

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

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**SENATE BILL 47**

Short Title:   Restore Partisan Judicial Elections. (Public)

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Sponsors:   Senators Tillman; Allran, Apodaca, Bingham, Blake, Brock, Brown, Clary,  
Daniel, Davis, East, Forrester, Gunn, Harrington, Hartsell, Hise, Hunt, Jackson,  
Meredith, Newton, Pate, Preston, Rabon, Rouzer, Rucho, Soucek, Stevens, and  
Tucker.

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Referred to:   Judiciary I.

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February 9, 2011

A BILL TO BE ENTITLED

AN ACT TO RESTORE JUDICIAL ELECTIONS TO A PARTISAN BASIS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Subchapter X (Article 25) of Chapter 163 of the General Statutes is repealed.

**SECTION 2.** G.S. 163-106(c) reads as rewritten:

"(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the primary:

Governor

Lieutenant Governor

All State executive officers

Justices of the Supreme Court, Judges of the Court of Appeals

Judges of the superior courts

Judges of the district courts

United States Senators

Members of the House of Representatives of the United States

District attorneys

Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the county board of elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the primary:

State Senators

Members of the State House of Representatives

All county offices."

**SECTION 3.** G.S. 163-106(d) reads as rewritten:

"(d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any primary in which there are two or more vacancies for associate justices for the Supreme Court, two or more vacancies for the Court of Appeals, two or more vacancies for district court judge, or two vacancies for United States Senator from North Carolina, each candidate shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the vacancy to which he seeks nomination. Votes cast for a candidate shall be effective only for



1 his nomination to the vacancy for which he has given notice of candidacy as provided in this  
2 subsection."

3 **SECTION 4.** G.S. 163-107(a) reads as rewritten:

4 "(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate shall pay  
5 to the board of elections with which he files under the provisions of G.S. 163-106 a filing fee  
6 for the office he seeks in the amount specified in the following tabulation:  
7

<b>Office Sought</b>	<b>Amount of Filing Fee</b>
8 Governor	One percent (1%) of the annual salary of the 9 office sought
10 Lieutenant Governor	One percent (1%) of the annual salary of the 11 office sought
12 All State executive offices	One percent (1%) of the annual salary of the 13 office sought
14 All <u>Justices, Judges, and</u>	One percent (1%) of the annual salary of
15 District Attorneys of the General	the office sought
16 Court of Justice	
17 United States Senator	One percent (1%) of the annual salary of the 18 office sought
19 Members of the United States House	One percent (1%) of the annual salary of
20 of Representatives	the office sought
21 State Senator	One percent (1%) of the annual salary of the 22 office sought
23 Member of the State House of	One percent (1%) of the annual salary of
24 Representatives	the office sought
25 All county offices not compensated by fees	One percent (1%) of the annual salary of the 26 office sought
27 All county offices compensated partly	One percent (1%) of the first annual
28 by salary and partly by fees	salary to be received (exclusive of fees)

29 The salary of any office that is the basis for calculating the filing fee is the starting salary  
30 for the office, rather than the salary received by the incumbent, if different. If no starting salary  
31 can be determined for the office, then the salary used for calculation is the salary of the  
32 incumbent, as of January 1 of the election year."  
33

34 **SECTION 5.** G.S. 163-107.1(c) reads as rewritten:

35 "(c) County, Municipal and District Primaries. – If the candidate is seeking one of the  
36 offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this section, or a  
37 municipal or any other office requiring a partisan primary which is not set forth in  
38 G.S. 163-106(c) or (d), he shall file a written petition with the appropriate board of elections no  
39 later than 12:00 noon on Monday preceding the filing deadline before the primary. The petition  
40 shall be signed by ten percent (10%) of the registered voters of the election area in which the  
41 office will be voted for, who are affiliated with the same political party in whose primary the  
42 candidate desires to run, or in the alternative, the petition shall be signed by no less than 200  
43 registered voters regardless of said voter's political party affiliation, whichever requirement is  
44 greater. The board of elections shall verify the names on the petition, and if the petition is  
45 found to be sufficient, the candidate's name shall be printed on the appropriate primary ballot.  
46 Petitions for candidates for member of the U.S. House of Representatives, District Attorney,  
47 judge of the superior court, judge of the district court, and members of the State House of  
48 Representatives from multi-county districts or members of the State Senate from multi-county  
49 districts must be presented to the county board of elections for verification at least 15 days  
50 before the petition is due to be filed with the State Board of Elections, and such petition must  
51 be filed with the State Board of Elections no later than 12:00 noon on Monday preceding the

1 filing deadline. The State Board of Elections may adopt rules to implement this section and to  
 2 provide standard petition forms."

