

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 831
Committee Substitute Favorable 4/16/01

Short Title: Election Changes.

(Public)

Sponsors:

Referred to:

March 28, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES IN THE ADMINISTRATION OF ELECTIONS.

The General Assembly of North Carolina enacts:

--CHANGES CONCERNING COUNTY ELECTION DIRECTORS.

SECTION 1.(a) G.S. 163-35(b) reads as rewritten:

"(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Secretary-Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county board of elections. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections.

The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Secretary-Director of the State Board of Elections the termination of the employment of the county board's director of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive Secretary-Director shall forward a copy of ~~same~~the petition by certified mail, return receipt requested, to the county director of elections involved. The county director of elections may reply to ~~said~~the petition within 15 days of receipt thereof. Within 20 days of receipt of the county director of elections' reply or the expiration of the time period allowed for the filing of ~~said~~the reply, the State Executive Secretary-Director shall render a decision as to the termination or retention of the county director of elections. The decision of the Executive Secretary-Director of the State Board of Elections shall be final unless ~~such~~the decision ~~shall, is,~~ within 20 days from the official date on which it was made, ~~be~~ deferred by the State Board of ~~Elections,~~ Elections. ~~in which event a public hearing shall be conducted by State Board or any single member designated by the remaining four members, in the county seat of the~~

1 county involved. Following the conduct of public hearing and a decision by the State
2 Board of Elections, the chairman of said Board shall notify the Executive
3 Secretary-Director of the State Board of Elections, in writing, of the decision resulting
4 from the public hearing. If the State Board defers the decision, then the State Board
5 shall make a final decision on the termination after giving the county director of
6 elections an opportunity to be heard and to present witnesses and information to the
7 State Board, and then notify the Executive Secretary-Director of its decision in writing.
8 If the decision, rendered by the State Board of Elections, results in concurrence with the
9 decision entered by the Executive Secretary-Director, the decision becomes final. If the
10 decision rendered by the Board is contrary to that entered by the Executive
11 Secretary-Director, then the Executive Secretary-Director shall, within 15 days from the
12 written notification, enter an amended decision consistent with the results of the
13 decision by the State Board of Elections. ~~The employment of any director of elections
14 presently employed or hereafter employed shall not be terminated except in compliance
15 with the procedures herein prescribed. For the purposes of this subsection the individual
16 designated by the remaining four members of the State Board shall possess the same
17 authority conferred upon the chairman pursuant to G.S. 163-23.~~

18 Upon majority vote on the recommendation of the Executive Secretary-Director, the
19 State Board of Elections may initiate proceedings for the termination of a county
20 director of elections for just cause. If the State Board votes to initiate proceedings for
21 termination, the State Board shall state the reasons for the termination in writing and
22 send a copy by certified mail, return receipt requested, to the county director of
23 elections. The director has 15 days to reply in writing to the notice. The State Board
24 shall make a final decision on the termination after giving the county director of
25 elections an opportunity to be heard, present witnesses, and information to the State
26 Board.

27 A county director of elections may be suspended, with pay, without warning for
28 causes relating to personal conduct detrimental to service to the county or to the State
29 Board of Elections, pending the giving of written reasons, in order to avoid the undue
30 disruption of work or to protect the safety of persons or property or for other serious
31 reasons. Any suspension may be initiated by the Executive Secretary-Director but may
32 not be for more than five days. Upon placing a county director of elections on
33 suspension, the Executive Secretary-Director shall as soon as possible reduce to writing
34 the reasons for the suspension and forward copies to the county director of elections, the
35 members of the county board of elections, and the State Board of Elections. If no action
36 for termination has been taken within five days, the county director of elections shall be
37 fully reinstated.

38 Termination of any county director of elections shall comply with this subsection.
39 For the purposes of this subsection the individual designated by the remaining four
40 members of the State Board shall possess the same authority conferred upon the
41 chairman pursuant to G.S. 163-23."

1 **SECTION 1.(b)** G.S. 163-35 is amended by adding a new subsection to
2 read:

3 "(e) Training and Certification. – The State Board of Elections shall conduct a
4 training program consisting of four weeks for each new county director of elections.
5 The director shall complete that program. Each director appointed after May 1995 shall
6 successfully complete a certification program as provided in G.S. 163-82.24(b) within
7 three years after appointment or by January 1, 2003, whichever occurs later."

8 **SECTION 1.(c)** This section becomes effective January 1, 2002.

