

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2016-109
SENATE BILL 667**

AN ACT TO CREATE CONSISTENCY IN THE TIME PROVIDED TO COMPLETE ELECTION CANVASSES; TO REQUIRE THE ATTORNEY GENERAL TO DEFEND LOCAL ACTS AGAINST FACIAL CHALLENGES; TO PROVIDE FOR BALLOT ORDERING OF CANDIDATES FOR JUDGE OF THE COURT OF APPEALS; TO REQUIRE EXPLANATORY CAPTIONS FOR CONSTITUTIONAL AMENDMENTS ON BALLOTS; TO AUTHORIZE THE JOINT LEGISLATIVE ELECTIONS OVERSIGHT COMMITTEE TO STUDY MUNICIPAL ELECTIONS IN EVEN-NUMBERED YEARS; TO UPDATE THE FILING PERIOD FOR ELECTIONS IN THE CITY OF REIDSVILLE; AND TO PROVIDE FOR PARTICIPATION IN THE CENSUS REDISTRICTING DATA PROGRAM AND FOR RETURN OF ELECTION DATA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-182.5(b) reads as rewritten:

"(b) Canvassing by County Board of Elections. – The county board of elections shall meet at 11:00 A.M. on the tenth day after every election ~~held on the same day as a general election in November of the even numbered year, and at 11:00 A.M. on the seventh day after every other election,~~ to complete the canvass of votes cast and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly. If, despite due diligence by election officials, the initial counting of all the votes has not been completed by that time, the county board may hold the canvass meeting a reasonable time thereafter. The canvass meeting shall be at the county board of elections office, unless the county board, by unanimous vote of all its members, designates another site within the county. The county board shall examine the returns from precincts, from absentee official ballots, from the sample hand-to-eye paper ballot counts, and from provisional official ballots and shall conduct the canvass."

SECTION 2.(a) Article 6 of Chapter 1 of the General Statutes is amended by adding a new section to read:

"§ 1-72.3. State a party to certain actions.

The State shall be a party whenever the validity or constitutionality of a local act of the General Assembly is the subject of an action in any court and, except as provided in G.S. 147-17, shall be represented by the Attorney General. This section shall not affect any authority under G.S. 1-72.2 or G.S. 120-32.6."

SECTION 2.(b) G.S. 114-2.3 is amended by adding a new subsection to read:

"(c) Except as provided in G.S. 147-17, the Attorney General shall represent the State in any action requiring the State to be a party under G.S. 1-72.3."

SECTION 2.(c) This section becomes effective August 1, 2016, and applies to actions filed on or after that date.

SECTION 3. G.S. 163-165.6 is amended by adding a new subsection to read:

"(d1) Order of Candidates for Judge of the Court of Appeals on General Election Official Ballot. – Candidates for judge of the Court of Appeals on a general election official ballot shall appear in the following order:

- (1) Candidates registered with political parties that reflect at least five percent (5%) of statewide voter registration, according to the most recent statistical report published by the State Board of Elections, in alphabetical order by party beginning with the party whose nominee for Governor received the



most votes in the most recent gubernatorial election and in alphabetical order within the party.

(2) Candidates registered with other political parties, in alphabetical order by party and in alphabetical order within the party.

(3) Unaffiliated candidates, in alphabetical order."

SECTION 4.(a) G.S. 163-165.6(g) reads as rewritten:

"(g) Order of Precedence for Referenda. – The referendum questions to be voted on shall be arranged on the official ballot in the following order:

(1) Proposed amendments to the North Carolina Constitution, in the chronological order in which the proposals were approved by the General Assembly. Proposed amendments shall be designated by only the short caption provided by the Constitutional Amendments Publication Commission under Article 4A of Chapter 147 of the General Statutes.

(2) Other referenda to be voted on by all voters in the State, in the chronological order in which the proposals were approved by the General Assembly.

(3) Referenda to be voted on by fewer than all the voters in the State, in the chronological order of the acts by which the referenda were properly authorized."