3 **SECTION 6.** G.S. 163-111(c)(1) reads as rewritten:

4 "(c) Procedure for Requesting Second Primary. –

5 (1) A candidate who is apparently entitled to demand a second primary,  
 6 according to the unofficial results, for one of the offices listed below, and  
 7 desiring to do so, shall file a request for a second primary in writing with the  
 8 Executive Director of the State Board of Elections no later than 12:00 noon  
 9 on the ninth day (including Saturdays and Sundays) following the date on  
 10 which the primary was conducted, and such request shall be subject to the  
 11 certification of the official results by the State Board of Elections. If the vote  
 12 certification by the State Board of Elections determines that a candidate who  
 13 was not originally thought to be eligible to call for a second primary is in  
 14 fact eligible to call for a second primary, the Executive Director of the State  
 15 Board of Elections shall immediately notify such candidate and permit him  
 16 to exercise any options available to him within a 48-hour period following  
 17 the notification:

- 18 Governor,
- 19 Lieutenant Governor,
- 20 All State executive officers,
- 21 Justices, Judges, or District Attorneys of the General Court of Justice,
- 22 United States Senators,
- 23 Members of the United States House of Representatives,
- 24 State Senators in multi-county senatorial districts, and
- 25 Members of the State House of Representatives in multi-county  
 26 representative districts."

27 **SECTION 7.** G.S. 163-114 reads as rewritten:

28 **"§ 163-114. Filling vacancies among party nominees occurring after nomination and**  
 29 **before election.**

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

36	Position	
37	President	Vacancy is to be filled by appointment of
38	Vice President	national executive committee of
39		political party in which vacancy occurs
40		
41	Presidential elector or alternate elector	Vacancy is to be filled by appointment of
42	Any elective State office	State executive committee of political
43	United States Senator	party in which vacancy occurs
44		
45	A district office, including:	Appropriate district executive committee of
46	Member of the United States House	political party in which vacancy occurs
47	of Representatives	
48	<u>Judge of district court</u>	
49	District Attorney	
50	State Senator in a multi-county	
51	senatorial district	

1 Member of State House of  
 2 Representatives in a multi-county  
 3 representative district  
 4

5 State Senator in a single-county  
 6 senatorial district  
 7 Member of State House of  
 8 Representatives in a single-county  
 9 representative district  
 10 Any elective county office  
 11

12  
 13  
 14  
 15 Judge of superior court in a  
 16 single-county judicial  
 17 district where the district  
 18 is the whole county or part  
 19 of the county  
 20

21  
 22  
 23  
 24  
 25  
 26  
 27  
 28  
 29 Judge of superior court in a  
 30 multi-county judicial  
 31 district  
 32

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

County executive committee of political party in which vacancy occurs; provided, in the case of a superior court judge 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

Appropriate district executive committee of political party in which vacancy occurs.

33 The party executive making a nomination in accordance with the provisions of this section shall  
 34 certify the name of its nominee to the chairman of the board of elections, State or county, that  
 35 has jurisdiction over the ballot item under G.S. 163-182.4. If at the time a nomination is made  
 36 under this section the general election ballots have already been printed, the provisions of  
 37 G.S.163-165.3(c) shall apply. If a vacancy occurs in a nomination of a political party and that  
 38 vacancy arises from a cause other than death and the vacancy in nomination occurs more than  
 39 120 days before the general election, the vacancy in nomination may be filled under this section  
 40 only if the appropriate executive committee certifies the name of the nominee in accordance  
 41 with this paragraph at least 75 days before the general election.

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

46 In a county not all of which is located in one congressional district, in choosing the  
 47 congressional district executive committee member or members from that area of the county,  
 48 only the county convention delegates or county executive committee members who reside  
 49 within the area of the county which is within the congressional district may vote.

50 In a county which is partly in a multi-county senatorial district or which is partly in a  
 51 multi-county House of Representatives district, in choosing that county's member or members

1 of the senatorial district executive committee or House of Representatives district executive  
2 committee for the multi-county district, only the county convention delegates or county  
3 executive committee members who reside within the area of the county which is within that  
4 multi-county district may vote.

5 An individual whose name appeared on the ballot in a primary election preliminary to the  
6 general election shall not be eligible to be nominated to fill a vacancy in the nomination of  
7 another party for the same office in the same year."

