

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**SENATE BILL 11
Judiciary I Committee Substitute Adopted 4/9/01
House Committee Substitute Favorable 6/12/01**

Short Title: Election Changes-Misc.

(Public)

Sponsors:

Referred to:

January 25, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE FOR FILLING VACANCIES IN NOMINATION FOR THE
3 NATIONAL TICKET AND FOR PRESIDENTIAL ELECTOR; TO EXPAND THE
4 NOTICE REQUIREMENT FOR PRECINCT CHANGES; TO CLARIFY THE
5 RIGHT OF MILITARY/OVERSEAS VOTERS TO REGISTER AND VOTE ON
6 ELECTION DAY; TO REQUIRE COUNTY BOARDS OF ELECTIONS TO
7 FOLLOW THE DIRECTION OF THE STATE BOARD OF ELECTIONS IN
8 PRINTING ABSENTEE BALLOTS DURING AND AFTER THE PENDENCY OF
9 APPEALS; TO REPEAL A COURT-DISAPPROVED PROVISION OF THE AD-
10 LABELING LAW; TO TOLL THE VERIFICATION OF MUNICIPAL
11 INCORPORATION PETITIONS DURING A PERIOD AROUND A PRIMARY
12 OR ELECTION AND TO MAKE OTHER CHANGES TO THE
13 INCORPORATION PETITION STATUTE; TO MAKE TECHNICAL CHANGES
14 TO THE MANDATORY RECOUNT STATUTES; TO REQUIRE PRIVACY FOR
15 THE VOTER TO MARK THE BALLOT; AND TO STOP THE DAILY
16 CAMPAIGN FINANCE PENALTY AFTER THE POSTMARK DATE SO AS TO
17 ELIMINATE EXCESS POSTAGE COSTS.

18 The General Assembly of North Carolina enacts:

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

20 **"§ 163-114. Filling vacancies among party nominees occurring after nomination**
21 **and before election.**

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

27
28 Position

1		
2	<u>President</u>	<u>Vacancy is to be filled by</u>
3	<u>Vice President</u>	<u>appointment of national</u>
4		<u>executive committee of</u>
5		<u>political party in which</u>
6		<u>vacancy occurs</u>
7		
8	<u>Presidential elector or</u>	
9	<u>alternate elector</u>	Vacancy is to be filled by
10	Any elective State office	appointment of State
11	United States Senator	executive committee of
12		political party in which
13		vacancy occurs
14	A district office, including:	
15	Member of the United States	
16	House of Representatives	
17	Judge of district court	Appropriate district executive
18	District Attorney	committee of political party
19	State Senator in a multi-	in which vacancy occurs
20	county senatorial district	
21	Member of State House of	
22	Representatives in a multi-	
23	county representative	
24	district	
25		
26	State Senator in a single-	County executive committee
27	county senatorial district	of political party in which
28	Member of State House of	vacancy occurs, provided, in
29	Representatives in a	the case of the State
30	Single-county	Senator or State
31	representative district	Representative in a
32	Any elective county office	single-county district where
33		not all the county is
34		located in that district,
35		then in voting, only those
36		members of the county
37		executive committee who
38		reside within the
39		district shall vote
40		

41 The party executive making a nomination in accordance with the provisions of this
 42 section shall certify the name of its nominee to the chairman of the board of elections,
 43 State or county, charged with the duty of printing the ballots on which the name is to

1 appear. If at the time a nomination is made under this section the general election ballots
2 have already been printed, the provisions of G.S. 163-139 shall apply. If ~~any person~~
3 ~~nominated as a candidate of a vacancy occurs in a nomination of a political party~~
4 ~~vacates such nomination and such that~~ vacancy arises from a cause other than death and
5 the vacancy in nomination occurs more than 120 days before the general election, the
6 vacancy in nomination may be filled under this section only if the appropriate executive
7 committee certifies the name of the nominee in accordance with this paragraph at least
8 75 days before the general election.

9 In a county not all of which is located in one congressional district, in choosing the
10 congressional district executive committee member or members from that area of the
11 county, only the county convention delegates or county executive committee members
12 who reside within the area of the county which is within the congressional district may
13 vote.

14 In a county which is partly in a multi-county senatorial district or which is partly in a
15 multi-county House of Representatives district, in choosing that county's member or
16 members of the senatorial district executive committee or House of Representatives
17 district executive committee for the multi-county district, only the county convention
18 delegates or county executive committee members who reside within the area of the
19 county which is within that multi-county district may vote."

