

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 257*

Short Title: Ballot Access Changes.

(Public)

Sponsors: Representatives Alexander, Bonner; Barefoot, Insko, Luebke, and Nesbitt.

Referred to: Election Law and Campaign Finance Reform.

February 27, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES TO THE BALLOT ACCESS LAWS.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 163-96 reads as rewritten:

5 **"§ 163-96. 'Political party' defined; creation of new party.**

6 (a) Definition. -- A political party within the meaning of the election laws of this
7 State shall be either:

8 (1) Any group of voters which, at the last preceding general State election,
9 polled for its candidate for Governor, or for presidential electors, at
10 least ten percent (10%) of the entire vote cast in the State for Governor
11 or for presidential electors; or

12 (2) Any group of voters which shall have filed with the State Board of
13 Elections petitions for the formulation of a new political party which
14 are signed by registered and qualified voters in this State equal in
15 number to two percent (2%) of the total number of voters who voted in
16 the most recent general election for Governor. Also the petition must
17 be signed by at least 200 registered voters from each of four
18 congressional districts in North Carolina. To be effective, the
19 petitioners must file their petitions with the State Board of Elections
20 before 12:00 noon on the ~~first day of June~~ last Friday in July
21 preceding the day on which is to be held the first general State election
22 in which the new political party desires to participate. The State Board
23 of Elections shall forthwith determine the sufficiency of petitions filed
24 with it and shall immediately communicate its determination to the
25 State chairman of the proposed new political party.

26 (b) Petitions for New Political Party. -- Petitions for the creation of a new
27 political party shall contain on the heading of each page of the petition in bold print or

1 all in capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN
2 _____ COUNTY HEREBY PETITION FOR THE FORMATION OF A NEW
3 POLITICAL PARTY TO BE NAMED _____ ~~AND WHOSE STATE CHAIRMAN~~
4 ~~IS _____, RESIDING _____, WITH NORTH CAROLINA~~
5 ~~HEADQUARTERS AT _____ AND WHO CAN BE REACHED~~
6 ~~REACHABLE BY TELEPHONE AT _____.~~ THE SIGNERS OF THIS PETITION
7 ~~INTEND TO ORGANIZE A NEW POLITICAL PARTY TO PARTICIPATE~~
8 ~~REQUEST THAT THE CANDIDATES OF THAT PARTY BE LISTED ON THE~~
9 ~~BALLOT IN THE NEXT SUCCEEDING GENERAL ELECTION. ELECTION~~
10 ~~CYCLE SPANNING THE YEARS OF _____."~~

11 All printing required to appear on the heading of the petition shall be in type no smaller
12 than 10 point or in all capital letters, double spaced typewriter size. In addition to the
13 form of the petition, the organizers and petition circulators shall inform the signers of
14 the general purpose and intent of the new party.

15 The petitions must specify the name selected for the proposed political party. The
16 State Board of Elections shall reject petitions for the formation of a new party if the
17 name chosen contains any word that appears in the name of any existing political party
18 recognized in this State or if, in the Board's opinion, the name is so similar to that of an
19 existing political party recognized in this State as to confuse or mislead the voters at an
20 election.

21 The petitions must state the name and address of the State chairman of the proposed
22 new political party.

23 (b1) Each petition shall be presented to the chairman of the board of elections of
24 the county in which the signatures were obtained, and it shall be the chairman's duty:

- 25 (1) To examine the signatures on the petition and place a check mark on
26 the petition by the name of each signer who is qualified and registered
27 to vote in his county.
- 28 (2) To attach to the petition his signed certificate
- 29 a. Stating that the signatures on the petition have been checked
30 against the registration records and
- 31 b. Indicating the number found qualified and registered to vote in
32 his county.
- 33 (3) To return each petition, together with the certificate required by the
34 preceding subdivision, to the person who presented it to him for
35 checking.

