

## SUBCHAPTER II. ELECTION OFFICERS.

### Article 3.

#### State Board of Elections.

#### § 163-19. State Board of Elections; appointment; term of office; vacancies; oath of office.

(a) There is established the State Board of Elections, which may be referred to as the "State Board" in this Chapter.

(b) The State Board shall consist of eight registered voters in this State who are appointed by the General Assembly as follows:

- (1) Two members appointed upon recommendation of the President Pro Tempore of the Senate.
- (2) Two members appointed upon recommendation of the Speaker of the House of Representatives.
- (3) Two members appointed upon recommendation of the minority leader of the Senate.
- (4) Two members appointed upon recommendation of the minority leader of the House of Representatives.

(b1) No later than April 1 immediately following each election of the members of the Council of State, the State party chair of each of the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board shall submit to the General Assembly a list of four nominees who are affiliated with that political party. The General Assembly shall give due consideration to the nominees provided by the party chairs. However, the General Assembly is not required to appoint members from the submitted nominees and may appoint any registered voter in the State in accordance with this section.

(b2) Members shall serve four-year terms, until a successor is appointed and qualified, beginning May 1 immediately following each election of the members of the Council of State. No person may serve more than two consecutive four-year terms.

(c) Any vacancy occurring in the State Board shall be filled by the General Assembly, and the person appointed shall serve the remainder of the unexpired term. The State party chair of the political party that nominated the vacating member as provided in subsection (b1) of this section may submit, within five business days of the occurrence of the vacancy, a list of three nominees to fill the vacancy who are affiliated with that political party. The General Assembly may fill the vacancy in accordance with G.S. 120-121 during a regular or extra session. Notwithstanding G.S. 120-122, if the General Assembly has adjourned for more than 10 days, the vacancy shall be filled by the individual recommending the initial appointment of the vacating member in accordance with subsection (b) of this section via a letter appointing an individual to serve until the expiration of the term under subsection (b1) of this section or until the General Assembly fills the vacancy, whichever occurs first.

(d) At the first meeting held after new appointments are made, the members of the State Board shall take the following oath:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain, and defend the Constitution of said State, and that I will well and truly execute the duties of the office of member of the State Board of Elections

according to the best of my knowledge and ability, according to law, so help me God."

(e) After taking the prescribed oath, the State Board shall organize by electing one of its members chair and another secretary. If for any reason a chair is not elected within 30 days after taking the prescribed oath or within 30 days of the occurrence of a vacancy in the office of the chair, the office of the chair may be filled by legislative appointment in accordance with G.S. 120-121 as if the chair is a member of a board or commission with the appointing authority being as follows:

- (1) If the vacancy occurs in 2025 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
  - (2) If the vacancy occurs in 2026 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
  - (3) If the vacancy occurs in 2027 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
  - (4) If the vacancy occurs in 2028 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
  - (5) If the vacancy occurs in 2029 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
  - (6) If the vacancy occurs in 2030 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
  - (7) If the vacancy occurs in 2031 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
  - (8) If the vacancy occurs in 2032 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (f) No person shall be eligible to serve as a member of the State Board who:
- (1) Holds any elective or appointive office under the government of the United States, the State of North Carolina, or any political subdivision thereof.
  - (2) Is a candidate for nomination or election to any office.
  - (3) Holds any office in a political party or organization.
  - (4) Is a campaign manager or treasurer of any candidate in a primary or election.
  - (5) Is currently an employee of the State, a community college, or a local school administrative unit.
  - (6) Within the 48 months prior to appointment, has held any of the following positions with an organization that has engaged in electioneering in those 48 months:
    - a. Director, officer, or governing board member.
    - b. Employee.
    - c. Lobbyist registered under Chapter 120C of the General Statutes.
    - d. Independent contractor.
    - e. Legal counsel of record.
- (g) No person while serving on the State Board shall:

- (1) Make a reportable contribution to a candidate for a public office over which the State Board would have jurisdiction or authority.
- (2) Register as a lobbyist under Chapter 120C of the General Statutes.
- (3) Make written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the nomination or election of one or more clearly identified candidates for public office.
- (4) Make written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the passage of one or more clearly identified referendum or ballot issue proposals.
- (5) Solicit contributions for a candidate, political committee, or referendum committee.
- (6) Serve as a member of any other State board, as defined in G.S. 138A-3. (1901, c. 89, ss. 5, 7; Rev., ss. 2760, 4300, 4301; C.S., ss. 5921, 5922; 1933, c. 165, s. 1; 1953, c. 428; 1967, c. 775, s. 1; 1975, c. 286; 1985, c. 62, ss. 1, 1.1; 2005-276, s. 23A.3; 2006-262, s. 4.2; 2013-381, s. 45.1(a); 2017-6, ss. 4(c), 7(a); 2018-2, s. 8(b); 2018-13, s. 5; 2018-146, ss. 3.1(a)-(c), 3.2(a); 2023-139, s. 2.1.)

