

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 10
Judiciary I Committee Substitute Adopted 3/14/01
Judiciary I Committee Substitute No. 2 Adopted 4/2/01

Short Title: Ballot Access Changes.

(Public)

Sponsors:

Referred to:

January 25, 2001

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A BILL TO BE ENTITLED

2

AN ACT TO MAKE CHANGES TO THE BALLOT ACCESS LAWS.

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The General Assembly of North Carolina enacts:

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

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

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

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(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

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(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.

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(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:

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

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

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

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

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

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

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

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

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

3 "**§ 163-97. Termination of ballot status as political party.**

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

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

10 "**§ 163-97.1. Voters affiliated with ~~expired political party.~~ party after loss of ballot**
11 **status.**

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

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

28 "**§ 163-98. General election participation by new political party.**

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

34 For the first general election following the date on which it qualifies under G.S.
35 163-96, a new political party shall select its candidates by party convention. Following
36 adjournment of the nominating convention, but not later than the ~~first day of July~~ 90th
37 day prior to the general election, the president of the convention shall certify to the State
38 Board of Elections the names of persons chosen in the convention as the new party's
39 candidates for ~~State, congressional, and national~~ offices in the ensuing general election.
40 The State Board of Elections shall ~~print~~ print, or direct the appropriate board of
41 elections to print, the names thus certified on the appropriate ballots as the nominees of
42 the new party. Only individuals who are affiliated as registered voters with the new
43 party at the time of their certification shall be eligible to have their names printed on the

1 ballot as nominees of that new party. No individual whose name appeared on the ballot
2 in a primary election of another party preliminary to the general election shall be
3 eligible to have his or her name printed on the ballot as nominee for the same office by a
4 new party."

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

6 **"§ 163-122. Unaffiliated candidates nominated by petition.**

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

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

37 (2) If the office is a district office comprised of two or more counties, file
38 written petitions with the State Board of Elections supporting his
39 candidacy for a specified office. These petitions must be filed with the
40 State Board of Elections on or before 12:00 noon on the last Friday in
41 ~~June~~ July preceding the general election and must be signed by
42 qualified voters of the district equal in number to four percent (4%) of
43 the total number of ~~registered voters in the district as reflected by the~~

1 ~~latest statistical report issued by the State Board of Elections. voters~~
2 ~~who voted in the district in the most recent general election for~~
3 ~~Governor.~~ Each petition shall be presented to the chairman of the
4 board of elections of the county in which the signatures were obtained.
5 The chairman shall examine the names on the petition and the
6 procedure for certification and deadline for submission to the county
7 board shall be the same as specified in (1) above.

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

28 (4) If the office is a partisan municipal office, file written petitions with
29 the chairman or director of the county board of elections in the county
30 wherein the municipality is located supporting his candidacy for a
31 specified municipal office. These petitions must be filed with the
32 county board of elections on or before the time and date specified in
33 G.S. 163-296 and must be signed by the number of qualified voters
34 specified in G.S. 163-296. The procedure for certification shall be the
35 same as specified in (1) above.

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

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

1 (b) Form of Petition. – Petitions requesting an unaffiliated candidate to be placed
2 on the general election ballot shall contain on the heading of each page of the petition in
3 bold print or in all capital letters the words:

4 "THE UNDERSIGNED REGISTERED VOTERS IN _____
5 COUNTY HEREBY PETITION ON BEHALF OF _____ AS AN
6 UNAFFILIATED CANDIDATE IN THE NEXT GENERAL ELECTION. THE
7 UNDERSIGNED HEREBY PETITION THAT ~~SUBJECT THIS~~ CANDIDATE BE
8 PLACED ON THE APPROPRIATE BALLOT UPON COMPLIANCE WITH THE
9 PROVISIONS CONTAINED IN G.S. 163-122."

