

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 326

Short Title: Election Integrity Act.

(Public)

Sponsors: Senators Daniel, Newton, and Hise (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 22, 2021

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE STATE BOARD OF ELECTIONS AND COUNTY BOARDS OF ELECTIONS FROM ACCEPTING PRIVATE MONETARY DONATIONS FOR CERTAIN PURPOSES, TO AMEND THE DATE BY WHICH A VOTER MUST REQUEST AN ABSENTEE BALLOT AND DATE BY WHICH A MAIL-IN ABSENTEE BALLOT MUST BE RECEIVED, AND TO APPROPRIATE FUNDS TO ESTABLISH A PROGRAM TO IDENTIFY AND ASSIST VOTERS NEEDING PHOTO IDENTIFICATION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 163-22 is amended by adding a new subsection to read:

"(s) Nothing in this Chapter shall grant authority to the State Board of Elections to accept private monetary donations for the purpose of administering elections or employing individuals on a temporary basis."

SECTION 1.(b) G.S. 163-33 is amended by adding a new subdivision to read:

"§ 163-33. Powers and duties of county boards of elections.

The county boards of elections within their respective jurisdictions shall exercise all powers granted to such boards in this Chapter, and they shall perform all the duties imposed upon them by law, which shall include the following:

...

(17) Nothing in this Chapter shall grant authority to county boards of elections to accept private monetary donations for the purpose of administering elections or employing individuals on a temporary basis."

SECTION 2. G.S. 163-89(a) reads as rewritten:

"(a) Time for Challenge. – The absentee ballot of any voter may be challenged on the day of any statewide primary or general election or county bond election beginning no earlier than noon and ending no later than 5:00 P.M., or by the chief judge at the time of closing of the polls as provided in G.S. 163-232 and G.S. 163-258.26(b). The absentee ballot of any voter received by the county board of elections pursuant to ~~G.S. 163-231(b)(ii) or (iii)~~ G.S. 163-231(b)(2)c. may be challenged no earlier than noon on the day following the election and no later than 5:00 p.m. on the next business day following the deadline for receipt of such absentee ballots."

SECTION 3. G.S. 163-230.1 reads as rewritten:

"§ 163-230.1. Simultaneous issuance of absentee ballots with application.

(a) Written Request. – A qualified voter who is eligible to vote by absentee ballot under G.S. 163-226, or that voter's near relative or verifiable legal guardian, shall complete a request form for an absentee application and absentee ballots so that the county board of elections receives that completed request form not later than 5:00 P.M. on the second Tuesday before the



1 election. That completed written request form shall be in compliance with G.S. 163-230.2. The
2 county board of elections shall enter in the register of absentee requests, applications, and ballots
3 issued the information required in G.S. 163-228 as soon as each item of that information becomes
4 available. Upon receiving the completed request form, the county board of elections shall cause
5 to be mailed to that voter a single package that includes all of the following:

- 6 (1) The official ballots the voter is entitled to vote.
- 7 (2) A container-return envelope for the ballots, printed in accordance with
8 G.S. 163-229.
- 9 (3) An instruction sheet.
- 10 (4) A clear statement of the requirement for a photocopy of identification
11 described in G.S. 163-166.16(a) or an affidavit as described in
12 G.S. 163-166.16(d)(1), (d)(2), or (d)(3) with the returned ballot.

13 ...

14 (b) Absence for Sickness or Physical Disability. – Notwithstanding the provisions of
15 subsection (a) of this section, if a voter expects to be unable to go to the voting place to vote in
16 person on election day because of that voter's sickness or other physical disability, that voter or
17 that voter's near relative or verifiable legal guardian may make the request for absentee ballots in
18 person to the board of elections of the county in which the voter is registered after 5:00 p.m. on
19 the second Tuesday before the election but not later than 5:00 p.m. on the day before the election.
20 The county board of elections shall treat that completed request form in the same manner as a
21 request under subsection (a) of this section but may personally deliver the application and ballots
22 to the voter or that voter's near relative or verifiable legal guardian, and shall enter in the register
23 of absentee requests, applications, and ballots issued the information required in G.S. 163-228 as
24 soon as each item of that information becomes available. The county board of elections shall
25 personally deliver to the requester in a single package:

- 26 (1) The official ballots the voter is entitled to vote.
- 27 (2) A container-return envelope for the ballots, printed in accordance with
28 G.S. 163-229.
- 29 (3) An instruction sheet.
- 30 (4) A clear statement of the requirement for a photocopy of identification
31 described in G.S. 163-166.16(a) or an affidavit as described in
32 G.S. 163-166.16(d)(1), (d)(2), or (d)(3) with the returned application and
33 voted ballots.