**§ 163-20. Meetings of Board; quorum; minutes.**

(a) Call of meeting. – The State Board shall meet at the call of the chair whenever necessary to discharge the duties and functions imposed upon it by this Chapter. The chair shall call a meeting of the State Board upon the written application or applications of any three members thereof. If there is no chair, or if the chair does not call a meeting within three days after receiving a written request or requests from three members, any six members of the State Board shall have power to call a meeting of the State Board, and any duties imposed or powers conferred on the State Board by this Chapter may be performed or exercised at that meeting, although the time for performing or exercising the duties imposed or powers conferred by this Chapter may have expired.

(b) Place of Meeting. – Except as provided in subsection (c) of this section, the State Board shall meet in its offices in the City of Raleigh, or at another place in the City of Raleigh to be designated by the chair. However, subject to the limitation imposed by subsection (c) of this section, upon the prior written request of five members, the State Board shall meet at any other place in the State designated by the five members.

(c) Meetings to Investigate Alleged Violations of This Chapter. – When called upon to investigate or hear sworn alleged violations of this Chapter, the State Board shall meet and hear the matter in the county in which the violations are alleged to have occurred.

(d) Quorum. – A majority of the members constitutes a quorum for the transaction of business by the State Board.

(e) Minutes. – The State Board shall keep minutes recording all proceedings and findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in the office of the State Board in the City of Raleigh. (1901, c. 89, s. 7; Rev., ss. 2760, 4301, 4302; C.S., ss. 5922, 5923; 1933, c. 165, s. 1; 1945, c. 982; 1967, c. 775, s. 1; 1973, c. 793, s. 3; c. 1223, s. 1; 2016-125, 4th Ex. Sess., s. 5(b); 2017-6, ss. 2, 3, 7(b); 2018-146, s. 3.1(a), (b); 2023-139, s. 2.2.)

**§ 163-21. Compensation of Board members.**

Members of the State Board shall receive per diem, subsistence, and travel, as provided in G.S. 138-5 and G.S. 138-6. (1901, c. 89, s. 7; Rev., ss. 2760, 4301; C.S., s. 5922; 1933, c. 165, s. 1;

1967, c. 775, s. 1; 2017-6, ss. 4(c), 7(c); 2018-2, s. 8(b); 2018-13, s. 5; 2018-146, ss. 3.1(a)-(c), 3.2(b).)

**§ 163-22. Powers and duties of State Board of Elections.**

(a) The State Board shall have general supervision over the primaries and elections in the State, and it shall have authority to make such reasonable rules and regulations with respect to the conduct of primaries and elections as it may deem advisable so long as they do not conflict with any provisions of this Chapter.

(b) From time to time, the State Board shall publish and furnish to the county boards of elections and other election officials a sufficient number of indexed copies of all election laws and State Board rules and regulations then in force. It shall also publish, issue, and distribute to the electorate such materials explanatory of primary and election laws and procedures as the State Board shall deem necessary.

(c) The State Board shall advise the county boards of elections as to the proper methods of conducting primaries and elections. The State Board shall require all reports from the county boards of elections and election officers as provided by law, or as are deemed necessary by the State Board, and shall compel observance of the requirements of the election laws by county boards of elections and other election officers. In performing these duties, the State Board shall have the right to hear and act on complaints arising by petition or otherwise, on the failure or neglect of a county board of elections to comply with any part of the election laws imposing duties upon a county board of elections. The State Board shall have power to remove from office any member of a county board of elections for incompetency, neglect or failure to perform duties, fraud, or for any other satisfactory cause. Before exercising this power, the State Board shall notify the county board of elections member affected and give that member an opportunity to be heard.

