

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**SENATE BILL 326
RATIFIED BILL**

AN ACT TO AMEND THE DATE BY WHICH MAIL-IN ABSENTEE BALLOTS MUST BE RECEIVED BY THE COUNTY BOARD OF ELECTIONS IN ORDER TO BE COUNTED, TO REQUIRE PUBLISHING OF THE DATE ABSENTEE BALLOTS ARE AVAILABLE AND THE DEADLINE FOR REQUESTING AN ABSENTEE BALLOT, AND TO PROVIDE FOR THE REPORTING OF BALLOTS BY THE COUNTY BOARDS OF ELECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 163-231(b) reads as rewritten:

"(b) Transmitting Executed Absentee Ballots to County Board of Elections. – The sealed container-return envelope in which executed absentee ballots have been placed shall be transmitted to the county board of elections who issued those ballots as follows:

- (1) All ballots issued under the provisions of this Article and Article 21A of this Chapter shall be transmitted by mail or by commercial courier service, at the voter's expense, or delivered in person, or by the voter's near relative or verifiable legal guardian and received by the county board not later than ~~5:00 p.m.~~ 7:30 P.M. on the day of the statewide primary or general election or county bond election. Ballots issued under the provisions of Article 21A of this Chapter may also be electronically transmitted.
- (2) If ballots are received later than the hour stated in subdivision (1) of this subsection, those ballots shall not be accepted unless ~~one of the following applies:~~ federal law so requires or the ballots are received in accordance with Article 21A of this Chapter or the State Board extended the closing time of the polls for every poll in the county in accordance with G.S. 163-166.01. If the State Board so extended the closing time of the polls, the ballots shall be received by the closing time as extended by the State Board in order to be counted.
 - a. ~~Federal law so requires.~~
 - b. ~~The ballots issued under this Article are postmarked and that postmark is dated on or before the day of the statewide primary or general election or county bond election and are received by the county board of elections not later than three days after the election by 5:00 p.m.~~
 - c. ~~The ballots issued under Article 21A of this Chapter are received by the county board of elections not later than the end of business on the business day before the canvass conducted by the county board of elections held pursuant to G.S. 163-182.5."~~

SECTION 1.(b) G.S. 163-232.1(a) reads as rewritten:

"(a) The county board of elections shall prepare, or cause to be prepared, a list in at least triplicate, of all absentee ballots issued under ~~Article 20 of this Chapter~~ this Article returned to the county board of elections to be counted, which have been approved by the county board of elections, have not been included on the certified list prepared pursuant to G.S. 163-232, ~~and~~



~~which have been postmarked by the day of the statewide primary or general election or county bond election and have been received by the county board of elections not later than three days after the election by 5:00 p.m. 7:30 P.M., or the time provided in G.S. 163-231(b), on the day of the statewide primary or general election or county bond election.~~ The list shall be supplemented with new information each business day following the day of the election until the deadline for receipt of such absentee ballots. At the end of the list, the ~~chairman~~-chair shall execute the following certificate under oath:

"State of North Carolina

County of _____

I, _____, ~~chairman~~-chair of the _____ County Board of Elections, do hereby certify that the foregoing is a list of all executed absentee ballots to be voted in the election to be conducted on the _____ day of _____, which have been approved by the county board of elections ~~and which have been postmarked by the day of the statewide primary or general election or county bond election and have been received by the county board of elections not later than three days after the election by 5:00 p.m. 7:30 P.M., or the time provided in G.S. 163-231(b), on the day of the statewide primary or general election or county bond election.~~ I certify that the ~~chairman~~-chair, member, officer, or employee of the board of elections has not delivered ballots for absentee voting to any person other than the voter, by mail or by commercial courier service or in person, except as provided by law, and have not mailed or delivered ballots when the request for the ballot was received after the deadline provided by law.

This the _____ day of _____, _____

(Signature of ~~chairman~~-chair of
county board of elections)

Sworn to and subscribed before me this _____ day of _____, _____.

Witness my hand and official seal.

(Signature of officer
administering oath)

(Title of officer)""

SECTION 1.(c) G.S. 163-234 reads as rewritten:

"§ 163-234. Counting absentee ballots by county board of elections.

All absentee ballots returned to the county board of elections in the container-return envelopes shall be retained by the board to be counted by the county board of elections as follows:

- (1) Only those absentee ballots returned to the county board of elections no later than 5:00 p.m. on the day before election day in a properly executed container-return envelope or absentee ballots received pursuant to ~~G.S. 163-231(b)(2)b. or c. G.S. 163-231(b)(2)~~ shall be counted, ~~except to the extent federal law requires otherwise counted.~~
- (2) The county board of elections shall meet at 5:00 p.m. on election day in the board office or other public location in the county courthouse for the purpose of counting all absentee ballots except those which have been challenged before 5:00 p.m. on election day and those received pursuant to ~~G.S. 163-231(b)(2)b. or c. G.S. 163-231(b)(2)~~. Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, so long as the elector does not in any manner interfere with the election officials in the discharge of their duties.