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

21 "**§ 163-128. Election precincts and voting places established or altered.**

22 (a) Each county shall be divided into a convenient number of precincts for the
23 purpose of voting. Upon a resolution adopted by the county board of elections and
24 approved by the Secretary-Director of the State Board of Elections voters from a given
25 precinct may be temporarily transferred, for the purpose of voting, to an adjacent
26 precinct. Any such transfers shall be for the period of time equal only to the term of
27 office of the county board of elections making such transfer. When such a resolution has
28 been adopted by the county board of elections to assign voters from more than one
29 precinct to the same precinct, then the county board of elections shall maintain separate
30 registration and voting records, consistent with the procedure prescribed by the State
31 Board of Elections, so as to properly identify the precinct in which such voters reside.
32 The polling place for a precinct shall be located within the precinct or on a lot or tract
33 adjoining the precinct.

34 Except as provided by Article 12A of this Chapter, the county board of elections
35 shall have power from time to time, by resolution, to establish, alter, discontinue, or
36 create such new election precincts or voting places as it may deem expedient. Upon
37 adoption of a resolution establishing, altering, discontinuing, or creating a precinct or
38 voting place, the board shall give 45 days' notice thereof prior to the next primary or
39 election. Notice shall be given by advertisement in a newspaper having general
40 circulation in the county, by posting a copy of the resolution at the courthouse ~~door,~~
41 door and at the office of the county board of elections, and by mailing a copy of the
42 resolution to the chairman of every political party in the county. Notice may
43 additionally be made on a radio or television station or both, but such notice shall be in

1 addition to the newspaper and other required notice. No later than 30 days prior to the
2 primary or election, the county board of elections shall mail a notice of precinct change
3 to each registered voter who as a result of the change will be assigned to a different
4 voting place.

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

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

11 "**§ 163-254. Registration and voting on primary or election day.**

12 Notwithstanding any other provisions of Chapter 163 of the General Statutes, any
13 person ~~entitled to vote an absentee ballot pursuant to~~ in an occupation or status
14 described in G.S. 163-245 who is absent in any of the capacities specified in that section
15 on the day the registration records close for an election but who returns to that person's
16 county of residence in North Carolina thereafter shall be permitted to register in person
17 at any time including the day of a primary or election. Should such person's eligibility to
18 register or vote as provided in G.S. 163-245 terminate after the twenty-fifth day prior to
19 a primary or election, such person, if he appears in person, shall be entitled to register if
20 otherwise qualified after the twenty-fifth day before the primary or election, or on the
21 primary or election day, and shall be permitted to vote if such person is otherwise
22 qualified."

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

24 "**§ 163-227.3. Date by which absentee ballots must be available for voting.**

25 (a) The State Board of Elections shall provide absentee ballots of the kinds to be
26 furnished by the State Board, to the county boards of elections 50 days prior to the date
27 on which the election shall be conducted unless there shall exist an appeal before the
28 State Board or the courts not concluded, in which case the State Board shall provide the
29 ballots as quickly as possible upon the conclusion of such an appeal. In every instance
30 the State Board shall exert every effort to provide absentee ballots, of the kinds to be
31 furnished by the State Board, to each county by the date on which absentee voting is
32 authorized to commence. In any case where absentee ballots are printed by the county
33 board of elections, that county board shall follow the direction of the State Board in
34 delaying absentee ballots while an appeal is pending and in providing them as soon as
35 possible thereafter.

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

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

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

41 "**§ 120-163. Petition.**

42 (a) The process of seeking the recommendation of the Commission is
43 commenced by filing with the Commission a petition signed by fifteen percent (15%) of

1 the registered voters of the area proposed to be incorporated, but by not less than 25
2 registered voters of that area, asking for incorporation. The voter shall sign the petition
3 and also clearly print that voter's name adjacent to the signature. The petition must also
4 contain the voter's residence address and date of birth.

5 (b) The petition must be verified by the county board of elections of the county
6 where the voter is alleged to be registered. The board of elections shall cause to be
7 examined the signature, shall place a check mark beside the name of each signer who is
8 qualified and registered to vote in that county in the area proposed to be incorporated,
9 and shall attach to the petition a certificate stating the number of voters registered in that
10 county in the area proposed to be incorporated, and the total number of registered voters
11 who have been verified. The county board of elections shall return the petition to the
12 person who presented it within 15 working days of receipt. That period of 15 working
13 days shall be tolled for any period of time that is also either two weeks before or one
14 week after a primary or election being conducted by the county board of elections.

