

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 93
HOUSE BILL 347

AN ACT TO PERMIT BOARDS OF ELECTIONS TO PLACE NOTICES ON
BROADCAST STATIONS IN ADDITION TO PLACING THEM IN
NEWSPAPERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-33 reads as rewritten:

"§ 163-33. Powers and duties of county boards of elections.

The county boards of elections within their respective jurisdictions shall exercise all powers granted to such boards in this Chapter, and they shall perform all the duties imposed upon them by law, which shall include the following:

- (1) To make and issue such rules, regulations, and instructions, not inconsistent with law or the rules established by the State Board of Elections, as it may deem necessary for the guidance of election officers and voters.
- (2) To appoint all registrars, judges, assistants, and other officers of elections, and designate the precinct in which each shall serve; and, after notice and hearing, to remove any registrar, judge of elections, assistant, or other officer of election appointed by it for incompetency, failure to discharge the duties of office, failure to qualify within the time prescribed by law, fraud, or for any other satisfactory cause. In exercising the powers and duties of this subdivision, the board may act only when a majority of its members are present at any meeting at which such powers or duties are exercised.
- (3) To investigate irregularities, nonperformance of duties, and violations of laws by election officers and other persons, and to report violations to the State Board of Elections. In exercising the powers and duties of this subdivision, the board may act only when a majority of its members are present at any meeting at which such powers or duties are exercised.
- (4) As provided in G.S. 163-128, to establish, define, provide, rearrange, discontinue, and combine election precincts as it may deem expedient, and to fix and provide for places of registration and for holding primaries and elections.
- (5) To review, examine, and certify the sufficiency and validity of petitions and nomination papers.

- (6) To advertise and contract for the printing of ballots and other supplies used in registration and elections; and to provide for the delivery of ballots, pollbooks, and other required papers and materials to the voting places.
- (7) To provide for the purchase, preservation, and maintenance of voting booths, ballot boxes, registration and pollbooks, maps, flags, cards of instruction, and other forms, papers, and equipment used in registration, nominations, and elections; and to cause the voting places to be suitably provided with voting booths and other supplies required by law.
- (8) To provide for the issuance of all notices, advertisements, and publications concerning elections required by law. In addition, the county board of elections shall give notice at least 20 days prior to the date on which the registration books or records are closed that there will be a primary, general or special election, the date on which it will be held, and the hours the voting places will be open for voting in that election. The notice also shall describe the nature and type of election, and the issues, if any, to be submitted to the voters at that election. Notice shall be given by advertisement at least once weekly during the 20-day period in a newspaper having general circulation in the county and by posting a copy of the notice at the courthouse door. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. This subdivision shall not apply in the case of bond elections called under the provisions of Chapter 159.
- (9) To receive the returns of primaries and elections, canvass the returns, make abstracts thereof, transmit such abstracts to the proper authorities, and to issue certificates of election to county officers and members of the General Assembly except those elected in districts composed of more than one county.
- (10) To appoint and remove the board's clerk, assistant clerks, and other employees; and to appoint and remove precinct transfer assistants as provided in G.S. 163-72.3.
- (11) To prepare and submit to the proper appropriating officers a budget estimating the cost of elections for the ensuing fiscal year.
- (12) To perform such other duties as may be prescribed by this Chapter or the rules of the State Board of Elections.
- (13) Notwithstanding the provisions of any other section of this Chapter, to have access to any ballot boxes and their contents, any voting machines and their contents, any registration records, pollbooks, voter authorization cards or voter lists, any lists of absentee voters, any lists of presidential registrants under the Voting Rights Act of 1965 as amended, and any other voting equipment or similar records, books or

lists in any precinct or municipality over whose elections it has jurisdiction or for whose elections it has responsibility."

Sec. 2. G.S. 163-41(c) reads as rewritten:

"(c) Publication of Names of Precinct Officials. – Immediately after appointing registrars, judges, and special registration commissioners as herein provided, the county board of elections shall publish the names of the persons appointed in some newspaper having general circulation in the county or, in lieu thereof, at the courthouse door, and shall notify each person appointed of his appointment, either by letter or by having a notice served upon him by the sheriff. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice."

Sec. 3. G.S. 163-78 reads as rewritten:

"§ 163-78. New registration; when permanent registration certificates lost or destroyed.

