

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 1119

Short Title: Election Law Changes - 1.

(Public)

Sponsors: Representative Alexander.

Referred to: Election Law and Campaign Finance Reform.

April 10, 2003

A BILL TO BE ENTITLED
AN ACT TO MAKE CHANGES TO THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Subsections (e), (f), (g), (h), and (i) of G.S. 163-278.9 are repealed.

SECTION 2.(a) G.S. 163-278.6 is amended by adding a new subsection to read:

"(15a) "Political party organization" means any political party executive committee or any political committee that operates under the direction of a political party, political party executive committee, or political party chair."

SECTION 2.(b) G.S. 163-278.39B(6) reads as rewritten:

"(6) "Political party organization" means any political party executive committee or any political committee that operates under the direction of a political party, political party executive committee, or political party chair."

SECTION 3. G.S. 163-278.8(c) reads as rewritten:

"(c) A treasurer may not accept a contribution of more than one hundred dollars (\$100.00) from a nonresident of this State unless the contribution is accompanied by a written statement setting forth the ~~name~~name, daytime telephone number or e-mail address, and mailing address of each contributor."

SECTION 3.1. G.S. 163-278.66(a) reads as rewritten:

"(a) Reporting by Noncertified Candidates and Independent Expenditure Entities.
– Any noncertified candidate with a certified opponent shall report total income, expenses, and obligations to the Board by facsimile machine or electronically within 24 hours after the total amount of campaign expenditures or obligations made, or funds raised or borrowed, exceeds eighty percent (80%) of the trigger for rescue funds as defined in G.S. 163-278.62(18). Any entity making independent expenditures in excess of three thousand dollars (\$3,000) in support of or opposition to a certified ~~candidate~~

1 candidate or in support of a candidate opposing a certified candidate shall report the
2 total funds received, spent, or obligated for those expenditures to the Board by facsimile
3 machine or electronically within 24 hours after the total amount of expenditures or
4 obligations made, or funds raised or borrowed, for the purpose of making the
5 independent expenditures, exceeds fifty percent (50%) of the trigger for rescue funds.
6 After this 24-hour filing, the noncertified candidate or independent expenditure entity
7 shall comply with an expedited reporting schedule by filing additional reports after
8 receiving each additional amount in excess of one thousand dollars (\$1,000) or after
9 making or obligating to make each additional expenditure(s) in excess of one thousand
10 dollars (\$1,000). The schedule and forms for reports required by this subsection shall be
11 made according to procedures developed by the Board."

12 **SECTION 4.** G.S. 163-46 reads as rewritten:

13 **"§ 163-46. Compensation of precinct officials and assistants.**

14 The precinct chief judge shall be paid the state minimum wage for his services on
15 the day of a primary, special or general election. Judges of election shall each be paid
16 the state minimum wage for their services on the day of a primary, special or general
17 election. Assistants, appointed pursuant to G.S. 163-42, shall each be paid the state
18 minimum wage for their services on the day of a primary, special or general election.
19 Ballot counters appointed pursuant to G.S. 163-43 shall be paid a minimum of five
20 dollars (\$5.00) for their services on the day of a primary, general or special election. If
21 an election official is being paid an hourly wage or daily fee on an election day and the
22 official is performing additional election duties away from the assigned precinct voting
23 place, the official shall not be entitled to any additional monies for those services,
24 except for reimbursable expenses in performing the services.

25 If the county board of elections requests the presence of a chief judge or judge at the
26 county canvass, the chief judge shall be paid the sum of twenty dollars (\$20.00) per day
27 and judges shall be paid the sum of fifteen dollars (\$15.00) per day. If the county board
28 of elections requests a precinct official, including chief judge or judge, to personally
29 deliver official ballots or other official materials to the county board of elections, the
30 precinct official shall be paid the sum of twenty dollars (\$20.00) per day and judges
31 shall be paid the sum of fifteen dollars (\$15.00) per day.