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

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

12 **"§ 163-209. Names of presidential electors not printed on ballots.**

13 The names of candidates for electors of President and Vice President nominated by
14 any political party recognized in this State under G.S. 163-96, or nominated under G.S.
15 163-1(c) by a candidate for President of the United States who has qualified to have his
16 name printed on the general election ballot as an unaffiliated candidate under G.S.
17 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot.
18 ~~In the case of the unaffiliated candidate, the~~ The names of candidates for electors and of
19 candidates for President and Vice President must shall be filed with the Secretary of
20 State no later than 12:00 noon on the ~~first Friday in August.~~ 90th day before the general
21 election, or two days after that political party's national convention, whichever is later,
22 but in no event later than August 20. In place of ~~their~~ the electors' names, in accordance
23 with the provisions of G.S. 163-140 there shall be printed on the ballot the names of the
24 candidates for President and Vice-President of each political party recognized in this
25 State, and the name of any candidate for President who has qualified to have his name
26 printed on the general election ballot under G.S. 163-122. A candidate for President
27 who has qualified for the general election ballot as an unaffiliated candidate under G.S.
28 163-122 ~~shall, no later than 12:00 noon on the first Friday in August,~~ shall file with the
29 State Board of Elections the name of a candidate for ~~Vice President, whose Vice~~
30 President no later than 12:00 noon on the 90th day before the general election, or two
31 days after that political party's national convention, whichever is later, but in no event
32 later than August 20. That vice presidential candidate's name shall also be printed on the
33 ballot. A vote for the candidates named on the ballot shall be a vote for the electors of
34 the party or unaffiliated candidate by which those candidates were nominated and
35 whose names have been filed with the Secretary of State."

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

37 **"§ 163-123. Declaration of intent and petitions for write-in candidates in partisan**
38 **elections.**

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

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

- 4 (1) Applicant's name,
- 5 (2) Applicant's residential address,
- 6 (3) Declaration of applicant's intent to be a write-in candidate,
- 7 (4) Title of the office sought,
- 8 (5) Date of the election,
- 9 (6) Date of the declaration,
- 10 (7) Applicant's signature.

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

- 12 (1) If the office is a ~~statewide office~~, President, Vice President,
13 Presidential elector, or another office elected statewide, file written
14 petitions with the State Board of Elections supporting his candidacy
15 for a specified office. These petitions shall be filed on or before noon
16 on the 90th day before the general election. They shall be signed by
17 500 qualified voters of the State. No later than 5:00 p.m. on the
18 fifteenth day preceding the date the petitions are due to be filed with
19 the State Board of Elections, each petition shall be presented to the
20 board of elections of the county in which the signatures were obtained.
21 A petition presented to a county board of elections shall contain only
22 names of voters registered in that county. Provided the petitions are
23 timely submitted, the chairman of the county board of elections shall
24 examine the names on the petition and place a check mark by the name
25 of each signer who is qualified and registered to vote in his county.
26 The chairman of the county board shall attach to the petition his signed
27 certificate. On his certificate the chairman shall state that the
28 signatures on the petition have been checked against the registration
29 records and shall indicate the number of signers who are qualified and
30 registered to vote in his county and eligible to vote for that office. The
31 chairman shall return each petition, together with the certificate
32 required in this section, to the person who presented it to him for
33 checking. The chairman of the county board shall complete the
34 verification within two weeks from the date the petition is presented.

- 35 (2) If the office is a district office comprising all or part of two or more
36 counties, file written petitions with the State Board of Elections
37 supporting his candidacy for a specified office. These petitions must be
38 filed with the State Board of Elections on or before noon on the 90th
39 day before the general election and must be signed by 250 qualified
40 voters. Before being filed with the State Board of Elections, each
41 petition shall be presented to the board of elections of the county in
42 which the signatures were obtained. A petition presented to a county
43 board of elections shall contain only names of voters registered in that

1 county who are eligible to vote for that office. The chairman of the
2 county board shall examine the names on the petition and the
3 procedure for certification shall be the same as specified in subdivision
4 (1).

