

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 10

Short Title: Ballot Access Changes.

(Public)

Sponsors: Senator Gulley.

Referred to: Judiciary I.

January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE BALLOT ACCESS LAWS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 163-96 reads as rewritten:

**"§ 163-96. 'Political party' defined; creation of new party.**

(a) Definition. -- A political party within the meaning of the election laws of this State shall be either:

(1) Any group of voters which, at the last preceding general State election, polled for its candidate for Governor, or for presidential electors, at least ten percent (10%) of the entire vote cast in the State for Governor or for presidential electors; or

(2) Any group of voters which shall have filed with the State Board of Elections petitions for the formulation of a new political party which are signed by registered and qualified voters in this State equal in number to two percent (2%) of the total number of voters who voted in the most recent general election for Governor. Also the petition must be signed by at least 200 registered voters from each of four congressional districts in North Carolina. To be effective, the petitioners must file their petitions with the State Board of Elections before 12:00 noon on the ~~first day of June~~ last Friday in July preceding the day on which is to be held the first general State election in which the new political party desires to participate. The State Board of Elections shall forthwith determine the sufficiency of petitions filed with it and shall immediately communicate its determination to the State chairman of the proposed new political party.

(b) Petitions for New Political Party. -- Petitions for the creation of a new political party shall contain on the heading of each page of the petition in bold print or all in capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN

1 \_\_\_\_\_ COUNTY HEREBY PETITION FOR THE FORMATION OF A NEW  
2 POLITICAL PARTY TO BE NAMED \_\_\_\_\_ ~~AND WHOSE STATE CHAIRMAN~~  
3 ~~IS \_\_\_\_\_, RESIDING \_\_\_\_\_, WITH NORTH CAROLINA~~  
4 ~~HEADQUARTERS AT \_\_\_\_\_ AND WHO CAN BE REACHED~~  
5 ~~REACHABLE BY TELEPHONE AT \_\_\_\_\_.~~ THE SIGNERS OF THIS PETITION  
6 ~~INTEND TO ORGANIZE A NEW POLITICAL PARTY TO PARTICIPATE~~  
7 ~~REQUEST THAT THE CANDIDATES OF THAT PARTY BE LISTED ON THE~~  
8 ~~BALLOT IN THE NEXT SUCCEEDING GENERAL ELECTION.~~ ELECTION  
9 CYCLE SPANNING THE YEARS OF \_\_\_\_\_."

10 All printing required to appear on the heading of the petition shall be in type no smaller  
11 than 10 point or in all capital letters, double spaced typewriter size. In addition to the  
12 form of the petition, the organizers and petition circulators shall inform the signers of  
13 the general purpose and intent of the new party.

14 The petitions must specify the name selected for the proposed political party. The  
15 State Board of Elections shall reject petitions for the formation of a new party if the  
16 name chosen contains any word that appears in the name of any existing political party  
17 recognized in this State or if, in the Board's opinion, the name is so similar to that of an  
18 existing political party recognized in this State as to confuse or mislead the voters at an  
19 election.

20 The petitions must state the name and address of the State chairman of the proposed  
21 new political party.

22 (b1) Each petition shall be presented to the chairman of the board of elections of  
23 the county in which the signatures were obtained, and it shall be the chairman's duty:

- 24 (1) To examine the signatures on the petition and place a check mark on  
25 the petition by the name of each signer who is qualified and registered  
26 to vote in his county.  
27 (2) To attach to the petition his signed certificate  
28 a. Stating that the signatures on the petition have been checked  
29 against the registration records and  
30 b. Indicating the number found qualified and registered to vote in  
31 his county.  
32 (3) To return each petition, together with the certificate required by the  
33 preceding subdivision, to the person who presented it to him for  
34 checking.

35 The group of petitioners shall submit the petitions to the chairman of the county  
36 board of elections in the county in which the signatures were obtained no later than 5:00  
37 P.M. on the fifteenth day preceding the date the petitions are due to be filed with the  
38 State Board of Elections as provided in subsection (a)(2) of this section. Provided the  
39 petitions are timely submitted, the chairman of the county board of elections shall  
40 proceed to examine and verify the signatures under the provisions of this subsection.  
41 Verification shall be completed within two weeks from the date such petitions are  
42 presented.