(d) The State Board shall investigate when necessary or advisable, the administration of election laws, frauds and irregularities in elections in any county and municipality and special district, and shall report violations of the election laws to the State Bureau of Investigation for further investigation and prosecution.

(e) The State Board shall determine, in the manner provided by law, the form and content of ballots, instruction sheets, pollbooks, tally sheets, abstract and return forms, certificates of election, and other forms to be used in primaries and elections. The State Board shall furnish to the county boards of elections the registration application forms required pursuant to G.S. 163-82.3. The State Board shall direct the county boards of elections to purchase a sufficient quantity of all forms attendant to the registration and elections process. In addition, the State Board shall provide a source of supply from which the county boards of elections may purchase the quantity of pollbooks needed for the execution of its responsibilities. In the preparation of ballots, pollbooks, abstract and return forms, and all other forms, the State Board may call to its aid the Attorney General of the State, and it shall be the duty of the Attorney General to advise and aid in the preparation of these books, ballots and forms.

(f) The State Board shall prepare, print, and distribute to the county boards of elections all ballots for use in any primary or election held in the State which the law provides shall be printed and furnished by the State to the counties. The State Board shall instruct the county boards of elections as to the printing of county and local ballots.

(g) The State Board shall certify to the appropriate county boards of elections the names of candidates for district offices who have filed notice of candidacy with the State Board and whose names are required to be printed on county ballots.

(h) The State Board shall tabulate the primary and election returns, declare the results, and prepare abstracts of the votes cast in each county in the State for offices which, according to law, shall be tabulated by the State Board.

(i) The State Board shall make recommendations to the legislature relative to the conduct and administration of the primaries and elections in the State as it may deem advisable.

(j) Notwithstanding the provisions of any other section of this Chapter, the State Board shall have access to any ballot boxes and their contents, any voting machines and its contents, any registration records, pollbooks, voter authorization cards or voter lists, any lists of absentee voters, any lists of presidential registrants under the Voting Rights Act of 1965 as amended, and any other voting equipment or similar records, books or lists in any precinct, county, municipality or electoral district over whose elections it has jurisdiction or for whose elections it has responsibility.

(j1) Notwithstanding G.S. 153A-98 or any other provision of law, all officers, employees, and agents of a county board of elections shall give the State Board, upon request, all information, documents, and data within their possession, or ascertainable from its records, including any internal investigation or personnel documentation and shall make available, upon request pursuant to an investigation under subsection (d) of this section, any county board of elections employee for interview and produce any equipment, hardware, or software for inspection. These requirements are mandatory and shall be timely complied with as specified in a request made by any five members of the State Board.

(k) Notwithstanding the provisions contained in Article 20 or Article 21A of this Chapter, the State Board shall be authorized, by resolution adopted prior to the printing of the primary ballots, to reduce the time by which absentee ballots are required to be printed and distributed for the primary election from 50 days to 45 days. This authority shall not be authorized for absentee ballots to be voted in the general election, except if the law requires ballots to be available for mailing 60 days before the general election, and the absentee ballots are not ready by that date, the State Board shall allow the counties to mail absentee ballots out as soon as the absentee ballots are available.

(l) Notwithstanding any other provision of law, in order to obtain judicial review of any decision of the State Board rendered in the performance of its duties or in the exercise of its powers under this Chapter, the person seeking review must file a petition in the Superior Court of Wake County.

(m) The State Board shall provide specific training to county boards of elections regarding rules for registering students.

(n) The State Board shall promulgate minimum requirements for the number of pollbooks, voting machines and curbside ballots to be available at each precinct, such that more will be available at general elections and a sufficient number will be available to allow voting without excessive delay. The State Board shall provide for a training and screening program for chief judges and judges. The State Board shall provide additional testing of voting machines to ensure that they operate properly even with complicated ballots.

(o) The State Board shall require counties with voting systems to have sufficient personnel available on election day with technical expertise to repair equipment, to investigate election day problems, and to assist in curbside voting.

(o1) The State Board shall include in all forms prepared by the State Board a prominent statement that submitting fraudulently or falsely completed declarations is a Class I felony under this Chapter.

(p) Except as provided in G.S. 163-27, the State Board may assign responsibility for enumerated administrative matters to the Executive Director by resolution, if that resolution provides a process for the State Board to review any administrative decision made by the Executive Director.