SECTION 4.(b) G.S. 147-54.10 reads as rewritten:

"§ 147-54.10. Powers.

(a) At least ~~60~~75 days before an election in which a proposed amendment to the Constitution, or a revised or new Constitution, is to be voted on, the Commission shall prepare an explanation of the amendment, revision, or new Constitution in simple and commonly used language. The explanation shall include a short caption reflecting the contents, that shall not include a numerical or other reference of order, to be used on the ballot and the printed summary.

(b) The summary prepared by the Commission shall be printed by the Secretary of State, in a quantity determined by the Secretary of State. A copy shall be sent along with a news release to each county board of elections, and a copy shall be available to any registered voter or representative of the print or broadcast media making request to the Secretary of State. The Secretary of State may make copies available in such additional manner as ~~the~~the Secretary may determine."

SECTION 5. It is the intent of the General Assembly to provide for even-numbered year municipal elections, effective with the 2020 election cycle. The Joint Legislative Elections Oversight Committee shall study the options to implement this change and recommend to the General Assembly any legislation it deems advisable. It shall make a final report before the convening of the 2017 Regular Session of the General Assembly.

SECTION 6. Section 3.5 of the Charter of the City of Reidsville, being Chapter 957, Session Laws of 1989, as rewritten by Chapter 306 of the 1993 Session Laws, reads as rewritten:

"Section 3.5. **Filing Period.** In all city election years, the period for filing notices of candidacy shall ~~begin at noon on the first Friday in August and end at noon on the third Friday in August preceding the election.~~ be as provided for in the General Statutes."

SECTION 7.(a) Article 12A of Chapter 163 of General Statutes is amended by adding a new section to read:

"§ 163-132.1C. Participation in the 2020 Census Redistricting Data Program of the United States Census Bureau.

(a) Participation. – The State of North Carolina shall participate in the 2020 Census Redistricting Data Program, conducted pursuant to P.L. 94-171, of the United States Bureau of the Census, so that the State will receive 2020 Census data by voting districts.

(b) Reporting of Voting Districts. – The Executive Director of the State Board of Elections shall report to the Bureau of the Census this State's voting precincts as of January 1, 2018, to be used in the 2020 Census as voting districts. Before making that report, the Executive Director shall consult with the Legislative Services Office concerning the accuracy of the information to be reported. The Executive Director shall submit the report to the Bureau of the Census in time to comply with the deadlines of that Bureau for the 2020 Census Redistricting Data Program. The Executive Director, with the assistance of the county boards of elections, shall participate in the Bureau of the Census's verification program and notify the

Bureau of the Census of any errors in the entry of the voting districts in time for those errors to be corrected.

(c) Additional Rules. – The Executive Director and the Legislative Services Officer shall develop a systematic method for review and input by the Legislative Services Office prior to the submission required by subsection (b) of this section.

SECTION 7.(b) G.S. 163-132.1B is repealed.

SECTION 7.(c) The State Board of Elections shall develop a proposed voting district map on or before September 1, 2016, to be submitted to the Joint Legislative Elections Oversight Committee and the Legislative Services Office on or before December 1, 2016. The proposed map developed by the State Board shall take into consideration all of the following factors:

- (1) Reasonable size limitations of the proposed voting district, including total population and total registered voters.
- (2) Alignment of proposed boundaries with visible features, such as roads and bodies of water.
- (3) Potential election administration efficiencies if the proposed voting districts were used as voting precinct boundaries in an election, to include:
 - a. Potential polling places within the proposed voting district.
 - b. Distance to the potential polling places for the voters to travel on election day.
 - c. Number of voters for voting in person.