15 (c) The petition must include a proposed name for the city, a map of the city, a
16 list of proposed services to be provided by the proposed municipality, the names of
17 three persons to serve as interim governing board, a proposed charter, a statement of the
18 estimated population, assessed valuation, degree of development, population density,
19 and recommendations as to the form of government and manner of election. The
20 petition must contain a statement that the proposed municipality will have a budget
21 ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred
22 dollar (\$100.00) valuation upon all taxable property within its corporate limits. The
23 petition must contain a statement that the proposed municipality will offer four of the
24 following services no later than the first day of the third fiscal year following the
25 effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid
26 waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street
27 construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order
28 to qualify for providing police protection, the proposed municipality must propose
29 either to provide police service or to have services provided by contract with a county or
30 another municipality that proposes that the other government be compensated for
31 providing supplemental protection. The proposed municipality may not contain any
32 noncontiguous areas.

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

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

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

39 **"§ 163-192.1. Mandatory recounts.**

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

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

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

20 (b) Whenever, according to the canvass made under this Article, the difference
21 between the number of votes received by a candidate who has been declared elected to
22 an office in a general election and the number of votes received by any other candidate
23 in the race shall be not more than one percent (1%) of the total votes which were cast
24 for that office, except in multi-seat races one percent (1%) of the total votes cast for
25 those two candidates, or where there is a tie vote between those candidates, the State
26 Board of Elections shall, before certifying the result to the Secretary of State under G.S.
27 163-193, order a recount of the election if a candidate whose votes, according to a tally
28 of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of
29 a successful candidate (or in the case of a tie, either candidate) shall, by noon on the
30 ~~eighth day (Saturdays and Sundays included)~~ second Wednesday following the election,
31 request in writing such a recount. ~~Provided, however, that~~ If, however, in a statewide
32 contest, no candidate shall be entitled to an automatic recount under this section unless
33 the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes
34 cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass
35 made under this Article determines that a candidate who was not originally thought to
36 be within the percentage entitling him to a recount based on the tally of canvasses made
37 under Article 15 of this Chapter is in fact within the percentage entitling him to a
38 recount, the Executive Secretary-Director of the State Board of Elections shall
39 immediately notify the candidate and the candidate shall be entitled to a recount if he so
40 requests within 48 hours of notification.

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

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

1 **SECTION 8.** G.S. 163-145 reads as rewritten:

2 "**§ 163-145. Voting booths; description; provision.**

3 The county board of elections shall furnish each voting place with at least one voting
4 booth for each 100 persons qualified to vote in the precinct. Each voting booth shall be
5 at least three feet square and six feet high; it shall have three sides and a door or curtain
6 in front. The bottom of the door or curtain shall hang two feet above the floor. Each
7 voting booth shall be equipped with a table or shelf on which voters may conveniently
8 mark their ballots.

9 The provisions of this section shall not apply to voting places at which voting
10 machines are ~~used~~-used, except that at all voting places there shall be a curtained or
11 otherwise private area where a voter may mark the ballot unobserved."

12 **SECTION 9.** G.S. 163-227.2 is amended by adding a new subsection to
13 read:

14 "(i) At any site where one-stop absentee voting is conducted, there shall be a
15 curtained or otherwise private area where the voter may mark the ballot unobserved."

16 **SECTION 10.** G.S. 163-278.34(a) reads as rewritten:

17 "(a) Except as provided in G.S. 163-278.9, all reports, statements or other
18 documents required by this Article to be filed with the Board shall be filed either by
19 manual delivery to or by mail addressed to the Board. Timely filing shall be complete if
20 postmarked on the day the reports, statements or other documents are to be delivered to
21 the Board. If a report, statement or other document is not filed within the time required
22 by this Article, then the individual, person, media, candidate, political committee,
23 referendum committee or treasurer responsible for filing shall pay to the State Board of
24 Elections election enforcement costs and a civil late penalty as follows:

- 25 (1) Two hundred fifty dollars (\$250.00) per day for each day the filing is
26 late for a report that affects statewide elections, not to exceed a total of
27 ten thousand dollars (\$10,000); and
28 (2) Fifty dollars (\$50.00) per day for each day the filing is late for a report
29 that affects only nonstatewide elections, not to exceed a total of five
30 hundred dollars (\$500.00).

31 If the form is filed by mail, no civil late penalty shall be assessed for any day after
32 the date of postmark for any day when the State Board of Elections office is open. The
33 State Board shall immediately notify, or cause to be notified, late filers, from which
34 reports are apparently due, ~~by registered or certified mail, return receipt requested, by~~
35 mail, of the penalties under this section."

36 **SECTION 11.** Section 6 of this act becomes effective with respect to any
37 petitions submitted on or after December 1, 2001. The remainder of this act is effective
38 when it becomes law.