8 **SECTION 8.** G.S. 138A-22(d) reads as rewritten:

9 "(d) A candidate for an office subject to this Article shall file the statement of economic  
10 interest at the same place and in the same manner as the notice of candidacy for that office is  
11 required to be filed under G.S. 163-106 ~~or G.S. 163-323~~ within 10 days of the filing deadline  
12 for the office the candidate seeks. An individual who is nominated under G.S. 163-114 after the  
13 primary and before the general election, and an individual who qualifies under G.S. 163-122 as  
14 an unaffiliated candidate in a general election, shall file a statement of economic interest with  
15 the county board of elections of each county in the senatorial or representative district. An  
16 individual nominated under G.S. 163-114 shall file the statement within three days following  
17 the individual's nomination, or not later than the day preceding the general election, whichever  
18 occurs first. An individual seeking to qualify as an unaffiliated candidate under G.S. 163-122  
19 shall file the statement of economic interest with the petition filed under that section. An  
20 individual seeking to have write-in votes counted for that individual in a general election shall  
21 file a statement of economic interest at the same time the candidate files a declaration of intent  
22 under G.S. 163-123. A candidate of a new party chosen by convention shall file a statement of  
23 economic interest at the same time that the president of the convention certifies the names of its  
24 candidates to the State Board of Elections under G.S. 163-98."

25 **SECTION 9.** G.S. 163-22.3 reads as rewritten:

26 "**§ 163-22.3. State Board of Elections littering notification.**

27 At the time an individual files with the State Board of Elections a notice of candidacy  
28 pursuant to G.S. 163-106, 163-112, 163-291, ~~163-294.2, or 163-323,~~ or 163-294.2, is certified  
29 to the State Board of Elections by a political party executive committee to fill a nomination  
30 vacancy pursuant to G.S. 163-114, is certified to the State Board of Elections by a new political  
31 party as that party's nominee pursuant to G.S. 163-98, qualifies with the State Board of  
32 Elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or  
33 formally initiates a candidacy with the State Board of Elections pursuant to any statute or local  
34 act, the State Board of Elections shall notify the candidate of the provisions concerning  
35 campaign signs in G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department of  
36 Transportation pursuant to G.S. 136-18."

37 **SECTION 10.** G.S. 163-82.10B reads as rewritten:

38 "**§ 163-82.10B. Confidentiality of date of birth.**

39 Boards of elections shall keep confidential the date of birth of every voter-registration  
40 applicant and registered voter, except in the following situations:

- 41 (1) When a voter has filed notice of candidacy for elective office under  
42 G.S. 163-106, 163-122, 163-123, or 163-294.2, ~~or 163-323,~~  
43 nominated as a candidate under G.S. 163-98 or G.S. 163-114, or has  
44 otherwise formally become a candidate for elective office. The exception of  
45 this subdivision does not extend to an individual who meets the definition of  
46 "candidate" only by beginning a tentative candidacy by receiving funds or  
47 making payments or giving consent to someone else to receive funds or  
48 transfer something of value for the purpose of exploring a candidacy.
- 49 (2) When a voter is serving in an elective office.
- 50 (3) When a voter has been challenged pursuant to Article 8 of this Chapter.

- 1 (4) When a voter-registration applicant or registered voter expressly authorizes  
2 in writing the disclosure of that individual's date of birth.

3 The disclosure of an individual's age does not constitute disclosure of date of birth in  
4 violation of this section.

5 The county board of elections shall give precinct officials access to a voter's date of birth  
6 where necessary for election administration, consistent with the duty to keep dates of birth  
7 confidential.

8 Disclosure of a date of birth in violation of this section shall not give rise to a civil cause of  
9 action. This limitation of liability does not apply to the disclosure of a date of birth in violation  
10 of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing  
11 that would otherwise be actionable."

12 **SECTION 11.** G.S. 163-165.5(3) reads as rewritten:

13 **"§ 163-165.5. Contents of official ballots.**

14 Each official ballot shall contain all the following elements:

15 ...