If all of the permanent registration certificates, required by G.S. 163-65, for any precinct, for the entire county, or for any municipality, are, prior to 30 days preceding any primary, general or special elections, lost or destroyed by theft, fire, or other hazard, the county or municipal board of elections shall promptly provide the precinct registrar of each affected precinct with new loose-leaf registration books and new applications for registration, and shall order a new registration of qualified persons in each affected precinct. The new registration shall be conducted at the times and places in the manner prescribed by G.S. 163-67(a). The board of elections shall give notice that a new registration is in process by advertisement in a newspaper having general circulation in the county and by posting notice at the courthouse door. The notice shall state that a new registration is in process, and the location of the voting place and the name of the registrar in each affected precinct. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice.

If the destruction or mutilation of the precinct registration book occurs less than 30 days before any primary, general, or special election, the board of elections shall, insofar as time will permit, adhere to the provisions of the first paragraph of this section. If the time available makes it impossible to conduct a new registration in the affected precinct, each person presenting himself to vote in the precinct on the day of the ensuing general or special election shall be allowed to cast his ballot after signing and delivering to the registrar an affidavit in the following form:

'I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of North Carolina not inconsistent therewith; that I have been a resident of the State of North Carolina and of this precinct or municipality for 30 days; that I am at least 18 years of age; and that I have not registered to vote in any other precinct, county, municipality or state, so help me, God.'

If the ensuing election is a primary rather than a general or special election, the following affidavit shall be used:

I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of North Carolina not inconsistent therewith; that I have been or will have been a resident of the State of North Carolina and of this precinct or municipality for 30 days by the date of the next general election; that I am at least 18 years of age or will be by the date of the next general election; and that I have not registered to vote in any other precinct, county, municipality, or state, so help me, God.'

Persons permitted to vote under this procedure may be challenged in accordance with the provisions of G.S. 163-87 and G.S. 163-88. The registrar shall deliver all affidavits deposited with him to the board of elections on canvass day. The affidavits shall not be deemed to constitute a new record of registration for the precinct, county or municipality for subsequent primaries and elections."

Sec. 4. G.S. 163-128(a) reads as rewritten:

"(a) Each county shall be divided into a convenient number of precincts for the purpose of voting, and there shall be at least one precinct encompassed within the territory of each township; provided, however, that upon a resolution adopted by the county board of elections and approved by the Secretary-Director of the State Board of Elections voters from a given precinct within a township may be temporarily transferred, for the purpose of voting, to a precinct in an adjacent township. Any such transfers shall be for the period of time equal only to the term of office of the county board of elections making such transfer. When such a resolution has been adopted by the county board of elections to assign voters from more than one township to the same precinct, then the county board of elections shall maintain separate registration and voting records, consistent with the procedure prescribed by the State Board of Elections, so as to properly identify the township in which such voters reside. There shall be at least one voting place in each precinct.

Except as provided by Article 12A of this Chapter, the county board of elections shall have power from time to time, by resolution, to establish, alter, discontinue, or create such new election precincts or voting places as it may deem expedient. Upon adoption of a resolution establishing, altering, discontinuing, or creating a precinct or voting place, the board shall give 20 days' notice thereof prior to the date on which the registration books or records next close pursuant to G.S. 163-67. Notice shall be given by advertisement in a newspaper having general circulation in the county, by posting a copy of the resolution at the courthouse door, and by mailing a copy of the resolution to the chairman of every political party in the county. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. "

Sec. 5. G.S. 163-210 reads as rewritten:

"§ 163-210. Governor to proclaim results; casting State's vote for President and Vice-President.

Upon receipt of the abstracts prepared by the State Board of Elections and delivered to him in accordance with G.S. 163-192, the Secretary of State, under his hand and the seal of his office, shall certify to the Governor the names of the persons elected to the office of elector for President and Vice-President of the United States as stated in the

abstracts of the State Board of Elections. Thereupon, the Governor shall immediately issue a proclamation setting forth the names of the electors and instructing them to be present in the old Hall of the House of Representatives in the State Capitol in the City of Raleigh at noon on the first Monday after the second Wednesday in December next after their election, at which time the electors shall meet and vote on behalf of the State for President and Vice-President of the United States. The Governor shall cause this proclamation to be published in the daily newspapers published in the City of Raleigh. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice.

