

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
House Committee Substitute Favorable 5/31/01

Short Title: Ballot Access Changes.

(Public)

Sponsors:

Referred to:

January 25, 2001

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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.

1 (b) Petitions for New Political Party. – Petitions for the creation of a new
2 political party shall contain on the heading of each page of the petition in bold print or
3 all in capital letters the words:

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

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

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

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

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

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

39 The group of petitioners shall submit the petitions to the chairman of the county
40 board of elections in the county in which the signatures were obtained no later than 5:00
41 P.M. on the fifteenth day preceding the date the petitions are due to be filed with the
42 State Board of Elections as provided in subsection (a)(2) of this section. Provided the
43 petitions are timely submitted, the chairman of the county board of elections shall

1 proceed to examine and verify the signatures under the provisions of this subsection.
2 Verification shall be completed within two weeks from the date such petitions are
3 presented.

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

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

6 "**§ 163-97. Termination of ballot status as political party.**

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

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

13 "**§ 163-97.1. Voters affiliated with ~~expired political party.~~ party after loss of ballot**
14 **status.**

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

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

31 "**§ 163-98. General election participation by new political party.**

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

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

1 elections to print, the names thus certified on the appropriate ballots as the nominees of
2 the new party. Only individuals who are affiliated as registered voters with the new
3 party at the time of their certification shall be eligible to have their names printed on the
4 ballot as nominees of that new party. No individual whose name appeared on the ballot
5 in a primary election of another party preliminary to the general election shall be
6 eligible to have his or her name printed on the ballot as nominee for the same office by a
7 new party."

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

9 **"§ 163-122. Unaffiliated candidates nominated by petition.**

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

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

40 (2) If the office is a district office comprised of two or more counties, file
41 written petitions with the State Board of Elections supporting his
42 candidacy for a specified office. These petitions must be filed with the
43 State Board of Elections on or before 12:00 noon on the last Friday in

1 June preceding the general election and must be signed by qualified
2 voters of the district equal in number to four percent (4%) of the total
3 number of ~~registered voters in the district as reflected by the latest~~
4 ~~statistical report issued by the State Board of Elections.~~ voters who
5 voted in the district in the most recent general election for Governor.
6 Each petition shall be presented to the chairman of the board of
7 elections of the county in which the signatures were obtained. The
8 chairman shall examine the names on the petition and the procedure
9 for certification and deadline for submission to the county board shall
10 be the same as specified in (1) above.

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

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

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

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

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

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

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

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

15 **"§ 163-209. Names of presidential electors not printed on ballots.**

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

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

40 **"§ 163-123. Declaration of intent and petitions for write-in candidates in partisan**
41 **elections.**

42 (a) Procedure for Qualifying as a Write-In Candidate. – Any qualified voter who
43 seeks to have write-in votes for him counted in a general election shall file a declaration

1 of intent in accordance with subsection (b) of this section and petition(s) in accordance
2 with subsection (c) of this section.

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

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

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

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

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

1 which the signatures were obtained. A petition presented to a county
2 board of elections shall contain only names of voters registered in that
3 county who are eligible to vote for that office. The chairman of the
4 county board shall examine the names on the petition and the
5 procedure for certification shall be the same as specified in subdivision
6 (1).

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

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

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

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

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

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

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

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

"Date _____

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

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

Signed _____
Name of candidate

Witness:

 (Title of witness)"

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

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

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

3 Prior to the date on which candidates may commence filing, the State Board of
4 Elections shall print and furnish, at State expense, to each county board of elections a
5 sufficient number of the notice of candidacy forms prescribed by this subsection for use
6 by candidates required to file with county boards of elections."

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