

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**HOUSE BILL 1421**

Short Title: Election Amendments. (Public)

Sponsors: Representatives Wainwright; and Lucas.

Referred to: Election Law and Campaign Finance Reform, if favorable, Judiciary I.

April 13, 2009

A BILL TO BE ENTITLED  
AN ACT TO MAKE VARIOUS CHANGES TO THE ELECTION LAWS RELATED TO  
VOTING EQUIPMENT, PREPARATION OF BALLOTS, AND TO THE DUTIES OF  
THE COUNTY BOARDS OF ELECTIONS AND THE STATE BOARD OF  
ELECTIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 163-165.3(a) reads as rewritten:

"(a) State Board Responsibilities. – The State Board of Elections shall certify the official ballots and voter instructions to be used in every election that is subject to this Article. In conducting its certification, the State Board shall adhere to the following:

- (1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification and times for the State Board to complete the certification.
- (2) The State Board of Elections shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board of Elections may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.
- (3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.
- (4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Article and standards adopted by the State Board.
- (5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.
- (6) The State Board is not required to certify or review every official ballot style in the county but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

The State Board shall be responsible for oversight of all ballot coding and In order to produce the data necessary for equipment programming, each county shall either contract with a qualified vendor certified by the State Board or supervise trained election staff to



1 ~~produce the data necessary for equipment programming.~~ be certified by the State Board to  
2 produce the data."

3 **SECTION 2.** G.S. 163-165.7(e) reads as rewritten:

4 "(e) The State Board of Elections shall facilitate training and support of the voting  
5 systems utilized by the counties. The training may be conducted through the use of  
6 videoconferencing or other technology."

7 **SECTION 3.** G.S. 163-165.9(b) reads as rewritten:

8 "(b) After the acquisition of any voting system, the county board of elections shall  
9 comply with any requirements of the State Board of Elections regarding training and support of  
10 the voting system by completing all of the following:

11 (1) The county board of elections shall comply with all specifications of its  
12 voting system vendor for ballot printers. The county board of elections is  
13 authorized to contract with noncertified ballot printing vendors, so long as  
14 the noncertified ballot printing vendor meets all specifications and all quality  
15 assurance requirements as set by the State Board of Elections.

16 (2) The county board of elections shall annually maintain software license and  
17 maintenance agreements necessary to maintain the warranty of its voting  
18 system. The State Board of Elections shall not provide maintenance to any  
19 county board of elections that does not maintain the warranty of its voting  
20 system.

21 (3) The county board of elections shall not repair or replace any voting system,  
22 or any portion thereof, without approval of the State Board of Elections."

23 **SECTION 4.(a)** G.S. 163-22 reads as rewritten:

24 "...

25 (o) The State Board of Elections shall promulgate minimum requirements for the  
26 number of pollbooks, voting machines and curbside ballots to be available at each precinct,  
27 such that more of such will be available at general elections and a sufficient number will be  
28 available to allow voting without excessive delay. The State Board of Elections shall provide  
29 for a training and screening program for chief judges and judges. The State Board of Elections  
30 shall provide additional testing of voting machines to ensure that they operate properly even  
31 with complicated ballots.

32 (p) The State Board of Elections shall require counties with voting systems to have  
33 sufficient personnel available on election day with technical expertise to make repairs in such  
34 equipment, to investigate election day problems, and assist in curbside voting.

35 (q) The State Board of Elections may delegate administrative matters to the Executive  
36 Director by resolution, provided the resolution provides for a mechanism of review by the State  
37 Board of administrative decisions made by the Executive Director."

38 **SECTION 4.(b)** G.S. 163-166.1 reads as rewritten:

39 **"§ 163-166.1. Duties of county board of elections.**

40 The county board of elections shall:

41 (1) Provide for the timely delivery to each voting place of the supplies, records,  
42 and equipment necessary for the conduct of the election.

43 (2) Ensure that adequate procedures are in place at each voting place for a safe,  
44 secure, fair, and honest election.

45 (3) Respond to precinct officials' questions and problems where necessary.

46 (4) Provide adequate technical support for the voting system, which shall be  
47 done in conjunction with the State Board of Elections."

48 **SECTION 5.(a)** G.S. 163-278.68 reads as rewritten:

49 **"§ 163-278.68. Enforcement and administration.**

50 (a) Enforcement by the Board. – ~~The Board, with the advice of the Advisory Council~~  
51 ~~for the Public Campaign Fund, Board~~ shall administer the provisions of this Article.

1        ~~(b) Advisory Council for the Public Campaign Fund. — There is established under the~~  
2 ~~Board the Advisory Council for the Public Campaign Fund to advise the Board on the rules,~~  
3 ~~procedures, and opinions it adopts for the enforcement and administration of this Article and on~~  
4 ~~the funding needs and operation of the Public Campaign Fund. The Advisory Council shall~~  
5 ~~consist of five members to be appointed as follows:~~

6            ~~(1) The Governor shall name two members from a list of individuals nominated~~  
7 ~~by the State Chair of the political party with which the greatest number of~~  
8 ~~registered voters is affiliated. The State Chair of that party shall submit to~~  
9 ~~the Governor the names of five nominees.~~

10           ~~(2) The Governor shall name two members from a list of individuals nominated~~  
11 ~~by the State Chair of the political party with which the second greatest~~  
12 ~~number of registered voters is affiliated. The State Chair of that party shall~~  
13 ~~submit to the Governor the names of five nominees.~~

14           ~~(3) The Board shall name one member by unanimous vote of all members of the~~  
15 ~~Board. If the Board cannot reach unanimity on the appointment of that~~  
16 ~~member, the Advisory Council shall consist of the remaining members.~~