- 16 (3) The names of the candidates as they appear on their notice of candidacy filed  
17 pursuant to G.S. 163-106 ~~or G.S. 163-323~~, or on petition forms filed in  
18 accordance with G.S. 163-122. No title, appendage, or appellation indicating  
19 rank, status, or position shall be printed on the official ballot in connection  
20 with the candidate's name. Candidates, however, may use the title Mr., Mrs.,  
21 Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the  
22 notice of candidacy or qualifying petition, but the nickname shall appear  
23 according to standards adopted by the State Board of Elections. Those  
24 standards shall allow the presentation of legitimate nicknames in ways that  
25 do not mislead the voter or unduly advertise the candidacy. In the case of  
26 candidates for presidential elector, the official ballot shall not contain the  
27 names of the candidates for elector but instead shall contain the nominees for  
28 President and Vice President which the candidates for elector represent. The  
29 State Board of Elections shall establish a review procedure that local boards  
30 of elections shall follow to ensure that candidates' names appear on the  
31 official ballot in accordance with this subdivision.

32 ...."

33 **SECTION 12.** G.S. 163-278.100(1) reads as rewritten:

34 **"§ 163-278.100. Definitions.**

35 As used in this Article, the following terms have the following definitions:

- 36 (1) The term "candidate-specific communication" means any broadcast, cable,  
37 or satellite communication that has all the following characteristics:
- 38 a. Refers to a clearly identified candidate for a statewide office or the  
39 General Assembly.
  - 40 b. Is aired in an even-numbered year after the final date on which a  
41 Notice of Candidacy can be filed for the office, pursuant to  
42 ~~G.S. 163-106(e) or G.S. 163-323~~, G.S. 163-106(c), and through the  
43 day on which the general election is conducted, excluding the time  
44 period set in the definition for "electioneering communication" in  
45 G.S. 163-278.80(2)b.
  - 46 c. Is targeted to the relevant electorate.

47 ...."

48 **SECTION 13.** G.S. 163-278.110(1) reads as rewritten:

49 **"§ 163-278.110. Definitions.**

50 As used in this Article, the following terms have the following definitions:

- 1 (1) The term "candidate-specific communication" means any mass mailing or  
2 telephone bank that has all the following characteristics:  
3 a. Refers to a clearly identified candidate for a statewide office or the  
4 General Assembly.  
5 b. Is transmitted in an even-numbered year after the final date on which  
6 a Notice of Candidacy can be filed for the office, pursuant to  
7 ~~G.S. 163-106(e) or G.S. 163-323,~~ G.S. 163-106(c), and through the  
8 day on which the general election is conducted, excluding the time  
9 period set in the definition for "electioneering communication" in  
10 G.S. 163-278.90(2)b.  
11 c. Is targeted to the relevant electorate.

12 .....

13 **SECTION 14.** G.S. 163-1(b) reads as rewritten:

14 "(b) On Tuesday next after the first Monday in May preceding each general election to  
15 be held in November for the officers referred to in subsection (a) of this section, there shall be  
16 held in all election precincts within the territory for which the officers are to be elected a  
17 primary election for the purpose of nominating candidates for each political party in the State  
18 for those ~~offices, and nonpartisan candidates as to offices elected under the provisions of~~  
19 ~~Article 25 of this Chapter, offices.~~"

20 **SECTION 15.** G.S. 163-122(c) is repealed.

21 **SECTION 16.** G.S. 163-123(g) reads as rewritten:

22 "(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to  
23 municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and  
24 does not apply to nonpartisan elections. ~~elections except for elections under Article 25 of this~~  
25 ~~Chapter.~~"

26 **SECTION 17.** G.S. 163-278.64(c) reads as rewritten:

27 "(c) Certification of Candidates. – Upon receipt of a submittal of the record of  
28 demonstrated support by a participating candidate, the Board shall determine whether or not the  
29 candidate has complied with all the following requirements:

- 30 (1) Signed and filed a declaration of intent to participate in this Article.  
31 (2) Submitted a report itemizing the appropriate number of qualifying  
32 contributions received from registered voters, which the Board shall verify  
33 through a random sample or other means it adopts. The report shall include  
34 the county of residence of each registered voter listed.  
35 (3) Filed a valid notice of candidacy pursuant to Article 25\_10 of this Chapter.  
36 Chapter, a valid petition or declaration of intent under Article 11 of this  
37 Chapter, or is nominated under G.S. 163-98.  
38 (4) Otherwise met the requirements for participation in this Article.

39 The Board shall certify candidates complying with the requirements of this section as soon  
40 as possible and no later than five business days after receipt of a satisfactory record of  
41 demonstrated support."

42 **SECTION 18.** G.S. 163-278.64A is repealed.

43 **SECTION 19.** This act becomes effective with respect to primaries and elections  
44 held on or after January 1, 2012.