34 (c) Delivery of Absentee Ballots and Container-Return Envelope to Applicant. – When
35 the county board of elections receives a completed request form for applications and absentee
36 ballots from the voter, or the near relative or the verifiable legal guardian of that voter, the county
37 board shall promptly issue and transmit them to the voter in accordance with the following
38 instructions:

39 ...

- 40 (3) The chair, member, officer, or employee of the board of elections shall then
41 place the unsealed container-return envelope holding the ballots together with
42 printed instructions for voting and returning the ballots, in an envelope
43 addressed to the voter at the post office address stated in the request, seal the
44 envelope, and mail it at the expense of the county board of elections: Provided,
45 that in case of a request received after 5:00 p.m. on the second Tuesday before
46 the election under the provisions of subsection (b) of this section, in lieu of
47 transmitting the ballots to the voter in person or by mail, the chair, member,
48 officer, or employee of the board of elections may deliver the sealed envelope
49 containing the instruction sheet and the container-return envelope holding the
50 ballots to a near relative or verifiable legal guardian of the voter.

1 The county board of elections may receive completed written request forms for applications
2 at any time prior to the election but shall not mail applications and ballots to the voter or issue
3 applications and ballots in person earlier than 60 days prior to the statewide general election in
4 an even-numbered year, or earlier than 50 days prior to any other election, except as provided in
5 G.S. 163-227.2, 163-227.5, and 163-227.6. No election official shall issue applications for
6 absentee ballots except in compliance with this Article.

7"

8 **SECTION 4.** G.S. 163-231(b) reads as rewritten:

9 "(b) Transmitting Executed Absentee Ballots to County Board of Elections. – The sealed
10 container-return envelope in which executed absentee ballots have been placed shall be
11 transmitted to the county board of elections who issued those ballots as follows:

12 (1) All ballots issued under the provisions of this Article and Article 21A of this
13 Chapter shall be transmitted by mail or by commercial courier service, at the
14 voter's expense, or delivered in person, or by the voter's near relative or
15 verifiable legal guardian and received by the county board not later than 5:00
16 p.m. on the day of the statewide primary or general election or county bond
17 election. Ballots issued under the provisions of Article 21A of this Chapter
18 may also be electronically transmitted.

19 (2) If ballots are received later than the hour stated in subdivision (1) of this
20 subsection, those ballots shall not be accepted unless one of the following
21 applies:

22 a. Federal law so requires.

23 ~~b. The ballots issued under this Article are postmarked and that postmark
24 is dated on or before the day of the statewide primary or general
25 election or county bond election and are received by the county board
26 of elections not later than three days after the election by 5:00 p.m.~~

27 c. The ballots issued under Article 21A of this Chapter are received by
28 the county board of elections not later than the end of business on the
29 business day before the canvass conducted by the county board of
30 elections held pursuant to G.S. 163-182.5."

31 **SECTION 5.** G.S. 163-232.1(a) reads as rewritten:

32 "(a) The county board of elections shall prepare, or cause to be prepared, a list in at least
33 triplicate, of all absentee ballots issued under Article 20 of this Chapter returned to the county
34 board of elections to be counted, which have been approved by the county board of elections,
35 have not been included on the certified list prepared pursuant to G.S. 163-232, ~~and which have
36 been postmarked by the day of the statewide primary or general election or county bond election
37 and have been received by the county board of elections not later than three days after the election
38 by 5:00 p.m. on the day of the statewide primary or general election or county bond election.~~ The
39 list shall be supplemented with new information each business day following the day of the
40 election until the deadline for receipt of such absentee ballots. At the end of the list, the chairman
41 shall execute the following certificate under oath:

42 "State of North Carolina

43 County of _____

44 I, _____, chairman of the _____ County Board of Elections, do hereby certify that the foregoing
45 is a list of all executed absentee ballots to be voted in the election to be conducted on the _____
46 day of _____, which have been approved by the county board of elections ~~and which have been
47 postmarked by the day of the statewide primary or general election or county bond election and
48 have been received by the county board of elections not later than three days after the election
49 by 5:00 p.m. on the day of the statewide primary or general election or county bond election.~~ I
50 certify that the chairman, member, officer, or employee of the board of elections has not delivered
51 ballots for absentee voting to any person other than the voter, by mail or by commercial courier

1 service or in person, except as provided by law, and have not mailed or delivered ballots when
 2 the request for the ballot was received after the deadline provided by law.