On or before the date fixed for the meeting of the electors, the Governor shall send by registered mail to the Administrator of General Services, a certificate under the great seal of the State setting forth the names of the persons chosen as presidential electors for this State and the number of votes cast for each. At the same time he shall deliver to the electors six duplicate originals of the same certificate, each bearing the great seal of the State. At any time prior to receipt of the certificate of the Governor or within 48 hours thereafter, any person elected to the office of elector may resign by submitting his resignation, written and duly verified, to the Governor. Failure to so resign shall signify consent to serve and to cast his vote for the candidate of the political party which nominated such elector.

In case of the absence, ineligibility or resignation of any elector chosen, or if the proper number of electors shall for any cause be deficient, those present at the required meeting shall forthwith elect from the citizens of the State a sufficient number of persons to fill the deficiency, and the persons chosen shall be deemed qualified electors to vote for President and Vice-President of the United States."

Sec. 6. G.S. 163-230(2) reads as rewritten:

"(2) Determination of Validity of Applications for Absentee Ballots. – The county board of election shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chairman or any other member of the board individually.

a. Required Meeting of County Board of Elections. – During the period commencing 50 days before an election, and until 30 days before the election, in which absentee ballots are authorized, the county board of elections shall hold one or more public meetings each week on a day and at an hour to be determined by the board for the purpose of action on applications for absentee ballots. Each member of the board shall be notified in writing of the day and hour such meetings shall be conducted. During the period opening 30 days before an election in which absentee ballots are authorized and closing at 5:00 P.M. on the Tuesday before the election, the county board of elections shall hold public meetings at 10:00 A.M. on Tuesday and Friday of each week, and it shall also hold public meetings at 10:00 A.M. on the eighth, sixth, fourth and first

days immediately preceding election day. These meetings shall be held at the county courthouse or at the elections board's office at the hour fixed by law. At these meetings the county board of elections shall pass upon applications for absentee ballots.

Upon a majority vote, the county board of elections may hold any such public meetings at an hour other than 10:00 A.M., and it may hold more than one session on each day it meets and may set the hours of any additional sessions. If the board desires to exercise either or both of the options granted by the preceding sentence, it shall do so no later than [sic] 70 days before the election; thereafter, no change shall be made in the hours or dates fixed for the board's public meetings on absentee ballot applications.

The chairman of the county board of elections shall give notice to other board members of the schedule of meetings of the board.

If the county board of elections changes the time of holding its meetings or provides for additional meetings in accordance with the terms of this subdivision, notice of the change in hour and notice of the schedule of additional meetings, if any, shall be published in a newspaper circulated in the county, and a notice thereof shall be posted at the courthouse door of the county, at least 65 days prior to the election. Similar notice shall also be given of the dates and hours of the weekly meetings held until 30 days before the election. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice.

The county board of elections shall not be required to hold any of the meetings prescribed by this subdivision unless, since its last preceding meeting, it actually has received one or more applications for absentee ballots which it has not passed upon. When no meeting is to be held for this reason, the chairman shall notify each of the other members of the county board of elections that the scheduled public meeting will not be held and state the reasons for its cancellation.

- b. Procedure at Required Meeting; Making Determination. – At each public meeting of the county board of elections the chairman shall present for consideration, and the board shall pass upon, the validity of all applications for absentee ballots received since its last preceding public meeting held for that purpose. At each such meeting any registered voter of the county shall be heard and allowed to present evidence in

opposition to, or in favor of, the issuance of absentee ballots to any voter making application for them.

The county board of elections may consider the registration records as evidence of the voter's signature, if available, and as any other evidence that may be necessary to pass upon such an application, including the party affiliation of a voter seeking to vote in a primary.

If the board finds that the applicant is a qualified voter of the county, that he is registered in the precinct stated in his application, that the assertions in his application are true, and that his application is in proper form, it shall approve his application for absentee ballots.

- c. Record of Board's Determination; Decision Final. – At the time the county board of elections makes its decision on an application for absentee ballots, the chairman shall enter in the appropriate column in the register of absentee ballot applications and ballots issued opposite the name of the applicant a notation of whether his application was 'Approved' or 'Disapproved'.

The decision of the board on the validity of an application for absentee ballots shall be final subject only to such review as may be necessary in the event of an election contest."

Sec. 7. G.S. 163-234(2) reads as rewritten:

- "(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. Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, provided he shall not in any manner interfere with the election officials in the discharge of their duties.