SECTION 7.(d) The county boards of election, shall, on or before November 1, 2017, report any requested changes to precinct boundaries to be used in elections held on or after January 1, 2018. The State Board of Elections shall develop criteria for the county boards of elections to use in developing proposed precinct boundaries, shall notify the county boards of elections of the requirement to submit proposed changes, and shall facilitate the county boards of elections in developing proposed boundary changes. The State Board of Elections shall consult with the Legislative Services Office about the proposed changes to precinct boundaries in a timely and systemic manner in order to accommodate submitting a statewide map of updated precinct boundaries to the Bureau of the Census for the Phase 2 Voting District Project. Upon receipt of the voting districts geography from the Bureau of the Census for the 2020 Census, the Executive Director of the State Board of Elections and the Legislative Services Office shall determine if any alterations to the precinct boundaries are needed in order to comply with G.S. 163-132.3(a1)(1), as enacted by Section 8(a) of this act.

SECTION 8.(a) G.S. 163-132.3 reads as rewritten:

"§ 163-132.3. Alterations to approved precinct boundaries.

(a) ~~No county board of elections may change any precinct boundary unless approved by the Executive Director of the State Board of Elections determines that the county board has a current capability of complying with G.S. 163-132.1B(a2) by reporting all election returns by voting tabulation district as required by G.S. 163-132.5G. If the Executive Director so determines, the county board may make any changes to precinct boundaries, provided that all proposed new precincts shall consist solely of contiguous territory.~~ Elections.

(a1) The State Board of Elections shall set uniform standards for precinct boundaries, which boundaries that the county boards of elections shall follow. Any uniform standards for precinct boundaries set by the State Board shall comply with all of the following:

- (1) Precinct boundaries shall coincide with Census block boundaries.
- (2) Precincts shall consist solely of contiguous territory.
- (3) Precincts shall consist of territory and population that allows for efficient and accurate administration of elections, taking into consideration available polling places and access to polling places.
- (4) The county shall be able to reallocate any out of precinct ballots cast by a voter to the precinct associated with that voter's voter registration for purposes of reporting the results of an election.

(a2) The county board of elections shall report every change in precinct boundary to the Executive Director in a format required by the Executive Director.

~~The county boards of elections shall report precinct boundary changes to the Executive Director in the manner the Executive Director directs. No newly created or altered precinct boundary is effective until approved by the Executive Director of the State Board as being in compliance with this section.~~

(b) The Executive Director of the State Board of Elections shall examine the maps of the proposed new or altered precincts and any required written descriptions. If the Executive Director of the State Board determines that all precinct boundaries are in compliance with this section, the Executive Director of the State Board shall approve the maps and written descriptions as filed and these precincts shall be the official ~~precincts~~ precincts for voting.

(c) If the Executive Director of the State Board determines that the proposed precinct boundaries are not in compliance with subsection ~~(a)~~ (a1) of this section, the Executive Director shall not approve those precinct boundaries. The Executive Director shall notify the county board of elections of ~~his~~ the disapproval specifying the reasons. The county board of elections may then resubmit new precinct maps and written descriptions to cure the reasons for ~~their~~ the disapproval.

(d) Repealed by Session Laws 2004-127, s. 1(a), effective August 15, 2004, and applicable to precincts established or changed on or after that date.

(e) Repealed by Session Laws 2007-391, s. 6(b), effective January 1, 2008."

SECTION 8.(b) This section becomes effective January 1, 2020, and shall apply to all alterations of precinct boundaries on or after that date.

SECTION 9.(a) G.S. 163-132.5G reads as rewritten:

"§ 163-132.5G. **Voting data maintained by ~~voting tabulation district~~ precinct.**

(a) Each county board of elections shall maintain voting data by voting ~~tabulation district~~ precinct as provided in G.S. 163-132.1B ~~precinct~~ so that ~~voting tabulation district~~ precinct returns for each item on the ballot shall include the votes cast by all residents of ~~the voting tabulation district~~ that voting precinct who voted, regardless of where ~~they~~ the voter voted. The county board shall not be required to report returns by ~~voting tabulation district~~ precinct for voters who voted other than at ~~their~~ the voting precinct ~~voting place on election day associated with that voter's voter registration~~ until ~~60~~ 30 days after the election. In reporting returns, the county board shall not compromise the secrecy of an individual's ballot.

(b) The ~~60-day~~ 30-day deadline for reporting returns by ~~voting tabulation district~~ precinct does not relieve the county board of the duty to report all returns as soon as practicable after the election according to other categories specified by the State Board of Elections.