9 **--CERTIFICATION OF ELECTION OFFICIALS.**

10 **SECTION 2.(a)** G.S. 163-82.24 reads as rewritten:

11 **"§ 163-82.24. Statewide training and certification for election officials.**

12 (a) Training. – The State Board of Elections shall conduct training programs in
13 election law and procedures. Every county elections director shall receive training
14 conducted by the State Board at least as often as required in the following schedule:

- 15 (1) Once during each odd-numbered year before the municipal election
16 held in the county;
- 17 (2) Once during each even-numbered year before the first partisan
18 primary; and
- 19 (3) Once during each even-numbered year after the partisan primaries but
20 before the general election.

21 Every member of a county board of elections shall receive training conducted by the
22 State Board at least once during the six months after the member's initial appointment
23 and at least once again during the first two years of the member's service. The State
24 Board of Elections shall promulgate rules for the training of precinct officials, which
25 shall be followed by the county boards of elections.

26 (b) Certification. – The State Board of Elections shall conduct a program for
27 certification of election officials. The program shall include training in election law and
28 procedures. Before issuing certification to an election official, the State Board shall
29 administer an examination designed to determine the proficiency of the official in
30 election law and procedures. The State Board shall set adequate standards for the
31 passage of the examination."

32 **SECTION 2.(b)** This section is effective when this act becomes law.

33 **--REMOVE SUNSET FROM OUT-OF-PRECINCT VOTING PLACE**
34 **PROVISION.**

35 **SECTION 3.(a)** Section 3(b) of S.L. 1999-426 reads as rewritten:

36 "Section 3.(b) This section is effective when this act becomes ~~law and expires~~
37 ~~January 1, 2002.~~ law."

38 **SECTION 3.(b)** This section is effective when this act becomes law.

39 **--REMOVE SUNSET AND 3-COUNTY PILOT LIMITATION FROM**
40 **2-VOTING-PLACE-PER-PRECINCT PROVISION.**

41 **SECTION 4.(a)** G.S. 163-130.2 reads as rewritten:

1 **"§ 163-130.2. Temporary use of two voting places for certain ~~precincts; pilot~~**
2 **~~program. precincts.~~**

3 A county board of elections, by unanimous vote of all its members, may propose to
4 designate two voting places to be used temporarily for the same precinct. The temporary
5 designation of a voting place shall continue only for the term of office of the county
6 board of elections making the designation. For any precinct that is temporarily given
7 two voting places, the county board shall assign every voter to one or the other of those
8 voting places.

9 The county board's proposal is subject to approval by the Executive
10 Secretary-Director of the State Board of Elections. The county board shall submit its
11 proposal in writing to the Executive Secretary-Director. ~~The Executive Secretary-~~
12 ~~Director may approve a proposal under this section in not more than three counties, to~~
13 ~~be a pilot program.~~ The Executive Secretary-Director shall approve that proposal only if
14 it finds all of the following:

- 15 (1) That the precinct has more registered voters than can adequately be
16 accommodated by any single potential voting place available for the
17 precinct.
- 18 (2) That no boundary line that complies with Article 12A of this Chapter
19 can be identified that adequately divides the precinct.
- 20 (3) That the county board can account for, by street address number, the
21 location of every registered voter in the precinct and fix that voter's
22 residence with certainty on a map.
- 23 (4) That no more than three other precincts in the same county will have
24 two voting places.
- 25 (5) That both voting places for the precinct would have adequate facilities
26 for the elderly and disabled.
- 27 (6) That the proposal provides adequately for security against fraud.
- 28 (7) That the proposal does not unfairly favor or disfavor voters with regard
29 to race or party affiliation.

30 The county board shall designate a full set of precinct officials, in the manner set forth
31 in Article 5 of this Chapter, for each voting place designated for the precinct."

32 **SECTION 4.(b)** Section 4(b) of S.L. 1999-426 reads as rewritten:

33 "Section 4.(b) This section becomes effective January 2, 2000, ~~and expires January~~
34 ~~2, 2002. 2000.~~ The Executive Secretary-Director of the State Board of Elections shall
35 study the operation and consequences of the pilot program created by this section and
36 report findings and recommendations to the 2001 General Assembly by February 1,
37 2001."

38 **SECTION 4.(c)** This section is effective when this act becomes law.

39 **--CHANGES CONCERNING ONE-STOP VOTING.**

40 **SECTION 5.(a)** G.S. 163-227.2(b) reads as rewritten:

41 "(b) Not earlier than the first ~~business~~-day after the ~~twenty-fifth-eighteenth~~ day
42 before an election, in which absentee ballots are authorized, in which a voter seeks to

1 vote and not later than 5:00 p.m. on the Friday prior to that election, the voter shall
2 appear in person only at the office of the county board of elections, except as provided
3 in subsection ~~(f)~~-(g) of this section. That voter shall enter the voting enclosure at the
4 board office through the appropriate entrance and shall at once state his or her name and
5 place of residence to an authorized member or employee of the board.