(q) Nothing in this Chapter shall grant authority to the State Board to alter, amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted by the General Assembly.

(r) Nothing in this Chapter shall grant authority to the State Board to alter, amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of local government other than a plan imposed by a court, a plan enacted by the General Assembly, or a plan adopted by the appropriate unit of local government under statutory or local act authority.

(s) Notwithstanding any other provision of law, the State Board shall ensure voted ballots, election results tapes, and executed ballot applications are retained and preserved for a period of 22 months after the corresponding election or as otherwise specified in federal law, whichever is greater.

(t) The State Board shall not accept private monetary donations or in-kind contributions, directly or indirectly, for conducting elections or employing individuals on a temporary basis. (1901, c. 89, ss. 7, 11; Rev., ss. 4302, 4305; 1913, c. 138; C.S., ss. 5923, 5926; 1921, c. 181, s. 1; 1923, c. 196; 1933, c. 165, ss. 1, 2; 1945, c. 982; 1953, c. 410, s. 2; 1967, c. 775, s. 1; 1973, c. 47, s. 2; c. 793, s. 2; 1975, c. 19, s. 65; 1977, c. 661, s. 6; 1979, c. 411, s. 1; 1981, c. 556; 1985 (Reg. Sess., 1986), c. 986, ss. 2, 3; 1987, c. 485, ss. 2, 5; c. 509, s. 9; c. 642, s. 3; 1989, c. 635, s. 5; 1991, c. 727, ss. 5.2, 7; 1993 (Reg. Sess., 1994), c. 762, s. 12; 1995, c. 509, s. 114; 1999-424, s. 7(a); 2001-398, s. 4; 2009-537, s. 10; 2009-541, s. 1; 2011-31, s. 15; 2011-182, s. 3; 2016-125, 4th Ex. Sess., s. 20(b); 2017-6, s. 3; 2018-13, s. 3.2(a), (b); 2018-144, s. 1.4A; 2018-146, s. 3.1(a), (b); 2023-139, s. 2.3; 2023-140, ss. 2, 39(b).)

**§ 163-22.1. Repealed by Session Laws 2001-398, s. 2, effective January 1, 2002.**

**§ 163-22.2. Power of State Board to promulgate temporary rules and regulations.**

In the event any portion of Chapter 163 of the General Statutes or any State election law or form of election of any county board of commissioners, local board of education, or city officer is held unconstitutional or invalid by a State or federal court or is unenforceable because of objection interposed by the United States Justice Department under the Voting Rights Act of 1965 and such ruling adversely affects the conduct and holding of any pending primary or election, the State Board of Elections shall have authority to make reasonable interim rules and regulations with respect to the pending primary or election as it deems advisable so long as they do not conflict with any provisions of this Chapter 163 of the General Statutes and such rules and regulations shall become null and void 60 days after the convening of the next regular session of the General Assembly. (1981, c. 741; 1982, 2nd Ex. Sess., c. 3, s. 19.1; c. 1265, ss. 1, 2; 1985, c. 563, s. 15; 1986, Ex. Sess., c. 3, s. 1; 2017-6, s. 3; 2018-146, s. 3.1(a), (b); 2021-180, s. 18.7(c).)

**§ 163-22.3. State Board of Elections littering notification.**

At the time an individual files with the State Board of Elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, or 163-294.2, is certified to the State Board of Elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, is

certified to the State Board of Elections by a new political party as that party's nominee pursuant to G.S. 163-98, qualifies with the State Board of Elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates a candidacy with the State Board of Elections pursuant to any statute or local act, the State Board of Elections shall notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department of Transportation pursuant to G.S. 136-18. (2001-512, s. 7; 2017-3, s. 3; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

**§ 163-23. Powers of chair in execution of Board duties.**

In the performance of the duties enumerated in this Chapter, the Chair of the State Board shall have power to administer oaths, issue subpoenas, summon witnesses, and compel the production of papers, books, records, and other evidence. Upon the written request or requests of two or more members of the State Board, the Chair shall issue subpoenas for designated witnesses or identified papers, books, records, and other evidence. In the absence of the Chair or upon the Chair's refusal to act, any two members of the State Board may issue subpoenas, summon witnesses, and compel the production of papers, books, records, and other evidence. In the absence of the Chair or upon the Chair's refusal to act, any member of the State Board may administer oaths. (1901, c. 89, s. 7; Rev., s. 4302; C.S., s. 5923; 1933, c. 165, s. 1; 1945, c. 982; 1967, c. 775, s. 1; 1973, c. 793, s. 4; 2017-6, ss. 4(c), 7(d); 2018-146, ss. 3.1(a), (b), 3.2(c).)