3 This the ____ day of ____, ____

4 _____
 5 (Signature of chairman of
 6 county board of elections)

7 Sworn to and subscribed before me this ____ day of ____, ____.

8 Witness my hand and official seal.

9 _____
 10 (Signature of officer
 11 administering oath)

12 _____
 13 (Title of officer)"

14 **SECTION 6.** G.S. 163-234 reads as rewritten:

15 **"§ 163-234. Counting absentee ballots by county board of elections.**

16 All absentee ballots returned to the county board of elections in the container-return
 17 envelopes shall be retained by the board to be counted by the county board of elections as follows:

18 (1) Only those absentee ballots returned to the county board of elections no later
 19 than 5:00 p.m. on the day before election day in a properly executed
 20 container-return envelope or absentee ballots received pursuant to
 21 ~~G.S. 163-231(b)(2)b. or c.~~ G.S. 163-231(b)(2)c. shall be counted, except to
 22 the extent federal law requires otherwise.

23 (2) The county board of elections shall meet at 5:00 p.m. on election day in the
 24 board office or other public location in the county courthouse for the purpose
 25 of counting all absentee ballots except those which have been challenged
 26 before 5:00 p.m. on election day and those received pursuant to
 27 ~~G.S. 163-231(b)(2)b. or c.~~ G.S. 163-231(b)(2)c. Any elector of the county
 28 shall be permitted to attend the meeting and allowed to observe the counting
 29 process, so long as the elector does not in any manner interfere with the
 30 election officials in the discharge of their duties.

31 The county board of elections may begin counting absentee ballots issued
 32 under Article 21A of this Chapter between the hours of 9:00 a.m. and 5:00
 33 p.m. and may begin counting all absentee ballots between the hours of 2:00
 34 p.m. and 5:00 p.m. upon the adoption of a resolution at least two weeks prior
 35 to the election in which the hour and place of counting absentee ballots shall
 36 be stated. The resolution also may provide for an additional meeting following
 37 the day of the election and prior to the day of canvass to count absentee ballots
 38 received pursuant to ~~G.S. 163-231(b)(2)b. or c.~~ G.S. 163-231(b)(2)c. as
 39 provided in subdivision (11) of this section. A copy of the resolution shall be
 40 published once a week for two weeks prior to the election, in a newspaper
 41 having general circulation in the county. Notice may additionally be made on
 42 a radio or television station or both, but the notice shall be in addition to the
 43 newspaper and other required notice. The count shall be continuous until
 44 completed and the members shall not separate or leave the counting place
 45 except for unavoidable necessity, except that if the count has been completed
 46 prior to the time the polls close, it shall be suspended until that time pending
 47 receipt of any additional ballots. Nothing in this section prohibits a county
 48 board of elections from taking preparatory steps for the count earlier than the
 49 times specified in this section, as long as the preparatory steps do not reveal
 50 to any individual not engaged in the actual count election results before the
 51 times specified in this subdivision for the count to begin. By way of

1 illustration and not limitation, a preparatory step for the count would be the
2 entry of tally cards from direct record electronic voting units into a computer
3 for processing. The board shall not announce the result of the count before
4 7:30 p.m.

5 ...
6 (11) The county board of elections shall meet after election day and prior to the
7 date of canvass to determine whether the container-return envelopes for
8 absentee ballots received pursuant to ~~G.S. 163-231(b)(2)b.~~ or ~~e.~~
9 G.S. 163-231(b)(2)c. have been properly executed. The county board of
10 elections shall comply with the requirements of G.S. 163-230.1 for approval
11 of applications. Any absentee ballots received pursuant to
12 ~~G.S. 163-231(b)(2)b.~~ or ~~e.~~ G.S. 163-231(b)(2)c. shall be counted by the
13 county board of elections on the day of canvass. The county board of elections
14 may also meet following the day of the election and prior to the day of canvass
15 to count absentee ballots received pursuant to ~~G.S. 163-231(b)(2)b.~~ or ~~e.~~
16 G.S. 163-231(b)(2)c. upon the adoption of a resolution pursuant to
17 subdivision (2) of this section. The county board of elections shall comply
18 with all other requirements of this section for the counting of these absentee
19 ballots."

20 **SECTION 7.** There is appropriated from the General Fund to the State Board of
21 Elections the sum of five million dollars (\$5,000,000) in nonrecurring funds for the 2021-2022
22 fiscal year to establish a program to identify individuals in this State who need photo
23 identification to vote in person. The program shall include a mobile component to visit voters
24 identified as needing photo identification to ensure photo identification is created for those voters.

25 **SECTION 8.** Section 7 of this act becomes effective July 1, 2022. The remainder of
26 this act is effective when it becomes law and applies to elections held on or after that date.