

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**SENATE BILL 11**

Short Title: Election Changes-Misc.

(Public)

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Sponsors: Senator Gulley.

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Referred to: Judiciary I.

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January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE MISCELLANEOUS CHANGES TO THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 163-114 reads as rewritten:

**"§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position

Presidential elector

President

Vice President

Vacancy is to be filled by  
appointment of national  
executive committee of  
political party in which  
vacancy occurs

Any elective State office  
United States Senator

Vacancy is to be filled by  
appointment of State  
executive committee of  
political party in which  
vacancy occurs

A district office, including:

Member of the United States  
House of Representatives

<p>1 Judge of district court                  2 District Attorney                  3 State Senator in a multi-                  4 county senatorial district                  5 Member of State House of                  6 Representatives in a multi-                  7 county representative                  8 district                  9 State Senator in a single-                  10 county senatorial district                  11 Member of State House of                  12 Representatives in a                  13 single-county                  14 representative district                  15 Any elective county office                  16                  17                  18                  19                  20                  21                  22                  23</p>	<p>Appropriate district executive                  committee of political party                  in which vacancy occurs</p> <p>County executive committee                  of political party in which                  vacancy occurs, provided, in                  the case of the State                  Senator or State                  Representative in a                  single-county district where                  not all the county is                  located in that district,                  then in voting, only those                  members of the county                  executive committee who                  reside within the                  district shall vote</p>
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24           The party executive making a nomination in accordance with the provisions  
 25 of this section shall certify the name of its nominee to the chairman of the board of  
 26 elections, State or county, charged with the duty of printing the ballots on which the  
 27 name is to appear. If at the time a nomination is made under this section the general  
 28 election ballots have already been printed, the provisions of G.S. 163-139 shall apply. If  
 29 any person nominated as a candidate of a political party vacates such nomination and  
 30 such vacancy arises from a cause other than death and the vacancy in nomination occurs  
 31 more than 120 days before the general election, the vacancy in nomination may be filled  
 32 under this section only if the appropriate executive committee certifies the name of the  
 33 nominee in accordance with this paragraph at least 75 days before the general election.

34           In a county not all of which is located in one congressional district, in  
 35 choosing the congressional district executive committee member or members from that  
 36 area of the county, only the county convention delegates or county executive committee  
 37 members who reside within the area of the county which is within the congressional  
 38 district may vote.

39           In a county which is partly in a multi-county senatorial district or which is  
 40 partly in a multi-county House of Representatives district, in choosing that county's  
 41 member or members of the senatorial district executive committee or House of  
 42 Representatives district executive committee for the multi-county district, only the  
 43 county convention delegates or county executive committee members who reside within  
 44 the area of the county which is within that multi-county district may vote."

1           **SECTION 2.** G.S. 163-128 reads as rewritten:

2   "**§ 163-128. Election precincts and voting places established or altered.**

3       (a) Each county shall be divided into a convenient number of precincts for the  
4 purpose of voting. Upon a resolution adopted by the county board of elections and  
5 approved by the Secretary-Director of the State Board of Elections voters from a given  
6 precinct may be temporarily transferred, for the purpose of voting, to an adjacent  
7 precinct. Any such transfers shall be for the period of time equal only to the term of  
8 office of the county board of elections making such transfer. When such a resolution has  
9 been adopted by the county board of elections to assign voters from more than one  
10 precinct to the same precinct, then the county board of elections shall maintain separate  
11 registration and voting records, consistent with the procedure prescribed by the State  
12 Board of Elections, so as to properly identify the precinct in which such voters reside.  
13 The polling place for a precinct shall be located within the precinct or on a lot or tract  
14 adjoining the precinct.

15           Except as provided by Article 12A of this Chapter, the county board of  
16 elections shall have power from time to time, by resolution, to establish, alter,  
17 discontinue, or create such new election precincts or voting places as it may deem  
18 expedient. Upon adoption of a resolution establishing, altering, discontinuing, or  
19 creating a precinct or voting place, the board shall give 45 days' notice thereof prior to  
20 the next primary or election. Notice shall be given by advertisement in a newspaper  
21 having general circulation in the county, by posting a copy of the resolution at the  
22 ~~courthouse door,~~ office of the county board of elections, and by mailing a copy of the  
23 resolution to the chairman of every political party in the county. Notice may  
24 additionally be made on a radio or television station or both, but such notice shall be in  
25 addition to the newspaper and other required notice. No later than 30 days prior to the  
26 primary or election, the county board of elections shall mail a notice of precinct change  
27 to each registered voter who as a result of the change will be assigned to a different  
28 voting place.