43 (c) Repealed by Session Laws 1983, c. 576, s. 3."

44 **SECTION 2.** G.S. 163-97 reads as rewritten:

1 **"§ 163-97. Termination of ballot status as political party.**

2 When any political party fails to poll for its candidate for governor, or for  
3 presidential electors, at least ten percent (10%) of the entire vote cast in the State for  
4 governor or for presidential electors at a general election, it shall cease to be included on  
5 the ballot as a political party within the meaning of the primary and general election  
6 laws and all other provisions of this Chapter. party."

7 **SECTION 3.** G.S. 163-97.1 reads as rewritten:

8 **"§ 163-97.1. Voters affiliated with expired political party. after loss of ballot status.**

9 ~~The State Board of Elections shall be authorized to promulgate appropriate~~  
10 ~~procedures to order the county boards of elections to change the registration affiliation~~  
11 ~~of all voters who are recorded on the voter registration books as being affiliated with a~~  
12 ~~political party which has lost its legal status as provided in G.S. 163-97. The State~~  
13 ~~Board of Elections shall not implement the authority contained in this section earlier~~  
14 ~~than 90 days following the certification of the election in which the political party failed~~  
15 ~~to continue its legal status as provided in G.S. 163-97. All voters affiliated with such~~  
16 ~~expired political party shall be changed to "unaffiliated" designation by the State Board's~~  
17 ~~order and all such registrants shall be entitled to declare a political party affiliation as~~  
18 ~~provided in G.S. 163-74(b). Any voter registered with a political party shall be allowed~~  
19 ~~to retain that affiliation even if that party loses its ballot status under the provisions of~~  
20 ~~G.S. 163-97. Within 90 days after a party loses its ballot status, the county board of~~  
21 ~~elections shall notify each voter affiliated with that party of the legal consequences of~~  
22 ~~continued affiliation with the party, including potential inability to vote in any party~~  
23 ~~primary."~~

24 **SECTION 4.** G.S. 163-98 reads as rewritten:

25 **"§ 163-98. General election participation by new political party.**

26 In the first general election following the date on which a new political party  
27 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its  
28 candidates for ~~State, congressional, and national~~ offices printed on the official ballots,  
29 ~~but it shall not be entitled to have the names of candidates for other offices printed on~~  
30 ~~State, district, or county ballots at that election. ballots.~~

31 For the first general election following the date on which it qualifies under G.S.  
32 163-96, a new political party shall select its candidates by party convention. Following  
33 adjournment of the nominating convention, but not later than the ~~first day of July~~ 90th  
34 day prior to the general election, the president of the convention shall certify to the State  
35 Board of Elections the names of persons chosen in the convention as the new party's  
36 candidates for ~~State, congressional, and national~~ offices in the ensuing general election.  
37 The State Board of Elections shall ~~print~~ print, or direct the appropriate board of  
38 elections to print, the names thus certified on the appropriate ballots as the nominees of  
39 the new party."

40 **SECTION 5.** G.S. 163-122 reads as rewritten:

41 **"§ 163-122. Unaffiliated candidates nominated by petition.**

42 (a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. --  
43 Any qualified voter who seeks to have his name printed on the general election ballot as  
44 an unaffiliated candidate shall:

