

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 565

Short Title: Elections Admin. Procedure.

(Public)

Sponsors: Representatives Alexander; and Goodwin.

Referred to: Election Law and Campaign Finance Reform.

March 12, 2001

A BILL TO BE ENTITLED
AN ACT TO EXEMPT THE STATE BOARD OF ELECTIONS FROM THE
ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 150B-1(c) reads as rewritten:

"(c) Full Exemptions. – This Chapter applies to every agency except:

- (1) The North Carolina National Guard in exercising its court-martial jurisdiction.
- (2) The Department of Health and Human Services in exercising its authority over the Camp Butner reservation granted in Article 6 of Chapter 122C of the General Statutes.
- (3) The Utilities Commission.
- (4) The Industrial Commission.
- (5) The Employment Security Commission.
- (6) The State Board of Elections and the Executive Secretary-Director of the State Board of Elections, provided that, when adopting rules, they shall follow the procedures in subsections (a) through (g) and subsection (i) of G.S. 150B-21.2, and provided that, in contested cases, equivalent procedural rights to those provided in Articles 3A and 4 of this Chapter are afforded to the parties."

SECTION 2. G.S. 150B-21.1(a5) is repealed.

SECTION 3. G.S. 163-132.5B is repealed.

SECTION 4. G.S. 163-256 reads as rewritten:

"§ 163-256. Regulations of State Board of Elections.

The State Board of Elections shall adopt rules and regulations to carry out the intent and purpose of G.S. 163-254 and 163-255, and to ensure that a proper list of persons voting under said sections shall be maintained by the boards of elections, and to ensure

1 proper registration records, and such rules and regulations shall not be subject to the
2 provisions of G.S. 150B-9. records."

3 **SECTION 5.** G.S. 163-278.34(a1) reads as rewritten:

4 "(a1) The State Board shall calculate and assess the amount of the civil penalty due
5 under subsection (a) of this section and shall notify the person who is assessed the civil
6 penalty of the amount. The notice of assessment shall be served by any means
7 authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the
8 assessment or to contest the assessment within 30 days by filing a ~~petition for a~~
9 ~~contested case under Article 3 of Chapter 150B of the General Statutes.~~ protest or
10 request for waiver of the penalty with the State Board of Elections. If a violator does not
11 pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall
12 request the Attorney General to institute a civil action to recover the amount of the
13 assessment. The civil action may be brought in the superior court of any county where
14 the report was due to be filed or any county where the violator resides or maintains an
15 office. A civil action must be filed within three years of the date the assessment was
16 due. An assessment that is not contested is due when the violator is served with a notice
17 of assessment. An assessment that is contested is due at the conclusion of the
18 administrative and judicial review of the assessment. Consistent with G.S. 115C-437,
19 the State Controller shall pay the clear proceeds of civil penalties collected under this
20 section to the County School Fund in the county in which the person charged with the
21 violation resides. The State Controller shall reduce the monies collected by the
22 enforcement costs and the collection costs to determine the clear proceeds payable to
23 the County School Fund. Monies set aside for the costs of enforcement and the costs of
24 collection shall be credited to accounts of the State Board of Elections."

25 **SECTION 6.** This act is effective when it becomes law. The exemptions set
26 forth in Section 1 of this act apply to any rules adopted by the State Board of Elections
27 at any time and to any contested case commenced on or after the date this act becomes
28 effective.