6 In a primary election, the voter shall also state the political party with which the
7 voter affiliates and in whose primary the voter desires to vote, or if the voter is an
8 unaffiliated voter permitted to vote in the primary of a particular party under G.S.
9 163-119, the voter shall state the name of the authorizing political party in whose
10 primary he wishes to vote. The board member or employee to whom the voter gives this
11 information shall announce the name and residence of the voter in a distinct tone of
12 voice. After examining the registration records, an employee of the board shall state
13 whether the person seeking to vote is duly registered. If the voter is found to be
14 registered that voter may request that the authorized member or employee of the board
15 furnish the voter with an application form as specified in G.S. 163-227. The voter shall
16 complete the application in the presence of the authorized member or employee of the
17 board, and shall deliver the application to that person."

18 **SECTION 5.(b)** G.S. 163-227.2(g) reads as rewritten:

19 "(g) Notwithstanding any other provision of this section, a county board of
20 elections by unanimous vote of all its members may provide for one or more sites in that
21 county for absentee ballots to be applied for and cast under this section. Any site other
22 than the county board of elections office shall be in any building or part of a building
23 that the county board of elections is entitled under G.S. 163-129 to demand and use as a
24 voting place. Every individual staffing any of those sites shall be a member or full-time
25 employee of the county board of elections or an employee of the county board of
26 elections whom the board has given training equivalent to that given a full-time
27 employee. Those sites must be approved by the State Board of Elections as part of a
28 Plan for Implementation approved by both the county board of elections and by the
29 State Board of Elections which shall also provide adequate security of the ballots and
30 provisions to avoid allowing persons to vote who have already voted. The Plan for
31 Implementation shall include a provision for the presence of political party observers at
32 each one-stop site equivalent to the provisions in G.S. 163-45 for party observers at
33 voting places on election day. By unanimous vote of all its members, a county board of
34 elections may propose in its Plan not to offer one-stop voting at the county board of
35 elections office but to rely exclusively on the other sites; the State Board shall approve
36 that proposal in a Plan only if it finds that the other sites provide adequate coverage of
37 the county's electorate. If a county board of elections has considered a proposed Plan or
38 Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a
39 member or members of that county board of elections may petition the State Board of
40 Elections to adopt a plan for it. If petitioned, the State Board may also receive and
41 consider alternative petitions from another member or members of that county board.
42 The State Board of Elections may adopt a Plan for that county. The State Board, in that

1 plan, shall take into consideration factors including geographic, demographic, and
2 partisan interests of that county."

3 **SECTION 5.(c)** This section becomes effective January 1, 2002.

4 **--ELECTRONIC TRANSFER OF DMV REGISTRATIONS.**

5 **SECTION 6.(a)** G.S. 163-82.19 reads as rewritten:

6 "**§ 163-82.19. Voter registration at drivers license offices.**

7 The Division of Motor Vehicles shall, pursuant to the rules adopted by the State
8 Board of Elections, modify its forms so that any eligible person who applies for original
9 issuance, renewal or correction of a drivers license, or special identification card issued
10 under G.S. 20-37.7 may, on a part of the form, complete an application to register to
11 vote or to update his registration if the voter has changed his address or moved from one
12 precinct to another or from one county to another. The person taking the application
13 shall ask if the applicant is a citizen of the United States. If the applicant states that the
14 applicant is not a citizen of the United States, or declines to answer the question, the
15 person taking the application shall inform the applicant that it is a felony for a person
16 who is not a citizen of the United States to apply to register to vote. Any person who
17 willfully and knowingly and with fraudulent intent gives false information on the
18 application is guilty of a Class I felony. The application shall state in clear language the
19 penalty for violation of this section. The necessary forms shall be prescribed by the
20 State Board of Elections. The form must ask for the previous voter registration address
21 of the voter, if any. If a previous address is listed, and it is not in the county of residence
22 of the applicant, the appropriate county board of elections shall treat the application as
23 an authorization to cancel the previous registration and also process it as such under the
24 procedures of G.S. 163-82.9. If a previous address is listed and that address is in the
25 county where the voter applies to register, the application shall be processed as if it had
26 been submitted under G.S. 163-82.9.

27 Registration shall become effective as provided in G.S. 163-82.7. Applications to
28 register to vote accepted at a drivers license office under this section until the deadline
29 established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no
30 person who completes an application at that drivers license office shall be denied the
31 vote in that election for failure to apply earlier than that deadline.

32 All applications shall be forwarded by the Department of Transportation to the
33 appropriate board of elections not later than five business days after the date of
34 acceptance, according to rules which shall be promulgated by the State Board of
35 Elections. Those rules shall provide for a paperless, instant, electronic transfer of
36 applications to the appropriate county board of elections."

