

*******Certification of Legislation Required by Federal Law**
(G.S. 120-36.8)

Memorandum

Date: 05-28-1996

To: Sen. Wib Gulley

From: Tom Covington, Director
Fiscal Research Division /s/ TomC

Re: Evaluation of **SB 1123 (and companion bill HB 1160)** with reference to **Certification of legislation required by federal law (G.S. 120-36.8)**

In compliance with G.S. 120-36.8, Certification of legislation required by federal law, the Fiscal Research Division, in consultation with the Research and Bill Drafting Divisions, is providing this memorandum to identify federal law requiring the enactment of certain provisions in SB 1123 (and companion bill HB 1160).

SB 1123 (HB 1160)- Provisions Required Due to Federal Law

None

SB 1123 (HB 1160)-- Provisions Not Required By Federal Law

According to Mr. Bill Gilkeson of the Research Division, SB 1123 (HB 1160) are not primarily designed to implement federal law. They are corrections to a bill enacted in 1994 that was designed to implement federal law. That bill, ratified as Chapter 762 of the 1993 Session Laws, was a complete rewrite of the voter registration laws of North Carolina to comply with the National Voter Registration Act, P.L. 103-31. Chapter 762 repealed all of Article 7 of Chapter 163 of the General Statutes and replaced it with Article 7A. In the drafting of Chapter 762 some sections of Article 7 were inadvertently left out of the new Article 7A. In addition, some needed conforming references in other parts of the election laws were either omitted or made incorrectly.

The two unintentionally repealed sections were:

1. A sentence in the former G.S. 163-67 that stated: "The respective boards of county commissioners shall appropriate reasonable and adequate funds necessary for the legal functions of the county boards of elections, including reasonable and just compensation of the supervisor of elections." This sentence is the general rule that requires county commissioners to fund elections. Without it, that duty depends upon specific requirements, which are not complete.

2. A section, G.S. 163-69.2, which requires the State Board of Elections to promulgate rules to assure the accessibility of polling places to the handicapped and elderly.

Both 1. and 2. are still in effect because their submission to the federal government under Section 5 of the Voting Rights Act was withdrawn in late 1994.

As to whether the re-enactment of the two repealed sections requires a Federal Mandate Note:

Concerning 1., there is no federal law that says county commissioners must fund elections, but it is necessary for compliance with several federal laws for someone to fund elections.

Concerning 2., federal law (P.L.98-435) does require the making of polling places accessible to the disabled and elderly. The repealed section requires the State promulgation of rules to comply with that federal law. Those rules have been promulgated (8 NCAC .0001 through .0004), and the repeal of the statute does not invalidate them.

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