

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 452

Short Title: Eliminate "Instant Runoff"/Public Financing. (Public)

Sponsors: Representative Starnes (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Elections.

March 24, 2011

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE "INSTANT RUNOFF" VOTING FOR JUDICIAL OFFICES
WHEN LATE VACANCIES OCCUR AND INSTEAD DETERMINE THE RESULTS OF
THE VACANCY ELECTION BY PLURALITY, AND TO REPEAL PUBLIC
CAMPAIGN FINANCING FOR JUDICIAL AND COUNCIL OF STATE RACES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-329 reads as rewritten:

"§ 163-329. Elections to fill vacancy in office created after primary filing period opens.

(a) General. – If a vacancy is created in the office of justice of the Supreme Court, judge of the Court of Appeals, or judge of superior court after the filing period for the primary opens but more than 60 days before the general election, and under the Constitution of North Carolina an election is to be held for that position, such that the office shall be filled in the general election as provided in G.S. 163-9, the election to fill the office for the remainder of the term shall be conducted without a primary using the method provided in subsection (b1) of this section. If a vacancy is created in the office of justice of the Supreme Court, judge of the Court of Appeals, or judge of superior court before the filing period for the primary opens, and under the Constitution of North Carolina an election is to be held for that position, such that the office shall be filled in the general election as provided in G.S. 163-9, the election to fill the office for the remainder of the term shall be conducted in accordance with G.S. 163-322.

(b) Repealed by Session Laws 2006-192, s. 8(a), effective August 3, 2006, and applicable to vacancies occurring on or after that date.

(b1) Method for Vacancy Election. – If a vacancy for the office of justice of the Supreme Court, judge of the Court of Appeals, or judge of the superior court occurs more than 60 days before the general election and after the opening of the filing period for the primary, then the State Board of Elections shall designate a special filing period of one week for candidates for the office. If more than two candidates file and qualify for the office in accordance with G.S. 163-323, then the Board shall conduct the election for the office as follows:

(1) When the vacancy described in this section occurs more than 63 days before the date of the second primary for members of the General Assembly, a special primary shall be held on the same day as the second primary. The two candidates with the most votes in the special primary shall have their names placed on the ballot for the general election held on the same day as the general election for members of the General Assembly.

(2) When the vacancy described in this section occurs less than 64 days before the date of the second primary, a general election for all the candidates shall



1 be held on the same day as the general election for members of the General
2 Assembly and the plurality method of determining the results shall be used,
3 as follows:

4 a. When more than one person is seeking election to a single office, the
5 candidate who receives the highest number of votes shall be declared
6 elected.

7 b. When more persons are seeking election to two or more offices as
8 superior court judge (constituting a group) than there are offices to be
9 filled, those candidates receiving the highest numbers of votes, equal
10 in number to the number of offices to be filled, shall be declared
11 elected.

12 ~~"instant runoff voting" method shall be used to determine the winner. Under~~
13 ~~"instant runoff voting," voters rank up to three of the candidates by order of~~
14 ~~preference, first, second, or third. If the candidate with the greatest number~~
15 ~~of first-choice votes receives more than fifty percent (50%) of the~~
16 ~~first-choice votes, that candidate wins. If no candidate receives that~~
17 ~~minimum number, the two candidates with the greatest number of~~
18 ~~first-choice votes advance to a second round of counting. In this round, each~~
19 ~~ballot counts as a vote for whichever of the two final candidates is ranked~~
20 ~~highest by the voter. The candidate with the most votes in the second round~~
21 ~~wins the election. If more than one seat is to be filled in the same race, the~~
22 ~~voter votes the same way as if one seat were to be filled. The counting is the~~
23 ~~same as when one seat is to be filled, with one or two rounds as needed,~~
24 ~~except that counting is done separately for each seat to be filled. The first~~
25 ~~count results in the first winner. Then the second count proceeds without the~~
26 ~~name of the first winner. This process results in the second winner. For each~~
27 ~~additional seat to be filled, an additional count is done without the names of~~
28 ~~the candidates who have already won. In multi-seat contests, the State Board~~
29 ~~of Elections may give the voter more than three choices.~~

30 (3) If two or more candidates receiving the highest number of votes each receive
31 the same number of votes, the board of elections shall resolve the tie in
32 accordance with G.S. 163-182.8.

33 (c) Applicable Provisions. – Except as provided in this section, the provisions of this
34 Article apply to elections conducted under this section.

35 (d) Rules. – The State Board of Elections shall adopt rules for the implementation of
36 this section. The rules are not subject to Article 2A of Chapter 150B of the General Statutes.
37 ~~The rules shall include the following:~~

38 (1) ~~If after the first-choice candidate is eliminated, a ballot does not indicate one~~
39 ~~of the uneliminated candidates as an alternative choice, the ballot is~~
40 ~~exhausted and shall not be counted after the initial round.~~

41 (2) ~~The fact that the voter does not designate a second or third choice does not~~
42 ~~invalidate the voter's higher choice or choices.~~

43 (3) ~~The fact that the voter gives more than one ranking to the same candidate~~
44 ~~shall not invalidate the vote. The highest ranking given a particular candidate~~
45 ~~shall count as long as the candidate is not eliminated.~~

46 (4) ~~In case of a tie between candidates such that two or more candidates have an~~
47 ~~equal number of first choices and more than two candidates qualify for the~~
48 ~~second round, instant runoff voting shall be used to determine which two~~
49 ~~candidates shall advance to the second round."~~

50 **SECTION 2.1.** Article 22D of Chapter 163 of the General Statutes is repealed.