(c) The State Board of Elections shall adopt rules for the enforcement of this section."

SECTION 9.(b) G.S. 163-165.7 reads as rewritten:

"§ 163-165.7. **Voting systems: powers and duties of State Board of Elections.**

(a) **(Effective until January 1, 2018 or September 1, 2019 – see note)** Only voting systems that have been certified by the State Board of Elections in accordance with the procedures set forth by the State Board of Elections and subject to the standards set forth in this section and that have not been subsequently decertified shall be permitted for use in elections in this State. Those certified voting systems shall be valid in any election held in the State or in any county, municipality, or other electoral district in the State. Subject to all other applicable rules adopted by the State Board of Elections and, with respect to federal elections, subject to all applicable federal regulations governing voting systems, paper ballots marked by the voter and counted by hand shall be deemed a certified voting system. The State Board of Elections shall certify optical scan voting systems, optical scan with ballot markers voting systems, and direct record electronic voting systems if any of those systems meet all applicable requirements of federal and State law. The State Board may certify voting systems only if they meet the requirements set forth in this section and only if they generate either a paper ballot or a paper record by which voters may verify their votes before casting them and which provides a backup means of counting the vote that the voter casts. Those voting systems may include optical scan and direct record electronic (DRE) voting systems. Among other requirements as set by the State Board of Elections, the certification requirements shall require at least all of the following elements:

- (1) That the vendor post a bond or letter of credit to cover damages resulting from defects in the voting system. Damages may include, among other items, any costs of conducting a new election attributable to those defects.
- (2) That the voting system comply with all federal requirements for voting systems.
- (3) That the voting system must have the capacity to include in ~~voting tabulation district~~ precinct returns the votes cast by voters outside of the ~~voter's~~ voting

~~tabulation district as required by G.S. 163-132.5G, precinct associated with that voter's voter registration.~~

....
(a) **(Effective January 1, 2018 or September 1, 2019 – see note)** Only voting systems that have been certified by the State Board of Elections in accordance with the procedures set forth by the State Board of Elections and subject to the standards set forth in this section and that have not been subsequently decertified shall be permitted for use in elections in this State. Those certified voting systems shall be valid in any election held in the State or in any county, municipality, or other electoral district in the State. Subject to all other applicable rules adopted by the State Board of Elections and, with respect to federal elections, subject to all applicable federal regulations governing voting systems, paper ballots marked by the voter and counted by hand shall be deemed a certified voting system. The State Board of Elections shall certify optical scan voting systems, optical scan with ballot markers voting systems, and direct record electronic voting systems if any of those systems meet all applicable requirements of federal and State law.

The State Board may certify voting systems only if they meet the requirements set forth in this section and only if they generate a paper ballot which provides a backup means of counting the vote that the voter casts. Those voting systems may include optical scan and direct record electronic (DRE) voting systems that produce a paper ballot. Among other requirements as set by the State Board of Elections, the certification requirements shall require at least all of the following elements:

- (1) That the vendor post a bond or letter of credit to cover damages resulting from defects in the voting system. Damages may include, among other items, any costs of conducting a new election attributable to those defects.
- (2) That the voting system comply with all federal requirements for voting systems.
- (3) That the voting system must have the capacity to include in voting ~~tabulation district returns the votes cast by voters outside of the voter's voting tabulation district as required by G.S. 163-132.5G, precinct associated with that voter's voter registration.~~

.... "
SECTION 9.(c) Until January 1, 2020, the State Board of Elections shall report for each voter registration the current voting precinct and the 2010 Census Bureau voting tabulation district.

SECTION 9.(d) This section becomes effective September 1, 2016, and applies to elections conducted on or after that date and contracts awarded on or after that date.

SECTION 10. Except as otherwise provided, this act is effective when it becomes law and applies to elections held on or after that date.

In the General Assembly read three times and ratified this the 1st day of July, 2016.

s/ Tom Apodaca
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:04 p.m. this 22nd day of July, 2016