The county board of elections may begin counting absentee ballots issued under Article 21A of this Chapter between the hours of 9:00 a.m. and 5:00 p.m. and may begin counting all absentee ballots between the hours of 2:00

p.m. and 5:00 p.m. upon the adoption of a resolution at least two weeks prior to the election in which the hour and place of counting absentee ballots shall be stated. The resolution also may provide for an additional meeting following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to ~~G.S. 163-231(b)(2)b. or e.~~ G.S. 163-231(b)(2) as provided in subdivision (11) of this section. A copy of the resolution shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. Notice may additionally be made on a radio or television station or both, but the notice shall be in addition to the newspaper and other required notice. The count shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable necessity, except that if the count has been completed prior to the time the polls close, it shall be suspended until that time pending receipt of any additional ballots. Nothing in this section prohibits a county board of elections from taking preparatory steps for the count earlier than the times specified in this section, as long as the preparatory steps do not reveal to any individual not engaged in the actual count election results before the times specified in this subdivision for the count to begin. By way of illustration and not limitation, a preparatory step for the count would be the entry of tally cards from direct record electronic voting units into a computer for processing. The board shall not announce the result of the count before 7:30 p.m.

...

(9) In the event a political party does not have a member of the county board of elections present at the meeting to count absentee ballots due to illness or other cause of the member, the counting shall not commence until the county party ~~chairman~~ chair of the absent member, or a member of the party's county executive committee, is in attendance. The person shall act as an official witness to the counting and shall sign the absentee ballot abstract as an "observer".

...

(11) The county board of elections shall meet after election day and prior to the date of canvass to determine whether the container-return envelopes for absentee ballots received pursuant to ~~G.S. 163-231(b)(2)b. or e.~~ G.S. 163-231(b)(2) have been properly executed. The county board of elections shall comply with the requirements of G.S. 163-230.1 for approval of applications. Any absentee ballots received pursuant to ~~G.S. 163-231(b)(2)b. or e.~~ G.S. 163-231(b)(2) shall be counted by the county board of elections on the day of canvass. The county board of elections may also meet following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to ~~G.S. 163-231(b)(2)b. or e.~~ G.S. 163-231(b)(2) upon the adoption of a resolution pursuant to subdivision (2) of this section. The county board of elections shall comply with all other requirements of this section and G.S. 163-230.1 for the counting of ~~these~~ absentee ballots ~~received pursuant to G.S. 163-231(b)(2).~~"

SECTION 1.(d) G.S. 163-89(a) reads as rewritten:

"(a) Time for Challenge. – The absentee ballot of any voter received by the county board of elections pursuant to G.S. 163-231(b)(1) may be challenged on the day of any statewide primary or general election or county bond election beginning no earlier than noon and ending no later than 5:00 P.M., or by the chief judge at the time of closing of the polls as provided in G.S. 163-232 and G.S. 163-258.26(b). The absentee ballot of any voter received by the county

board of elections pursuant to ~~G.S. 163-231(b)(ii) or (iii)~~ G.S. 163-231(b)(2) may be challenged no earlier than noon on the day following the election and no later than 5:00 p.m. on the next business day following the deadline for receipt of such absentee ballots."

SECTION 2.(a) G.S. 163-227.10 is amended by adding a new subsection to read:

"(c) Each county board of elections and the State Board shall publish on its website and on any materials sent to voters the date by which absentee ballots are available for voting."

SECTION 2.(b) G.S. 163-230.1 is amended by adding a new subsection to read:

"(a2) Publish Deadline for Written Request. – Each county board of elections and the State Board shall publish on its website and on any materials sent to voters the date by which a completed request form as described in subsection (a) of this section must be received by a county board of elections."

SECTION 3. Article 20 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-232.2. Ballot reporting.

(a) Each county board of elections shall report the following to the State Board during each day of the one-stop early voting period:

(1) The number of absentee ballots that have been spoiled due to the voter voting in person at a one-stop voting site.

(2) The number of outstanding absentee ballots.

(b) From the day after the day of the election through the day after the receipt deadline for absentee ballots, each county board of elections shall report the following to the State Board by 5:00 P.M. each day:

(1) The number of absentee ballots that have been counted.

(2) The number of outstanding absentee ballots.

(3) The number of voted provisional ballots.

(c) The State Board shall publish each report received by a county board of elections pursuant to this section on its website each day. Each list must be made publicly available and published in a readable and usable format."

SECTION 4. This act is effective when it becomes law and applies to elections held on or after that date.

In the General Assembly read three times and ratified this the 22nd day of November, 2021.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Donna McDowell White
Presiding Officer of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2021