36 The group of petitioners shall submit the petitions to the chairman of the county
37 board of elections in the county in which the signatures were obtained no later than 5:00
38 P.M. on the fifteenth day preceding the date the petitions are due to be filed with the
39 State Board of Elections as provided in subsection (a)(2) of this section. Provided the
40 petitions are timely submitted, the chairman of the county board of elections shall
41 proceed to examine and verify the signatures under the provisions of this subsection.
42 Verification shall be completed within two weeks from the date such petitions are
43 presented.

44 (c) Repealed by Session Laws 1983, c. 576, s. 3."

1 **SECTION 2.** G.S. 163-97 reads as rewritten:

2 "**§ 163-97. Termination of ballot status as political party.**

3 When any political party fails to poll for its candidate for governor, or for
4 presidential electors, at least ten percent (10%) of the entire vote cast in the State for
5 governor or for presidential electors at a general election, it shall cease to be included on
6 the ballot as a political party within the meaning of the primary and general election
7 laws and all other provisions of this Chapter. party."

8 **SECTION 3.** G.S. 163-97.1 reads as rewritten:

9 "**§ 163-97.1. Voters affiliated with ~~expired~~ political party party after loss of ballot**
10 **status.**

11 ~~The State Board of Elections shall be authorized to promulgate appropriate~~
12 ~~procedures to order the county boards of elections to change the registration affiliation~~
13 ~~of all voters who are recorded on the voter registration books as being affiliated with a~~
14 ~~political party which has lost its legal status as provided in G.S. 163-97. The State~~
15 ~~Board of Elections shall not implement the authority contained in this section earlier~~
16 ~~than 90 days following the certification of the election in which the political party failed~~
17 ~~to continue its legal status as provided in G.S. 163-97. All voters affiliated with such~~
18 ~~expired political party shall be changed to "unaffiliated" designation by the State Board's~~
19 ~~order and all such registrants shall be entitled to declare a political party affiliation as~~
20 ~~provided in G.S. 163-74(b). Any voter registered with a political party shall be allowed~~
21 ~~to retain that affiliation even if that party loses its ballot status under the provisions of~~
22 ~~G.S. 163-97. Within 90 days after a party loses its ballot status, the county board of~~
23 ~~elections shall notify each voter affiliated with that party of the legal consequences of~~
24 ~~continued affiliation with the party, including potential inability to vote in any party~~
25 ~~primary."~~

26 **SECTION 4.** G.S. 163-98 reads as rewritten:

27 "**§ 163-98. General election participation by new political party.**

28 In the first general election following the date on which a new political party
29 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its
30 candidates for ~~State, congressional, and national~~ offices printed on the official ballots,
31 ~~but it shall not be entitled to have the names of candidates for other offices printed on~~
32 ~~State, district, or county ballots at that election. ballots.~~

33 For the first general election following the date on which it qualifies under G.S.
34 163-96, a new political party shall select its candidates by party convention. Following
35 adjournment of the nominating convention, but not later than the ~~first day of July~~ 90th
36 day prior to the general election, the president of the convention shall certify to the State
37 Board of Elections the names of persons chosen in the convention as the new party's
38 candidates ~~for State, congressional, and national offices~~ in the ensuing general election.
39 The State Board of Elections shall ~~print~~ print, or direct the appropriate board of
40 elections to print, the names thus certified on the appropriate ballots as the nominees of
41 the new party."

42 **SECTION 5.** G.S. 163-122 reads as rewritten:

43 "**§ 163-122. Unaffiliated candidates nominated by petition.**

1 (a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. --
2 Any qualified voter who seeks to have his name printed on the general election ballot as
3 an unaffiliated candidate shall:

4 (1) If the office is a ~~statewide office,~~ President, Vice President,
5 Presidential elector, or another office elected statewide, file written
6 petitions with the State Board of Elections supporting his candidacy
7 for a specified office. These petitions must be filed with the State
8 Board of Elections on or before 12:00 noon on the last Friday in ~~June~~
9 July preceding the general election and must be signed by qualified
10 voters of the State equal in number to ~~two percent (2%)~~ one and one-
11 half percent (1.5%) of the total number of ~~registered voters in the State~~
12 ~~as reflected by the most recent statistical report issued by the State~~
13 ~~Board of Elections.~~ voters who voted in the most recent general
14 election for Governor. Also the petition must be signed by at least 200
15 registered voters from each of four congressional districts in North
16 Carolina. No later than 5:00 p.m. on the fifteenth day preceding the
17 date the petitions are due to be filed with the State Board of Elections,
18 each petition shall be presented to the chairman of the board of
19 elections of the county in which the signatures were obtained.
20 Provided the petitions are timely submitted, the chairman shall
21 examine the names on the petition and place a check mark on the
22 petition by the name of each signer who is qualified and registered to
23 vote in his county and shall attach to the petition his signed certificate.
24 Said certificates shall state that the signatures on the petition have been
25 checked against the registration records and shall indicate the number
26 of signers to be qualified and registered to vote in his county. The
27 chairman shall return each petition, together with the certificate
28 required in this section, to the person who presented it to him for
29 checking. Verification by the chairman of the county board of
30 elections shall be completed within two weeks from the date such
31 petitions are presented.

32 (2) If the office is a district office comprised of two or more counties, file
33 written petitions with the State Board of Elections supporting his
34 candidacy for a specified office. These petitions must be filed with the
35 State Board of Elections on or before 12:00 noon on the last Friday in
36 ~~June~~ July preceding the general election and must be signed by
37 qualified voters of the district equal in number to four percent (4%) of
38 the total number of ~~registered voters in the district as reflected by the~~
39 ~~latest statistical report issued by the State Board of Elections.~~ total
40 number of voters who voted in the district in the most recent general
41 election for Governor. Each petition shall be presented to the chairman
42 of the board of elections of the county in which the signatures were
43 obtained. The chairman shall examine the names on the petition and

1 the procedure for certification and deadline for submission to the
2 county board shall be the same as specified in (1) above.

- 3 (3) If the office is a county office or a single county legislative district, file
4 written petitions with the chairman or director of the county board of
5 elections supporting his candidacy for a specified county office. These
6 petitions must be filed with the county board of elections on or before
7 12:00 noon on the last Friday in ~~June~~ July preceding the general
8 election and must be signed by qualified voters of the county equal in
9 number to four percent (4%) of the total number of ~~registered voters in~~
10 ~~the county as reflected by the most recent statistical report issued by~~
11 ~~the State Board of Elections, voters who voted in the county in the~~
12 ~~most recent general election for Governor,~~ except if the office is for a
13 district consisting of less than the entire county and only the voters in
14 that district vote for that office, the petitions must be signed by
15 qualified voters of the district equal in number to four percent (4%) of
16 the total number of voters ~~in the district according to the most recent~~
17 ~~figures certified by the State Board of Elections. who voted in the~~
18 ~~district in the most recent general election for Governor.~~ Each petition
19 shall be presented to the chairman or director of the county board of
20 elections. The chairman shall examine, or cause to be examined, the
21 names on the petition and the procedure for certification shall be the
22 same as specified in (1) above.

- 23 (4) If the office is a partisan municipal office, file written petitions with
24 the chairman or director of the county board of elections in the county
25 wherein the municipality is located supporting his candidacy for a
26 specified municipal office. These petitions must be filed with the
27 county board of elections on or before the time and date specified in
28 G.S. 163-296 and must be signed by the number of qualified voters
29 specified in G.S. 163-296. The procedure for certification shall be the
30 same as specified in (1) above.

31 Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the
32 board of elections with which the petitions have been timely filed shall cause the
33 unaffiliated candidate's name to be printed on the general election ballots in accordance
34 with G.S. 163-140.

35 An individual whose name appeared on the ballot in a primary election preliminary
36 to the general election shall not be eligible to have his name placed on the general
37 election ballot as an unaffiliated candidate for the same office in that year.