- 1 (1) If the office is a ~~statewide office,~~ President, Vice President,  
2 Presidential elector, or another office elected statewide, file written  
3 petitions with the State Board of Elections supporting his candidacy  
4 for a specified office. These petitions must be filed with the State  
5 Board of Elections on or before 12:00 noon on the last Friday in ~~June~~  
6 July preceding the general election and must be signed by qualified  
7 voters of the State equal in number to ~~two percent (2%)~~ one and one-  
8 half percent (1.5%) of the total number of ~~registered voters in the State~~  
9 ~~as reflected by the most recent statistical report issued by the State~~  
10 ~~Board of Elections.~~ voters who voted in the most recent general  
11 election for Governor. Also the petition must be signed by at least 200  
12 registered voters from each of four congressional districts in North  
13 Carolina. No later than 5:00 p.m. on the fifteenth day preceding the  
14 date the petitions are due to be filed with the State Board of Elections,  
15 each petition shall be presented to the chairman of the board of  
16 elections of the county in which the signatures were obtained.  
17 Provided the petitions are timely submitted, the chairman shall  
18 examine the names on the petition and place a check mark on the  
19 petition by the name of each signer who is qualified and registered to  
20 vote in his county and shall attach to the petition his signed certificate.  
21 Said certificates shall state that the signatures on the petition have been  
22 checked against the registration records and shall indicate the number  
23 of signers to be qualified and registered to vote in his county. The  
24 chairman shall return each petition, together with the certificate  
25 required in this section, to the person who presented it to him for  
26 checking. Verification by the chairman of the county board of  
27 elections shall be completed within two weeks from the date such  
28 petitions are presented.
- 29 (2) If the office is a district office comprised of two or more counties, file  
30 written petitions with the State Board of Elections supporting his  
31 candidacy for a specified office. These petitions must be filed with the  
32 State Board of Elections on or before 12:00 noon on the last Friday in  
33 ~~June~~ July preceding the general election and must be signed by  
34 qualified voters of the district equal in number to four percent (4%) of  
35 the total number of ~~registered voters in the district as reflected by the~~  
36 ~~latest statistical report issued by the State Board of Elections.~~ total  
37 number of voters who voted in the district in the most recent general  
38 election for Governor. Each petition shall be presented to the chairman  
39 of the board of elections of the county in which the signatures were  
40 obtained. The chairman shall examine the names on the petition and  
41 the procedure for certification and deadline for submission to the  
42 county board shall be the same as specified in (1) above.
- 43 (3) If the office is a county office or a single county legislative district, file  
44 written petitions with the chairman or director of the county board of

1 elections supporting his candidacy for a specified county office. These  
2 petitions must be filed with the county board of elections on or before  
3 12:00 noon on the last Friday in ~~June~~ July preceding the general  
4 election and must be signed by qualified voters of the county equal in  
5 number to four percent (4%) of the total number of ~~registered voters in~~  
6 ~~the county as reflected by the most recent statistical report issued by~~  
7 ~~the State Board of Elections, voters who voted in the county in the~~  
8 most recent general election for Governor, except if the office is for a  
9 district consisting of less than the entire county and only the voters in  
10 that district vote for that office, the petitions must be signed by  
11 qualified voters of the district equal in number to four percent (4%) of  
12 the total number of voters ~~in the district according to the most recent~~  
13 ~~figures certified by the State Board of Elections, who voted in the~~  
14 district in the most recent general election for Governor. Each petition  
15 shall be presented to the chairman or director of the county board of  
16 elections. The chairman shall examine, or cause to be examined, the  
17 names on the petition and the procedure for certification shall be the  
18 same as specified in (1) above.

- 19 (4) If the office is a partisan municipal office, file written petitions with  
20 the chairman or director of the county board of elections in the county  
21 wherein the municipality is located supporting his candidacy for a  
22 specified municipal office. These petitions must be filed with the  
23 county board of elections on or before the time and date specified in  
24 G.S. 163-296 and must be signed by the number of qualified voters  
25 specified in G.S. 163-296. The procedure for certification shall be the  
26 same as specified in (1) above.

27 Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the  
28 board of elections with which the petitions have been timely filed shall cause the  
29 unaffiliated candidate's name to be printed on the general election ballots in accordance  
30 with G.S. 163-140.

31 An individual whose name appeared on the ballot in a primary election preliminary  
32 to the general election shall not be eligible to have his name placed on the general  
33 election ballot as an unaffiliated candidate for the same office in that year.