17        ~~No individual shall be eligible to be a member of the Advisory Council who would be~~  
18 ~~ineligible to serve on a county board of elections in accordance with G.S. 163-30. The initial~~  
19 ~~members shall be appointed by December 1, 2002. Of the initial appointees, two are appointed~~  
20 ~~for one-year terms, two are appointed for two-year terms, and one is appointed for a three-year~~  
21 ~~term according to random lot. Thereafter, appointees are appointed to serve four-year terms. An~~  
22 ~~individual may not serve more than two full terms, except that regardless of the time of~~  
23 ~~appointment each term shall end on December 31. A member shall continue on the Advisory~~  
24 ~~Council beyond the expired term until a successor is appointed. The appointed members~~  
25 ~~receive the legislative per diem pursuant to G.S. 120-3.1. One of the Advisory Council~~  
26 ~~members shall be elected by the members as Chair. A vacancy during an unexpired term shall~~  
27 ~~be filled in the same manner as the regular appointment for that term, but a vacancy~~  
28 ~~appointment is only for the unexpired portion of the term.~~

29        ~~(c) Appeals. — The initial decision on an issue concerning qualification, certification, or~~  
30 ~~distribution of funds under this Article shall be made by the Executive Director of the Board.~~  
31 ~~The procedure for challenging that decision is as follows:~~

32           ~~(1) An individual or entity aggrieved by a decision by the Executive Director of~~  
33 ~~the Board may appeal to the full Board within three business days of the~~  
34 ~~decision. The appeal shall be in writing and shall set forth the reasons for the~~  
35 ~~appeal.~~

36           ~~(2) Within five business days after an appeal is properly made, and after due~~  
37 ~~notice is given to the parties, the Board shall hold a hearing. The appellant~~  
38 ~~has the burden of providing evidence to demonstrate that the decision of the~~  
39 ~~Executive Director was improper. The Board shall rule on the appeal within~~  
40 ~~three business days after the completion of the hearing.~~

41        ~~(d) Board to Adopt Rules and Issue Opinions. — The Board shall adopt rules and issue~~  
42 ~~opinions to ensure effective administration of this Article. Such rules and opinions shall~~  
43 ~~include, but not be limited to, procedures for obtaining qualifying contributions, certification of~~  
44 ~~candidates, addressing circumstances involving special elections, vacancies, recounts,~~  
45 ~~withdrawals, or replacements, collection of revenues for the Fund, distribution of Fund revenue~~  
46 ~~to certified candidates, return of unspent Fund disbursements, and compliance with this Article.~~  
47 ~~The Board shall adopt procedures for the distribution of matching money that further the~~  
48 ~~purpose and avoid the subversion of G.S. 163-278.67. For races involving special elections,~~  
49 ~~recounts, vacancies, withdrawals, or replacement candidates, the Board shall establish~~  
50 ~~procedures for qualification, certification, disbursement of Fund revenues, and return of~~

1 unspent Fund revenues. ~~The Board shall fulfill each of these duties in consultation with the~~  
2 ~~Advisory Council on the Public Campaign Fund.~~

3 (e) Report to the Public. – ~~The Advisory Council for the Public Campaign Fund~~Board  
4 shall issue a report by March 1, 2005, and every two years thereafter that evaluates and makes  
5 recommendations about the implementation of this Article and the feasibility of expanding its  
6 provisions to include other candidates for State office based on the experience of the Fund and  
7 the experience of similar programs in other states. ~~The Advisory Council~~After conducting at  
8 least one public hearing to accept public comment on this Article, the Board shall also evaluate  
9 and make recommendations regarding how to address activities that could undermine the  
10 purpose of this Article, including spending that appears to target candidates receiving money  
11 from the Fund but that does not meet the definition of "independent expenditures.""

12 **SECTION 5.(b)** G.S. 163-278.63(c) reads as rewritten:

13 "(c) Determination of Fund Amount. – By October 1, 2003, and every two years  
14 thereafter, the ~~Board, in conjunction with the Advisory Council for the Public Campaign~~  
15 ~~Financing Fund,~~Board shall prepare and provide to the Joint Legislative Commission on  
16 Governmental Operations of the General Assembly a report documenting, evaluating, and  
17 making recommendations relating to the administration, implementation, and enforcement of  
18 this Article. Prior to making its report, the Board shall conduct at least one public hearing to  
19 accept comment on this Article. In its report, the Board shall set out the funds received to date  
20 and the expected needs of the Fund for the next election."

21 **SECTION 5.(c)** G.S. 163-278.97(c) reads as rewritten:

22 "(c) Evaluation and Determination of Fund Amount. – By January 1, 2011, and every  
23 four years thereafter, the ~~Board, in conjunction with the Advisory Council established under~~  
24 ~~G.S. 163-278.68(b),~~Board shall prepare and provide to the Joint Legislative Commission on  
25 Governmental Operations of the General Assembly a report documenting, evaluating, and  
26 making recommendations relating to the administration, implementation, and enforcement of  
27 this Article. Prior to making its report, the Board shall conduct at least one public hearing to  
28 accept comment on the Fund. In its report, the Board shall set out the funds received to date and  
29 the expected needs of the Fund during the next election cycle and make recommendations  
30 about the feasibility of expanding its provisions to include other candidates for State office  
31 based on the experience of this Article and the experience of similar programs in North  
32 Carolina and other states. The Board shall also evaluate and make recommendations regarding  
33 how to address activities that could undermine the purpose of this Article, including spending  
34 that appears to target candidates but is not reached by regulation."

35 **SECTION 6.** Section 3 of this act becomes effective July 1, 2009. Section 1 of this  
36 act becomes effective July 1, 2010. The remainder of this act is effective when it becomes law.