Provided, that the county board of elections is authorized to begin counting 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 wherein the hour and place of counting absentee ballots shall be stated. A copy of the resolutions 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 such 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. The board shall not announce the result of the count before 7:30 P.M."

Sec. 8. G.S. 163-281(a) reads as rewritten:

"(a) Registrars and Judges. – At the meeting required by G.S. 163-280(c), the municipal board of elections shall appoint one person to act as registrar and two other persons to act as judges of election for each precinct in the city. Not more than one judge in each precinct where there are registered voters of more than one political party shall belong to the same political party as the registrar, if the municipal elections are on a nonpartisan or partisan basis. If the city and county precincts are identical and the board so chooses, it may decline to exercise its power to appoint precinct registrars and judges, in which event the persons appointed by the county board of elections as precinct registrars and judges in each precinct within the city shall serve as such for municipal elections under authority and subject to the supervision and control of the municipal board of elections. Nothing herein shall prohibit a municipal board of elections from using the registrars and judges of election appointed by the county board of elections in those precincts which are not identical provided the county board of elections agrees, in writing, to such arrangement. Registrars and judges shall be appointed for terms of two years. Except as modified by this Article, municipal precinct registrars and judges shall meet all of the qualifications, perform all the duties, and have all of the powers imposed and conferred on county precinct registrars and judges by G.S. 163-41(a), G.S. 163-47, and G.S. 163-48. Municipal precinct registrars and judges shall not have the powers and duties with respect to registration of voters prescribed by G.S. 163-47(b). Immediately after appointing registrars and judges as herein provided, the municipal board of elections shall publish the names of the persons appointed in some newspaper having a general circulation in the city, or in lieu thereof, by posting at the city hall or some other prominent place within the city, and shall notify each person appointed of his appointment. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice."

Sec. 9. G.S. 163-288.2(a) reads as rewritten:

"(a) Whenever the General Assembly incorporates a new city and provides in the act of incorporation for a referendum on the question of incorporation or for a special election for town officials or for both, or whenever an existing city or special district annexes new territory under the provisions of Chapter 160A, Article 4A, or other general or local law, the board of elections of the county in which the proposed city is located or in which the newly annexed territory is located shall determine those individuals eligible to vote in the referendum or special election or in the city or special district elections. In determining the eligible voters the board may, in its discretion, use either of the following methods:

METHOD A. – The board of elections shall prepare a list of those registered voters residing within the proposed city or newly annexed territory. The board shall make this list available for public inspection in its office for a two-week period ending on the twenty-first day (excluding Saturdays and Sundays) before the day of the referendum or special election, or the next scheduled city or special district election. During this period, any voter resident within the proposed city or newly annexed territory and not included on the list may cause his name to be added to the list. At least one week and no more than two weeks before the day the period of public inspection is to begin, the

board shall cause notice of the list's availability to be posted in at least two prominent places within the proposed city or newly annexed territory and may cause the notice to be published in a newspaper of general circulation within the county. The notice shall state that the list has been prepared, that only those persons listed may vote in the referendum or special election, that the list will be available for public inspection in the board's office, that any qualified voter not included on the list may cause his name to be added to the list during the two-week period of public inspection, and that persons in newly annexed territory should present themselves so their registration records may be activated for voting in city or special district elections in the newly annexed territory. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice.

METHOD B. – The board of elections shall conduct a special registration of eligible persons desiring to vote in the referendum or special election or in the newly annexed territory. The registration records shall be open for a two-week period (except Sundays) ending on the twenty-first day (excluding Saturdays and Sundays) before the day of the referendum or special election or the next scheduled city or special district election. On the two Saturdays during that two-week period, the records shall be located at the voting place for the referendum or special election or the next scheduled city or special district election; on the other days it may, in the discretion of the board, be kept at the voting place, at the office of the board, or at the place of business of a person designated by the board to conduct the special registration. At least one week and no more than two weeks before the day the period of special registration is to begin, the board shall cause notice of the registration to be posted in at least two prominent places within the proposed city or newly annexed territory and may cause the notice to be published in a newspaper of general circulation within the county. The notice shall state the purpose and times of the special registration, the location of the registration records, that only those persons registered in the special registration may vote in the referendum or special election, and that persons in newly annexed territory should present themselves so their registration records may be activated for voting in city or special district elections in the newly annexed territory. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice."

Sec. 10. This act shall become effective January 1, 1990.

In the General Assembly read three times and ratified this the 8th day of May, 1989.