

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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HOUSE BILL 64*

Short Title: Restore Partisan Judicial Elections. (Public)

Sponsors: Representatives Sager, Dixon, Cleveland, and Jones (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Elections.

February 10, 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 Subchapter X (Article 25) of Chapter 163 of the General Statutes is repealed.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 his nomination to the vacancy for which he has given notice of candidacy as provided in this subsection."



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

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

6 Office Sought	6 Amount of Filing Fee
7 Governor	7 One percent (1%) of the annual salary of the 8 office sought
9 Lieutenant Governor	9 One percent (1%) of the annual salary of the 10 office sought
11 All State executive offices	11 One percent (1%) of the annual salary of the 12 office sought
13 All <u>Justices, Judges, and</u> 14 District Attorneys of the General 15 Court of Justice	13 One percent (1%) of the annual salary of 14 the office sought
16 United States Senator	16 One percent (1%) of the annual salary of the 17 office sought
18 Members of the United States House 19 of Representatives	18 One percent (1%) of the annual salary of 19 the office sought
20 State Senator	20 One percent (1%) of the annual salary of the 21 office sought
22 Member of the State House of 23 Representatives	22 One percent (1%) of the annual salary of 23 the office sought
24 All county offices not compensated by fees	24 One percent (1%) of the annual salary of the 25 office sought
26 All county offices compensated partly 27 by salary and partly by fees	26 One percent (1%) of the first annual 27 salary to be received (exclusive of fees)

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

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

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

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

"(c) Procedure for Requesting Second Primary. –

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

- Governor,
- Lieutenant Governor,
- All State executive officers,
- Justices, Judges, or District Attorneys of the General Court of Justice,
- United States Senators,
- Members of the United States House of Representatives,
- State Senators in multi-county senatorial districts, and
- Members of the State House of Representatives in multi-county representative districts."

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

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

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

<p>Position</p> <p>President</p> <p>Vice President</p>	<p>Vacancy is to be filled by appointment of national executive committee of political party in which vacancy occurs</p>
<p>Presidential elector or alternate elector</p> <p>Any elective State office</p> <p>United States Senator</p>	<p>Vacancy is to be filled by appointment of State executive committee of political party in which vacancy occurs</p>
<p>A district office, including:</p> <p>Member of the United States House of Representatives</p> <p><u>Judge of district court</u></p> <p>District Attorney</p> <p>State Senator in a multi-county senatorial district</p> <p>Member of State House of Representatives in a multi-county</p>	<p>Appropriate district executive committee of political party in which vacancy occurs</p>

1 representative district
 2
 3 State Senator in a single-county County executive committee of political
 4 senatorial district party in which vacancy occurs,
 5 Member of State House of provided, in the case of the State
 6 Representatives in a single-county Senator or State Representative in a
 7 representative district single-county district where not all the
 8 Any elective county office county is located in that district, then in
 9 voting, only those members of the
 10 county executive committee who reside
 11 within the district shall vote
 12

13 Judge of superior court in a County executive committee
 14 single-county judicial of political party in
 15 district where the district which vacancy occurs;
 16 is the whole county or part provided, in the case of
 17 of the county a superior court judge in a
 18 single-county district where
 19 not all the county is
 20 located in that district,
 21 then in voting, only those
 22 members of the county
 23 executive committee who
 24 reside within the
 25 district shall vote
 26

27 Judge of superior court in a Appropriate district
 28 multi-county judicial executive committee of
 29 district political party in which
 30 vacancy occurs.

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

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

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

48 In a county which is partly in a multi-county senatorial district or which is partly in a
 49 multi-county House of Representatives district, in choosing that county's member or members
 50 of the senatorial district executive committee or House of Representatives district executive
 51 committee for the multi-county district, only the county convention delegates or county

1 executive committee members who reside within the area of the county which is within that
2 multi-county district may vote.

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

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

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

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

24 "**§ 163-22.3. State Board of Elections littering notification.**

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

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

36 "**§ 163-82.10B. Confidentiality of date of birth.**

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

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

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

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

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

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

11 **"§ 163-165.5. Contents of official ballots.**

12 Each official ballot shall contain all the following elements:

- 13 ...
- 14 (3) The names of the candidates as they appear on their notice of candidacy filed
15 pursuant to G.S. 163-106 or ~~G.S. 163-323~~, or on petition forms filed in
16 accordance with G.S. 163-122. No title, appendage, or appellation indicating
17 rank, status, or position shall be printed on the official ballot in connection
18 with the candidate's name. Candidates, however, may use the title Mr., Mrs.,
19 Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the
20 notice of candidacy or qualifying petition, but the nickname shall appear
21 according to standards adopted by the State Board of Elections. Those
22 standards shall allow the presentation of legitimate nicknames in ways that
23 do not mislead the voter or unduly advertise the candidacy. In the case of
24 candidates for presidential elector, the official ballot shall not contain the
25 names of the candidates for elector but instead shall contain the nominees for
26 President and Vice President which the candidates for elector represent. The
27 State Board of Elections shall establish a review procedure that local boards
28 of elections shall follow to ensure that candidates' names appear on the
29 official ballot in accordance with this subdivision.

30"

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

32 **"§ 163-278.100. Definitions.**

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

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

45"

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

47 **"§ 163-278.110. Definitions.**

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

- 49 (1) The term "candidate-specific communication" means any mass mailing or
50 telephone bank that has all the following characteristics:

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

10"

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

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

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

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

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

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

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

- 28 (1) Signed and filed a declaration of intent to participate in this Article.
29 (2) Submitted a report itemizing the appropriate number of qualifying
30 contributions received from registered voters, which the Board shall verify
31 through a random sample or other means it adopts. The report shall include
32 the county of residence of each registered voter listed.
33 (3) Filed a valid notice of candidacy pursuant to Article 25 10 of this ~~Chapter.~~
34 Chapter, a valid petition or declaration of intent under Article 11 of this
35 Chapter, or is nominated under G.S. 163-98.
36 (4) Otherwise met the requirements for participation in this Article.

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

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

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