5 (3) If the office is a county office, or is a school administrative unit office
6 elected on a partisan basis, or is a legislative district consisting of a
7 single county or a portion of a county, file written petitions with the
8 county board of elections supporting his candidacy for a specified
9 office. A petition presented to a county board of elections shall contain
10 only names of voters registered in that county. These petitions must be
11 filed on or before noon on the 90th day before the general election and
12 must be signed by 100 qualified voters who are eligible to vote for the
13 office, unless fewer than 5,000 persons are eligible to vote for the
14 office as shown by the most recent records of the appropriate board of
15 elections. If fewer than 5,000 persons are eligible to vote for the office,
16 an applicant's petition must be signed by not less than one percent
17 (1%) of those registered voters. Before being filed with the county
18 board of elections, each petition shall be presented to the county board
19 of elections for examination. The chairman of the county board of
20 elections shall examine the names on the petition and the procedure for
21 certification shall be the same as specified in subdivision (1).

22 (d) Form of Petition. – Petitions requesting the qualification of a write-in
23 candidate in a general election shall contain on the heading of each page of the petition
24 in bold print or in capital letters the words:

25 "THE UNDERSIGNED REGISTERED VOTERS IN _____ COUNTY
26 HEREBY PETITION ON BEHALF OF _____ AS A WRITE-IN
27 CANDIDATE IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED
28 HEREBY PETITION THAT SUBJECT CANDIDATE BE PLACED ON THE LIST
29 OF QUALIFIED WRITE-IN CANDIDATES WHOSE VOTES ARE TO BE
30 COUNTED AND RECORDED IN ACCORDANCE WITH G.S. 163-123."

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

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

41 (g) Municipal and Nonpartisan Elections Excluded. – This section does not apply
42 to municipal elections conducted under Subchapter IX of Chapter 163 of the General
43 Statutes, and does not apply to nonpartisan elections."

1 SECTION 8. G.S. 163-106(a) reads as rewritten:

2 "(a) Notice and Pledge. – No one shall be voted for in a primary election unless he
3 shall have filed a notice of candidacy with the appropriate board of elections, State or
4 county, as required by this section. To this end every candidate for selection as the
5 nominee of a political party shall file with and place in the possession of the board of
6 elections specified in subsection (c) of this section, a notice and pledge in the following
7 form:

8 "Date _____
9 I hereby file notice as a candidate for nomination
10 as _____ in the _____ party
11 primary election to be held on _____, _____. I
12 affiliate with the _____ party, (and I certify that I am
13 now registered on the registration records of the precinct in which I
14 reside as an affiliate of the _____ party).

15 I pledge that if I am defeated in the primary, I will not file or run
16 for any office as a write-in candidate in the next general election. the
17 same office in the general election for which this filing applies as the
18 candidate of another party, as an unaffiliated candidate, or as a write-in
19 candidate.

20 Signed _____
21 Name of candidate

22 Witness:
23 _____
24 _____
25 (Title of witness)"

26 Each candidate shall sign his notice of candidacy in the presence of the chairman or
27 secretary of the board of elections, State or county, with which he files. In the
28 alternative, a candidate may have his signature on the notice of candidacy
29 acknowledged and certified to by an officer authorized to take acknowledgments and
30 administer oaths, in which case the candidate may mail his notice of candidacy to the
31 appropriate board of elections.

32 In signing his notice of candidacy the candidate shall use only his legal name and, in
33 his discretion, any nickname by which he is commonly known. A candidate may also, in
34 lieu of his legal first name and legal middle initial or middle name (if any) sign his
35 nickname, provided that he appends to the notice of candidacy an affidavit that he has
36 been commonly known by that nickname for at least five years prior to the date of
37 making the affidavit. The candidate shall also include with the affidavit the way his
38 name (as permitted by law) should be listed on the ballot if another candidate with the
39 same last name files a notice of candidacy for that office.

40 A notice of candidacy signed by an agent or any person other than the candidate
41 himself shall be invalid.

42 Prior to the date on which candidates may commence filing, the State Board of
43 Elections shall print and furnish, at State expense, to each county board of elections a

1 sufficient number of the notice of candidacy forms prescribed by this subsection for use
2 by candidates required to file with county boards of elections."

3 **SECTION 9.** This act becomes effective with respect to elections held on
4 and after January 1, 2002.