**§ 163-24. Power of State Board of Elections to maintain order.**

The State Board of Elections shall possess full power and authority to maintain order, and to enforce obedience to its lawful commands during its sessions, and shall be constituted an inferior court for that purpose. If any person shall refuse to obey the lawful commands of the State Board of Elections or its chairman, or by disorderly conduct in its hearing or presence shall interrupt or disturb its proceedings, it may, by an order in writing, signed by its chairman, and attested by its secretary, commit the person so offending to the common jail of the county for a period not exceeding 30 days. Such order shall be executed by any sheriff to whom the same shall be delivered, or if a sheriff shall not be present, or shall refuse to act, by any other person who shall be deputed by the State Board of Elections in writing, and the keeper of the jail shall receive the person so committed and safely keep him for such time as shall be mentioned in the commitment: Provided, that any person committed under the provisions of this section shall have the right to post a two hundred dollar (\$200.00) bond with the clerk of the superior court and appeal to the superior court for a trial on the merits of his commitment. (1901, c. 89, s. 72; Rev., s. 4376; C.S., s. 5977; 1955, c. 871, s. 4; 1967, c. 775, s. 1; 1995, c. 379, s. 14(e); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

**§ 163-25. Authority of State Board to assist in litigation.**

(a) The State Board shall possess authority to assist any county board of elections in any matter in which litigation is contemplated or has been initiated, provided, the county board of elections in such county petitions, by majority resolution, for such assistance from the State Board and, provided further, that the State Board determines, in its sole discretion by majority vote, to assist in any such matter. It is further stipulated that the State Board shall not be authorized under this provision to enter into any litigation in assistance to counties, except in those instances where the uniform administration of this Chapter has been, or would be threatened.

(b) The Attorney General shall provide the State Board with legal assistance in execution of its authority under this section or, in the Attorney General's discretion, recommend that private counsel be employed.

(c) If the Attorney General recommends employment of private counsel, the State Board may employ counsel with the approval of the General Assembly. (1969, c. 408, s. 1; 1973, c. 793, s. 6; 1983, c. 324, s. 2; 2011-31, s. 16; 2017-6, s. 3; 2018-146, s. 3.1(a), (b); 2023-139, s. 2.4.)

**§ 163-26. Executive Director of State Board of Elections.**

There is hereby created the position of Executive Director of the State Board, who shall perform all duties imposed by statute and such duties as may be assigned by the State Board. (1973, c. 1272, s. 4; 2001-319, s. 11; 2017-6, ss. 4(c), 7(e); 2018-146, ss. 3.1(a), (b), 3.2(d).)

**§ 163-27. Executive Director to be appointed by State Board.**

(a) The State Board shall appoint an Executive Director for a term of two years with compensation to be determined by the Office of State Human Resources.

(b) The term of office for the Executive Director begins May 15 of the year after each even-year election, unless removed for cause. If for any reason the position of Executive Director is not filled by June 15 of the year after each even-year election or within 30 days of the occurrence of a vacancy in the position of Executive Director, the position of Executive Director may be filled by legislative appointment in accordance with G.S. 120-121 as if the Executive Director is a member of a board or commission with the appointing authority being as follows:

- (1) If the vacancy occurs in 2025 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (2) If the vacancy occurs in 2026 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (3) If the vacancy occurs in 2027 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (4) If the vacancy occurs in 2028 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (5) If the vacancy occurs in 2029 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (6) If the vacancy occurs in 2030 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (7) If the vacancy occurs in 2031 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (8) If the vacancy occurs in 2032 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.

(c) The Executive Director shall be responsible for staffing, administration, and execution of the State Board's decisions and orders and shall perform such other responsibilities as may be assigned by the State Board.



(d) The Executive Director shall be the chief State elections official. (1973, c. 1409, s. 3; 1985, c. 62, s. 2; 2001-319, s. 11; 2017-6, ss. 4(c), 7(f); 2018-146, ss. 3.1(a), (b), 3.2(e); 2023-139, s. 2.5.)

