier than 3:00 P.M. on the day before the election and no later than 10:00  
21 A.M. on election day, the chairman shall cause one copy of the list of executed absentee  
22 ballots, which may be a continuing countywide list or a separate list for each precinct, to  
23 be immediately deposited as 'first-class' mail to the State Board of Elections, Post Office  
24 Box 1166, Raleigh, N.C. 27602. He shall retain one copy in the board office for public  
25 inspection and he shall cause two copies of the appropriate precinct list to be delivered  
26 to the registrar of each precinct in the county. The chairman shall be authorized to call  
27 upon the sheriff of the county to distribute the list to the precincts. In addition the  
28 chairman shall, upon request, provide a copy of the complete list to the chairman of  
29 each political party, ~~recognized~~ entitled to placement of its candidates on the ballot under  
30 the provisions of G.S. 163-96, represented in the county.

31 The registrar shall post one copy of the list immediately in a conspicuous location in  
32 the voting place and retain one copy until all challenges of absentee ballots have been  
33 heard by the county board of elections. Challenges shall be made to absentee ballots as  
34 provided in G.S. 163-89.

35 After receipt of the list of absentee voters required by this section the registrar shall  
36 call the name of each person recorded on the list and enter an 'A' in the appropriate  
37 voting square on the voter's permanent registration record. If such person is already  
38 recorded as having voted in that election, the registrar shall enter a challenge which  
39 shall be presented to the chairman of the county board of elections for resolution by the  
40 board of elections prior to certification of results by the board.

41 All lists required by this section shall be retained by the county board of elections  
42 for a period of four years after which they may then be destroyed."

43 Sec. 12. G.S. 163-278.6(15) reads as rewritten:



1           "(15) The term 'political party' means any political party organized or  
2           operating in this State, whether or not that party is ~~recognized~~entitled  
3           to placement of its candidates on the ballot under the provisions of  
4           G.S. 163-96."

5           Sec. 13. G.S. 163-278.13(e) reads as rewritten:

6           "(e) This section shall not apply to any State, district or county executive  
7           committee of any political party. For the purposes of this section only, the term 'political  
8           party' means only those political parties ~~officially recognized~~entitled to placement of its  
9           candidates on the ballot under G.S. 163-96."

10          Sec. 14. G.S. 163-296 reads as rewritten:

11        "**§ 163-296. Nomination by petition.**

12          In cities conducting partisan elections, any qualified voter who seeks to have his  
13          name printed on the regular municipal election ballot as an unaffiliated candidate may  
14          do so in the manner provided in G.S. 163-122, except that the petitions and affidavits  
15          shall be filed not later than 12:00 noon on the Friday preceding the seventh Saturday  
16          before the election, and the petitions shall be signed by a number of qualified voters of  
17          the municipality equal to at least ~~ten percent (10%)~~one-half of one percent (0.5%) of the  
18          whole number of voters qualified to vote in the municipal election according to the most  
19          recent figures certified by the State Board of Elections. A person whose name appeared  
20          on the ballot in a primary election is not eligible to have his name placed on the regular  
21          municipal election ballot as an unaffiliated candidate for the same office in that year.  
22          The Board of Elections shall examine and verify the signatures on the petition, and shall  
23          certify only the names of signers who are found to be qualified registered voters in the  
24          municipality."

25          Sec. 15. This act is effective upon ratification.