29       (b) Each county board of elections shall prepare a map of the county on which  
30 the precinct boundaries are drawn or described, shall revise the map when boundaries  
31 are changed, and shall keep a copy of the current map on file and posted for public  
32 inspection at the office of the Board of Elections, and shall file a copy with the State  
33 Board of Elections."

34           **SECTION 3.** G.S. 163-254 reads as rewritten:

35   "**§ 163-254. Registration and voting on primary or election day.**

36       Notwithstanding any other provisions of Chapter 163 of the General Statutes, any  
37 person entitled to vote an absentee ballot pursuant to G.S. 163-245 who is absent in any  
38 of the capacities specified in that section at the time the registration records close for an  
39 election but who returns to that person's county of residence in North Carolina thereafter  
40 shall be permitted to register in person at any time including the day of a primary or  
41 election. Should such person's eligibility to register or vote as provided in G.S. 163-245  
42 terminate after the twenty-fifth day prior to a primary or election, such person, if he  
43 appears in person, shall be entitled to register if otherwise qualified after the

1 twenty-fifth day before the primary or election, or on the primary or election day, and  
2 shall be permitted to vote if such person is otherwise qualified."

3 **SECTION 4.** G.S. 163-227.3 reads as rewritten:

4 "**§ 163-227.3. Date by which absentee ballots must be available for voting.**

5 (a) The State Board of Elections shall provide absentee ballots of the kinds to be  
6 furnished by the State Board, to the county boards of elections 50 days prior to the date  
7 on which the election shall be conducted unless there shall exist an appeal before the  
8 State Board or the courts not concluded, in which case the State Board shall provide the  
9 ballots as quickly as possible upon the conclusion of such an appeal. In every instance  
10 the State Board shall exert every effort to provide absentee ballots, of the kinds to be  
11 furnished by the State Board, to each county by the date on which absentee voting is  
12 authorized to commence. In any case where absentee ballots are printed by the county  
13 board of elections, that county board shall follow the direction of the State Board in  
14 delaying absentee ballots while an appeal is pending and in providing them as soon as  
15 possible thereafter.

16 (b) Second Primary. -- The State Board of Elections shall provide absentee  
17 ballots, of the kinds to be furnished by the State Board, as quickly as possible after the  
18 ballot information has been determined."

19 **SECTION 5.** G.S. 163-278.39(a)(3) is repealed.

20 **SECTION 6.** G.S. 120-163 reads as rewritten:

21 "**§ 120-163. Petition.**

22 (a) The process of seeking the recommendation of the Commission is  
23 commenced by filing with the Commission a petition signed by fifteen percent (15%) of  
24 the registered voters of the area proposed to be incorporated, but by not less than 25  
25 registered voters of that area, asking for incorporation. The voter shall sign the petition  
26 and also clearly print that voter's name adjacent to the signature. The petition must also  
27 contain the voter's residence address and date of birth.

28 (b) The petition must be verified by the county board of elections of the county  
29 where the voter is alleged to be registered. The board of elections shall cause to be  
30 examined the signature, shall place a check mark beside the name of each signer who is  
31 qualified and registered to vote in that county in the area proposed to be incorporated,  
32 and shall attach to the petition a certificate stating the number of voters registered in that  
33 county in the area proposed to be incorporated, and the total number of registered voters  
34 who have been verified. The county board of elections shall return the petition to the  
35 person who presented it within 15 working days of receipt. That period of 15 working  
36 days shall be tolled for any period of time that is also either two weeks before or one  
37 week after a primary or election being conducted by the county board of elections.