34 (b) Form of Petition. -- Petitions requesting an unaffiliated candidate to be placed  
35 on the general election ballot shall contain on the heading of each page of the petition in  
36 bold print or in all capital letters the words: "THE UNDERSIGNED REGISTERED  
37 VOTERS IN \_\_\_\_\_ COUNTY HEREBY PETITION ON BEHALF OF  
38 \_\_\_\_\_ AS AN UNAFFILIATED CANDIDATE IN THE NEXT  
39 GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT  
40 ~~SUBJECT—THIS~~ CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT  
41 UPON COMPLIANCE WITH THE PROVISIONS CONTAINED IN G.S. 163-122."

42 (c) This section does not apply to elections under Article 25 of this Chapter."

43 **SECTION 6.** G.S. 163-209 reads as rewritten:

44 **"§ 163-209. Names of presidential electors not printed on ballots.**

1 The names of candidates for electors of President and Vice-President nominated by  
2 any political party recognized in this State under G.S. 163-96, or nominated under G.S.  
3 163-1(c) by a candidate for President of the United States who has qualified to have his  
4 name printed on the general election ballot as an unaffiliated candidate under G.S.  
5 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot.  
6 ~~In the case of the unaffiliated candidate, the~~ The names of candidates for electors and  
7 of candidates for President and Vice President must shall be filed with the Secretary of  
8 State no later than 12:00 noon on the ~~first Friday in August, 90th day before the general~~  
9 ~~election, or two days after that political party's national convention, whichever is later,~~  
10 but in no event later than August 20. In place of ~~their~~ the electors' names, in accordance  
11 with the provisions of G.S. 163-140 there shall be printed on the ballot the names of the  
12 candidates for President and Vice-President of each political party recognized in this  
13 State, and the name of any candidate for President who has qualified to have his name  
14 printed on the general election ballot under G.S. 163-122. A candidate for President  
15 who has qualified for the general election ballot as an unaffiliated candidate under G.S.  
16 163-122 shall, no later than 12:00 noon on the ~~first Friday in August, 90th day before~~  
17 the general election, file with the State Board of Elections the name of a candidate for  
18 Vice-President, whose name shall also be printed on the ballot. A vote for the  
19 candidates named on the ballot shall be a vote for the electors of the party or unaffiliated  
20 candidate by which those candidates were nominated and whose names have been filed  
21 with the Secretary of State."

22 **SECTION 7.** G.S. 163-123 reads as rewritten:

23 "**§ 163-123. Declaration of intent and petitions for write-in candidates in partisan**  
24 **elections.**

25 (a) Procedure for Qualifying as a Write-In Candidate. -- Any qualified voter who  
26 seeks to have write-in votes for him counted in a general election shall file a declaration  
27 of intent in accordance with subsection (b) of this section and petition(s) in accordance  
28 with subsection (c) of this section.

29 (b) Declaration of Intent. -- The applicant for write-in candidacy shall file his  
30 declaration of intent at the same time and with the same board of elections as his  
31 petition, as set out in subsection (c) of this section. The declaration shall contain:

- 32 (1) Applicant's name,
- 33 (2) Applicant's residential address,
- 34 (3) Declaration of applicant's intent to be a write-in candidate,
- 35 (4) Title of the office sought,
- 36 (5) Date of the election,
- 37 (6) Date of the declaration,
- 38 (7) Applicant's signature.

39 (c) Petitions for Write-in Candidacy. -- An applicant for write-in candidacy shall:

- 40 (1) If the office is a ~~statewide office,~~ President, Vice President,  
41 Presidential elector, or another office elected statewide, file written  
42 petitions with the State Board of Elections supporting his candidacy  
43 for a specified office. These petitions shall be filed on or before noon  
44 on the 90th day before the general election. They shall be signed by

1 500 qualified voters of the State. No later than 5:00 p.m. on the  
2 fifteenth day preceding the date the petitions are due to be filed with  
3 the State Board of Elections, each petition shall be presented to the  
4 board of elections of the county in which the signatures were obtained.  
5 A petition presented to a county board of elections shall contain only  
6 names of voters registered in that county. Provided the petitions are  
7 timely submitted, the chairman of the county board of elections shall  
8 examine the names on the petition and place a check mark by the name  
9 of each signer who is qualified and registered to vote in his county.  
10 The chairman of the county board shall attach to the petition his signed  
11 certificate. On his certificate the chairman shall state that the  
12 signatures on the petition have been checked against the registration  
13 records and shall indicate the number of signers who are qualified and  
14 registered to vote in his county and eligible to vote for that office. The  
15 chairman shall return each petition, together with the certificate  
16 required in this section, to the person who presented it to him for  
17 checking. The chairman of the county board shall complete the  
18 verification within two weeks from the date the petition is presented.