51 **SECTION 2.2.** Article 22J of Chapter 163 of the General Statutes is repealed.

1 **SECTION 2.3.** G.S. 105-159.2 is repealed.

2 **SECTION 2.4.** G.S. 84-34 reads as rewritten:

3 "**§ 84-34. Membership fees and list of members.**

4 Every active member of the North Carolina State Bar shall, prior to the first day of July of
5 each year, pay to the secretary-treasurer an annual membership fee in an amount determined by
6 the Council but not to exceed three hundred dollars (\$300.00), ~~plus a surcharge of fifty dollars~~
7 ~~(\$50.00) for the implementation of Article 22D of Chapter 163 of the General Statutes,~~ and
8 every member shall notify the secretary-treasurer of the member's correct mailing address. Any
9 member who fails to pay the required dues by the last day of June of each year shall be subject
10 to a late fee in an amount determined by the Council but not to exceed thirty dollars (\$30.00).
11 All dues for prior years shall be as were set forth in the General Statutes then in effect. The
12 membership fee shall be regarded as a service charge for the maintenance of the several
13 services authorized by this Article, and shall be in addition to all fees required in connection
14 with admissions to practice, and in addition to all license taxes required by law. The fee shall
15 not be prorated: Provided, that no fee shall be required of an attorney licensed after this Article
16 shall have gone into effect until the first day of January of the calendar year following that in
17 which the attorney was licensed; but this proviso shall not apply to attorneys from other states
18 admitted on certificate. The fees shall be disbursed by the secretary-treasurer on the order of the
19 Council. ~~The fifty dollar (\$50.00) surcharge shall be sent on a monthly schedule to the State~~
20 ~~Board of Elections.~~ The secretary-treasurer shall annually, at a time and in a law magazine or
21 daily newspaper to be prescribed by the Council, publish an account of the financial
22 transactions of the Council in a form to be prescribed by it. The secretary-treasurer shall
23 compile and keep currently correct from the names and mailing addresses forwarded to the
24 secretary-treasurer and from any other available sources of information a list of members of the
25 North Carolina State Bar and furnish to the clerk of the superior court in each county, not later
26 than the first day of October in each year, a list showing the name and address of each attorney
27 for that county who has not complied with the provisions of this Article. The name of each of
28 the active members who are in arrears in the payment of membership fees shall be furnished to
29 the presiding judge at the next term of the superior court after the first day of October of each
30 year, by the clerk of the superior court of each county wherein the member or members reside,
31 and the court shall thereupon take action that is necessary and proper. The names and addresses
32 of attorneys so certified shall be kept available to the public. The Secretary of Revenue is
33 hereby directed to supply the secretary-treasurer, from records of license tax payments, with
34 any information for which the secretary-treasurer may call in order to enable the
35 secretary-treasurer to comply with this requirement.

36 The list submitted to several clerks of the superior court shall also be submitted to the
37 Council at its October meeting of each year and it shall take the action thereon that is necessary
38 and proper."

39 **SECTION 2.5.** G.S. 163-278.5 reads as rewritten:

40 "**§ 163-278.5. Scope of Article; severability.**

41 The provisions of this Article apply to primaries and elections for North Carolina offices
42 and to North Carolina referenda and do not apply to primaries and elections for federal offices
43 or offices in other States or to non-North Carolina referenda. Any provision in this Article that
44 regulates a non-North Carolina entity does so only to the extent that the entity's actions affect
45 elections for North Carolina offices or North Carolina referenda.

46 The provisions of this Article are severable. If any provision is held invalid by a court of
47 competent jurisdiction, the invalidity does not affect other provisions of the Article that can be
48 given effect without the invalid provision.

49 This section applies to Articles 22B, ~~22D~~, 22E, 22F, 22G, 22H, ~~22J~~, and 22M of the
50 General Statutes to the same extent that it applies to this Article."

51 **SECTION 2.6.** G.S. 163-278.13(e2), (e3), and (e4) are repealed.

1 **SECTION 2.7.** The balances of the North Carolina Public Campaign Fund and the
2 North Carolina Voter-Owned Elections Fund upon this act becoming law are transferred to the
3 General Fund, except that any unexpended funds received pursuant to voluntary donations
4 under G.S. 163-278.63(b)(6) and from the tax on attorneys under G.S. 163-378.63(b)(7) and
5 G.S. 84-34 shall be retained by the State Board of Elections for use in printing voter guides.

6 **SECTION 3.** This act is effective when it becomes law.