37 **SECTION 6.(b)** This section becomes effective January 1, 2002.

38 **--UPDATING OF VOTER REGISTRATION LIST-MAINTENANCE**
39 **PROVISION TO REFLECT CURRENT FEDERALLY APPROVED**
40 **PRACTICE.**

41 **SECTION 7.(a)** G.S. 163-82.14(d) reads as rewritten:

1 "(d) Change of Address. – A county board of elections shall conduct a systematic
2 program to remove from its list of registered voters those who have moved out of the
3 county, and to update the registration records of persons who have moved within the
4 county. The county board shall remove a person from its list if the registrant:

5 (1) Gives confirmation in writing of a change of address for voting
6 purposes out of the county. "Confirmation in writing" for purposes of
7 this subdivision shall include:

- 8 a. A report to the county board from the Department of
9 Transportation or from a voter registration agency listed in G.S.
10 163-82.20 that the voter has reported a change of address for
11 voting purposes outside the county;
12 b. A notice of cancellation received under G.S. 163-82.9; or
13 c. A notice of cancellation received from an election jurisdiction
14 outside the State.

15 (2) Fails to respond to a confirmation mailing sent by the county board in
16 accordance with this subdivision and does not vote or appear to vote in
17 an election beginning on the date of the notice and ending on the day
18 after the date of the second general election for the United States
19 House of Representatives that occurs after the date of the notice. A
20 county board sends a confirmation notice in accordance with this
21 subdivision if the notice:

- 22 a. Is a postage prepaid and preaddressed return card, sent by
23 forwardable mail, on which the registrant may state current
24 address;
25 b. Contains or is accompanied by a notice to the effect that if the
26 registrant did not change residence but remained in the county,
27 the registrant should return the card not later than the deadline
28 for registration by mail in G.S. 163-82.6(c)(1); and
29 c. Contains or is accompanied by information as to how the
30 registrant may continue to be eligible to vote if the registrant
31 has moved outside the county.

32 A county board shall send a confirmation mailing in accordance with
33 this subdivision ~~if the to every registrant remains on the list, the~~
34 ~~registrant has not voted in two successive presidential elections or in~~
35 ~~any election in between, and after every congressional election if the~~
36 county board has not confirmed the registrant's address by another
37 means. ~~The county board may send a confirmation mailing in~~
38 ~~accordance with this subdivision if the registrant has been identified as~~
39 ~~residing outside the county through change of address information~~
40 ~~supplied by the Postal Service through its licensees."~~

41 **SECTION 7.(b)** This section is effective when this act becomes law.

1 --APPLYING WRITE-IN STATUTE TO SUPERIOR COURT JUDGE
2 ELECTIONS.

3 **SECTION 8.(a)** G.S. 163-123(g) reads as rewritten:

4 "(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply
5 to municipal elections conducted under Subchapter IX of Chapter 163 of the General
6 Statutes, and does not apply to nonpartisan ~~elections~~elections except for superior court
7 judge elections under Article 25 of this Chapter."

8 **SECTION 8.(b)** This section is effective when this act becomes law.

9 --CORRECTING REFERENCE TO FUND FOR RETURNING ILLEGAL
10 CONTRIBUTIONS.

11 **SECTION 9.(a)** G.S. 163-278.14(a) reads as rewritten:

12 "(a) No individual, political committee, or other entity shall make any
13 contribution anonymously, except as provided in G.S. 163-278.8(d), or in the name of
14 another. No candidate, political committee, referendum committee, political party, or
15 treasurer shall knowingly accept any contribution made by any individual or person in
16 the name of another individual or person or made anonymously except as provided in
17 G.S. 163-278.8(d). If a candidate, political committee, referendum committee, political
18 party, or treasurer receives anonymous contributions or contributions determined to
19 have been made in the name of another, he shall pay the money over to the Board, by
20 check, and all such moneys received by the Board shall be deposited in the ~~general fund~~
21 Civil Penalty and Forfeiture Fund of the State of North Carolina."

22 **SECTION 9.(b)** This section is effective when this act becomes law.

23 **SECTION 10.** The headings to the sections of this act are a convenience to
24 the reader and are for reference only. The headings do not expand, limit, or define the
25 text of this act.

26 **SECTION 11.** The Reviser of Statutes is authorized to change the term
27 "Executive Secretary-Director" and the term "State Executive Secretary-Director" to
28 "Executive Director" wherever it appears in the General Statutes in reference to the
29 State Board of Elections Executive Secretary-Director.

30 **SECTION 12.** Except as otherwise provided in each section, this act is
31 effective when it becomes law.