**§ 163-27.1. Emergency powers.**

(a) The State Board, in an open meeting, may exercise emergency powers to conduct an election in a district where the normal schedule for the election is disrupted by any of the following:

- (1) A natural disaster.
- (2) Extremely inclement weather.
- (3) An armed conflict involving Armed Forces of the United States, or mobilization of those forces, including North Carolina National Guard and reserve components of the Armed Forces of the United States.

In exercising those emergency powers, the State Board shall avoid unnecessary conflict with the provisions of this Chapter. The State Board shall adopt rules describing the emergency powers and the situations in which the emergency powers will be exercised.

(b) Nothing in this Chapter shall grant authority to the State Board to alter, amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted by the General Assembly.

(c) Nothing in this Chapter shall grant authority to the State Board to alter, amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of local government other than a plan imposed by a court, a plan enacted by the General Assembly, or a plan adopted by the appropriate unit of local government under statutory or local act authority.

(d) Under no circumstances shall the State Board have the authority to do any of the following:

- (1) Deliver absentee ballots to an eligible voter who did not submit a valid written request form for absentee ballots as provided in G.S. 163-230.1 and G.S. 163-230.2.
- (2) Order an election to be conducted using all mail-in absentee ballots.
- (3) Delegate its authority under this section to the Executive Director or any other individual. (1999-455, s. 23; 2001-319, s. 11; 2011-183, s. 110; 2016-125, 4th Ex. Sess., s. 20(d); 2017-6, s. 3; 2018-146, s. 3.1(a), (b); 2020-17, s. 6; 2023-139, s. 3.1.)

**§ 163-27.2. Criminal history record checks of current and prospective employees of the State Board and county directors of elections.**

(a) As used in this section, the term "current or prospective employee" means any of the following:

- (1) A current or prospective permanent or temporary employee of the State Board or a current or prospective county director of elections.
- (2) An employee or agent of a current or prospective contractor with the State Board.
- (3) Any other individual otherwise engaged by the State Board who has or will have the capability to update, modify, or change elections systems or confidential elections or ethics data.

(b) A criminal history record check shall be required of all current or prospective permanent or temporary employees of the State Board and all current or prospective county directors of elections, which shall be conducted by the State Bureau of Investigation as provided in G.S. 143B-1209.49. G.S. 143B-1209.49(d). G.S. 143B-969 [G.S. 143B-1209.50]. A criminal history record check report received in accordance with G.S. 143B-969 [G.S. 143B-1209.50] is not a public record under Chapter 132 of the General Statutes.

(c) If the current or prospective employee's verified criminal history record check reveals one or more convictions, the conviction shall constitute just cause for not selecting the person for employment or for dismissing the person from current employment. The conviction shall not automatically prohibit employment.

(d) A prospective employee may be denied employment, or a current employee may be dismissed from employment, for refusal to consent to a criminal history record check or to submit fingerprints or to provide other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(e) A conditional offer of employment or appointment may be extended pending the results of a criminal history record check authorized by this section.

(f) A county board of elections shall require a criminal history record check of all current or prospective employees of the county board of elections, as defined in G.S. 163-37.1(a)(1), who have or will have access to the statewide computerized voter registration system maintained under G.S. 163-82.11 and for any additional position or function as the State Board may designate. The county director of elections shall provide the criminal history record of all current or prospective employees of the county board of elections required by this subsection or in designated positions to the Executive Director and State Board.

(g) Neither appointment as a precinct official or assistant under Article 5 of this Chapter nor employment at an early voting location shall require a criminal history record check unless the official, assistant, or employee performs a function designated by the State Board pursuant to subsection (f) of this section. (2018-13, s. 1(c); 2018-146, s. 3.1(a), (b); 2023-134, s. 19F.4(jj); 2023-139, s. 4.3(a); 2023-140, s. 3.)

#### **§ 163-28. State Board of Elections independent agency.**

The State Board shall be administratively located within, and supported administratively by, the Department of the Secretary of State. The State Board shall exercise its statutory powers, duties, functions, and authority independently from authority of the Secretary of State. (1973, c. 1409, s. 2; 2017-6, ss. 4(c), 7(g); 2018-146, ss. 3.1(a), (b), 3.2(f); 2023-139, s. 1.1(b).)

#### **§ 163-29. Reserved for future codification purposes.**