38 (c) The petition must include a proposed name for the city, a map of the city, a  
39 list of proposed services to be provided by the proposed municipality, the names of  
40 three persons to serve as interim governing board, a proposed charter, a statement of the  
41 estimated population, assessed valuation, degree of development, population density,  
42 and recommendations as to the form of government and manner of election. The  
43 petition must contain a statement that the proposed municipality will have a budget  
44 ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred

1 dollar (\$100.00) valuation upon all taxable property within its corporate limits. The  
2 petition must contain a statement that the proposed municipality will offer four of the  
3 following services no later than the first day of the third fiscal year following the  
4 effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid  
5 waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street  
6 construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order  
7 to qualify for providing police protection, the proposed municipality must propose  
8 either to provide police service or to have services provided by contract with a county or  
9 another municipality that proposes that the other government be compensated for  
10 providing supplemental protection. The proposed municipality may not contain any  
11 noncontiguous areas.

12 (d) The petitioners must present to the Commission the verified petition from the  
13 county board of elections.

14 (e) A petition must be submitted to the Commission at least 60 days prior to  
15 convening of the next regular session of the General Assembly in order for the  
16 Commission to make a recommendation to that session."

17 **SECTION 7.** G.S. 163-192.1 reads as rewritten:

18 **"§ 163-192.1. Mandatory recounts.**

19 (a) Whenever, according to the canvass made under this Article, the difference  
20 between the number of votes received by a candidate who:

21 (1) Has received the number of votes necessary to be declared nominated  
22 for an office in a primary election with a majority; or

23 (2) Received the number of votes necessary to be declared nominated for  
24 an office in a second primary election

25 and the number of votes received by any candidate in the race is not more than one  
26 percent (1%) of the total votes which were cast for that office, except in multi-seat races  
27 one percent (1%) of the total votes cast for those two candidates, the State Board of  
28 Elections shall, before declaring the person nominated, order a recount of the primary if  
29 a candidate whose votes, according to a tally of the canvasses made under Article 15 of  
30 this Chapter, fell within one percent (1%) of a successful candidate shall, by noon on  
31 the eighth day (Saturdays and Sundays included) following the election, request in  
32 writing such a recount. Provided, however, that in a statewide contest, no candidate  
33 shall be entitled to an automatic recount under this section unless the difference is ~~at~~  
34 ~~least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes,  
35 whichever is less. Provided further that if the canvass made under this Article  
36 determines that a candidate who was not originally thought to be within the percentage  
37 entitling him to a recount based on the tally of canvasses made under Article 15 of this  
38 Chapter is in fact within the percentage entitling him to a recount, the Executive  
39 Secretary-Director of the State Board of Elections shall immediately notify the  
40 candidate and the candidate shall be entitled to a recount if he so requests within 48  
41 hours of notification.

42 (b) Whenever, according to the canvass made under this Article, the difference  
43 between the number of votes received by a candidate who has been declared elected to  
44 an office in a general election and the number of votes received by any other candidate

1 in the race shall be not more than one percent (1%) of the total votes which were cast  
2 for that office, except in multi-seat races one percent (1%) of the total votes cast for  
3 those two candidates, or where there is a tie vote between those candidates, the State  
4 Board of Elections shall, before certifying the result to the Secretary of State under G.S.  
5 163-193, order a recount of the election if a candidate whose votes, according to a tally  
6 of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of  
7 a successful candidate (or in the case of a tie, either candidate) shall, by noon on the  
8 eighth day (Saturdays and Sundays included) following the election, request in writing  
9 such a recount. Provided, however, that in a statewide contest, no candidate shall be  
10 entitled to an automatic recount under this section unless the difference is ~~at least~~no  
11 greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever  
12 is less. Provided further that if the canvass made under this Article determines that a  
13 candidate who was not originally thought to be within the percentage entitling him to a  
14 recount based on the tally of canvasses made under Article 15 of this Chapter is in fact  
15 within the percentage entitling him to a recount, the Executive Secretary-Director of the  
16 State Board of Elections shall immediately notify the candidate and the candidate shall  
17 be entitled to a recount if he so requests within 48 hours of notification.

18 (c) The recount shall be conducted under the supervision of the State Board of  
19 Elections.

20 (d) This section applies to the offices listed in G.S. 163-192."

21 **SECTION 8.** This act is effective when it becomes law.