19 (2) If the office is a district office comprising all or part of two or more  
20 counties, file written petitions with the State Board of Elections  
21 supporting his candidacy for a specified office. These petitions must be  
22 filed with the State Board of Elections on or before noon on the 90th  
23 day before the general election and must be signed by 250 qualified  
24 voters. Before being filed with the State Board of Elections, each  
25 petition shall be presented to the board of elections of the county in  
26 which the signatures were obtained. A petition presented to a county  
27 board of elections shall contain only names of voters registered in that  
28 county who are eligible to vote for that office. The chairman of the  
29 county board shall examine the names on the petition and the  
30 procedure for certification shall be the same as specified in subdivision  
31 (1).

32 (3) If the office is a county office, or is a school administrative unit office  
33 elected on a partisan basis, or is a legislative district consisting of a  
34 single county or a portion of a county, file written petitions with the  
35 county board of elections supporting his candidacy for a specified  
36 office. A petition presented to a county board of elections shall contain  
37 only names of voters registered in that county. These petitions must be  
38 filed on or before noon on the 90th day before the general election and  
39 must be signed by 100 qualified voters who are eligible to vote for the  
40 office, unless fewer than 5,000 persons are eligible to vote for the  
41 office as shown by the most recent records of the appropriate board of  
42 elections. If fewer than 5,000 persons are eligible to vote for the office,  
43 an applicant's petition must be signed by not less than one percent  
44 (1%) of those registered voters. Before being filed with the county

1 board of elections, each petition shall be presented to the county board  
2 of elections for examination. The chairman of the county board of  
3 elections shall examine the names on the petition and the procedure for  
4 certification shall be the same as specified in subdivision (1).

5 (d) Form of Petition. -- Petitions requesting the qualification of a write-in  
6 candidate in a general election shall contain on the heading of each page of the petition  
7 in bold print or in capital letters the words: "THE UNDERSIGNED REGISTERED  
8 VOTERS IN \_\_\_\_\_ COUNTY HEREBY PETITION ON BEHALF OF  
9 \_\_\_\_\_ AS A WRITE-IN CANDIDATE IN THE NEXT GENERAL  
10 ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT  
11 CANDIDATE BE PLACED ON THE LIST OF QUALIFIED WRITE-IN  
12 CANDIDATES WHOSE VOTES ARE TO BE COUNTED AND RECORDED IN  
13 ACCORDANCE WITH G.S. 163-123."

14 (e) Defeated Primary Candidate. -- No person whose name appeared on the ballot  
15 in a primary election preliminary to the general election shall be eligible to have votes  
16 counted for him as a write-in candidate for the same office in that year.

17 (f) Counting and Recording of Votes. -- If a qualified voter has complied with  
18 the provisions of subsections (a), (b), and (c) and is not excluded by subsection (e), the  
19 board of elections with which petition has been filed shall count votes for him according  
20 to the procedures set out in G.S. 163-170(5), and the appropriate board of elections shall  
21 record those votes on the official abstract. Write-in votes for names other than those of  
22 qualified write-in candidates shall not be counted for any purpose and shall not be  
23 recorded on the abstract.

24 (g) Municipal and Nonpartisan Elections Excluded. -- This section does not  
25 apply to municipal elections conducted under Subchapter IX of Chapter 163 of the  
26 General Statutes, and does not apply to nonpartisan elections."

27 **SECTION 8.** This act becomes effective with respect to elections held on  
28 and after January 1, 2002.