38 (b) Form of Petition. -- Petitions requesting an unaffiliated candidate to be placed
39 on the general election ballot shall contain on the heading of each page of the petition in
40 bold print or in all capital letters the words: "THE UNDERSIGNED REGISTERED
41 VOTERS IN _____ COUNTY HEREBY PETITION ON BEHALF OF
42 _____ AS AN UNAFFILIATED CANDIDATE IN THE NEXT
43 GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT

1 ~~SUBJECT—THIS~~ CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT
2 UPON COMPLIANCE WITH THE PROVISIONS CONTAINED IN G.S. 163-122."

3 (c) This section does not apply to elections under Article 25 of this Chapter."

4 **SECTION 6.** G.S. 163-209 reads as rewritten:

5 "**§ 163-209. Names of presidential electors not printed on ballots.**

6 The names of candidates for electors of President and Vice-President nominated by
7 any political party recognized in this State under G.S. 163-96, or nominated under G.S.
8 163-1(c) by a candidate for President of the United States who has qualified to have his
9 name printed on the general election ballot as an unaffiliated candidate under G.S.
10 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot.
11 ~~In the case of the unaffiliated candidate, the~~ The names of candidates for electors and
12 of candidates for President and Vice President must shall be filed with the Secretary of
13 State no later than 12:00 noon on the ~~first Friday in August,~~ 90th day before the general
14 election, or two days after that political party's national convention, whichever is later,
15 but in no event later than August 20. In place of ~~their~~ the electors' names, in accordance
16 with the provisions of G.S. 163-140 there shall be printed on the ballot the names of the
17 candidates for President and Vice-President of each political party recognized in this
18 State, and the name of any candidate for President who has qualified to have his name
19 printed on the general election ballot under G.S. 163-122. A candidate for President
20 who has qualified for the general election ballot as an unaffiliated candidate under G.S.
21 163-122 shall, no later than 12:00 noon on the ~~first Friday in August,~~ 90th day before
22 the general election, file with the State Board of Elections the name of a candidate for
23 Vice-President, whose name shall also be printed on the ballot. A vote for the
24 candidates named on the ballot shall be a vote for the electors of the party or unaffiliated
25 candidate by which those candidates were nominated and whose names have been filed
26 with the Secretary of State."

27 **SECTION 7.** G.S. 163-123 reads as rewritten:

28 "**§ 163-123. Declaration of intent and petitions for write-in candidates in partisan**
29 **elections.**

30 (a) Procedure for Qualifying as a Write-In Candidate. -- Any qualified voter who
31 seeks to have write-in votes for him counted in a general election shall file a declaration
32 of intent in accordance with subsection (b) of this section and petition(s) in accordance
33 with subsection (c) of this section.

34 (b) Declaration of Intent. -- The applicant for write-in candidacy shall file his
35 declaration of intent at the same time and with the same board of elections as his
36 petition, as set out in subsection (c) of this section. The declaration shall contain:

- 37 (1) Applicant's name,
- 38 (2) Applicant's residential address,
- 39 (3) Declaration of applicant's intent to be a write-in candidate,
- 40 (4) Title of the office sought,
- 41 (5) Date of the election,
- 42 (6) Date of the declaration,
- 43 (7) Applicant's signature.

44 (c) Petitions for Write-in Candidacy. -- An applicant for write-in candidacy shall:

- 1 (1) If the office is a ~~statewide office,~~ President, Vice President,
2 Presidential elector, or another office elected statewide, file written
3 petitions with the State Board of Elections supporting his candidacy
4 for a specified office. These petitions shall be filed on or before noon
5 on the 90th day before the general election. They shall be signed by
6 500 qualified voters of the State. No later than 5:00 p.m. on the
7 fifteenth day preceding the date the petitions are due to be filed with
8 the State Board of Elections, each petition shall be presented to the
9 board of elections of the county in which the signatures were obtained.
10 A petition presented to a county board of elections shall contain only
11 names of voters registered in that county. Provided the petitions are
12 timely submitted, the chairman of the county board of elections shall
13 examine the names on the petition and place a check mark by the name
14 of each signer who is qualified and registered to vote in his county.
15 The chairman of the county board shall attach to the petition his signed
16 certificate. On his certificate the chairman shall state that the
17 signatures on the petition have been checked against the registration
18 records and shall indicate the number of signers who are qualified and
19 registered to vote in his county and eligible to vote for that office. The
20 chairman shall return each petition, together with the certificate
21 required in this section, to the person who presented it to him for
22 checking. The chairman of the county board shall complete the
23 verification within two weeks from the date the petition is presented.
- 24 (2) If the office is a district office comprising all or part of two or more
25 counties, file written petitions with the State Board of Elections
26 supporting his candidacy for a specified office. These petitions must be
27 filed with the State Board of Elections on or before noon on the 90th
28 day before the general election and must be signed by 250 qualified
29 voters. Before being filed with the State Board of Elections, each
30 petition shall be presented to the board of elections of the county in
31 which the signatures were obtained. A petition presented to a county
32 board of elections shall contain only names of voters registered in that
33 county who are eligible to vote for that office. The chairman of the
34 county board shall examine the names on the petition and the
35 procedure for certification shall be the same as specified in subdivision
36 (1).
- 37 (3) If the office is a county office, or is a school administrative unit office
38 elected on a partisan basis, or is a legislative district consisting of a
39 single county or a portion of a county, file written petitions with the
40 county board of elections supporting his candidacy for a specified
41 office. A petition presented to a county board of elections shall contain
42 only names of voters registered in that county. These petitions must be
43 filed on or before noon on the 90th day before the general election and
44 must be signed by 100 qualified voters who are eligible to vote for the

1 office, unless fewer than 5,000 persons are eligible to vote for the
2 office as shown by the most recent records of the appropriate board of
3 elections. If fewer than 5,000 persons are eligible to vote for the office,
4 an applicant's petition must be signed by not less than one percent
5 (1%) of those registered voters. Before being filed with the county
6 board of elections, each petition shall be presented to the county board
7 of elections for examination. The chairman of the county board of
8 elections shall examine the names on the petition and the procedure for
9 certification shall be the same as specified in subdivision (1).

10 (d) Form of Petition. -- Petitions requesting the qualification of a write-in
11 candidate in a general election shall contain on the heading of each page of the petition
12 in bold print or in capital letters the words: "THE UNDERSIGNED REGISTERED
13 VOTERS IN _____ COUNTY HEREBY PETITION ON BEHALF OF
14 _____ AS A WRITE-IN CANDIDATE IN THE NEXT GENERAL
15 ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT
16 CANDIDATE BE PLACED ON THE LIST OF QUALIFIED WRITE-IN
17 CANDIDATES WHOSE VOTES ARE TO BE COUNTED AND RECORDED IN
18 ACCORDANCE WITH G.S. 163-123."

19 (e) Defeated Primary Candidate. -- No person whose name appeared on the ballot
20 in a primary election preliminary to the general election shall be eligible to have votes
21 counted for him as a write-in candidate for the same office in that year.

22 (f) Counting and Recording of Votes. -- If a qualified voter has complied with
23 the provisions of subsections (a), (b), and (c) and is not excluded by subsection (e), the
24 board of elections with which petition has been filed shall count votes for him according
25 to the procedures set out in G.S. 163-170(5), and the appropriate board of elections shall
26 record those votes on the official abstract. Write-in votes for names other than those of
27 qualified write-in candidates shall not be counted for any purpose and shall not be
28 recorded on the abstract.

29 (g) Municipal and Nonpartisan Elections Excluded. -- This section does not
30 apply to municipal elections conducted under Subchapter IX of Chapter 163 of the
31 General Statutes, and does not apply to nonpartisan elections."

32 **SECTION 8.** This act becomes effective with respect to elections held on
33 and after January 1, 2002.