32 The chairman of the county board of elections, along with the director of elections,
33 shall conduct an instructional meeting prior to each primary and general election which
34 shall be attended by each chief judge and judge of election, unless excused by the
35 chairman, and such precinct election officials shall be paid the sum of fifteen dollars
36 (\$15.00) for attending the instructional meetings required by this section.

37 In its discretion, the board of county commissioners of any county may provide
38 funds with which the county board of elections may pay chief judges, judges, assistants,
39 and ballot counters in addition to the amounts specified in this section. Observers shall
40 be paid no compensation for their services.

41 A person appointed to serve as chief judge, or judge of election when a previously
42 appointed chief judge or judge fails to appear at the voting place or leaves his post on
43 the day of an election or primary shall be paid the same compensation as the chief judge
44 or judge appointed prior to that date.

1 For the purpose of this section, the phrase "the State minimum wage," means the
2 amount set by G.S. 95-25.3(a). For the purpose of this section, no other provision of
3 Article 2A of Chapter 95 of the General Statutes shall apply."

4 **SECTION 5.** G.S. 163-112(b) reads as rewritten:

5 "(b) Death of One of More Than Two Candidates within 10 Days after the Filing
6 Period Closes. – If at the close of the filing period more than two candidates have filed
7 for a ~~single~~single-seat office, and within 10 days after the filing period closes the board
8 of elections receives notice of a candidate's death, the board shall immediately open the
9 filing period for that party contest, for three additional days in order for candidates to
10 file for that office. The name of the deceased candidate shall not be printed on the
11 ballot.

12 In the event a candidate's death occurs more than 10 days after the closing of the
13 original filing period, the names of the remaining candidates shall be printed on the
14 ballot. If the ballots have been printed at the time death occurs, the ballots shall not be
15 reprinted and any votes cast for a deceased candidate shall not be counted or considered
16 for any purpose. In the event the death of a candidate or candidates leaves only one
17 candidate, then such candidate shall be certified as the party's nominee for that office."

18 **SECTION 6.** G.S. 163-278.6(18a) reads as rewritten:

19 "(18a) The term 'referendum' means any question, issue, or act referred to a
20 vote of the people of the entire State by the General Assembly, a unit
21 of local government, or by the people under any applicable local act
22 and includes constitutional amendments and State bond issues. The
23 term 'referendum' includes any type of municipal, county, or special
24 district ~~referendum.~~ referendum and any initiative referendum
25 authorized by a municipal charter or local act. A recall election shall
26 not be considered a referendum within the meaning of this Article."

27 **SECTION 7.(a)** G.S. 163-82.10(d) reads as rewritten:

28 "(d) Exception for Address of Certain Registered Voters. – Notwithstanding
29 subsections (b) and (c) of this section, if a registered voter submits to the county board
30 of elections a copy of a protective order without attachments, if any, issued to that
31 person under G.S. 50B-3 or a lawful order of any court of competent jurisdiction
32 restricting the access or contact of one or more persons with a registered voter or a
33 current and valid Address Confidentiality Program authorization card issued pursuant to
34 the provisions of Chapter 15C of the General Statutes, accompanied by a signed
35 statement that the voter has good reason to believe that the physical safety of the voter
36 or a member of the voter's family residing with the voter would be jeopardized if the
37 voter's address were open to public inspection, that voter's address is a public record but
38 shall be kept confidential as long as the protective order remains in effect or the voter
39 remains a certified program participant in the Address Confidentiality Program. That
40 voter's name, precinct, and the other data contained in that voter's registration record
41 shall remain a public record. That voter's signed statement submitted under this
42 subsection is a public record but shall be kept confidential as long as the protective
43 order remains in effect or the voter remains a certified program participant in the
44 Address Confidentiality Program. It is the responsibility of the voter to provide the

1 county board with a copy of the valid protective order in effect or a current and valid
2 Address Confidentiality Program authorization card issued pursuant to the provisions of
3 Chapter 15C of the General Statutes. The voter's actual address shall be used for any
4 election-related purpose by any board of elections. That voter's address shall be
5 available for inspection by a law enforcement agency or by a person identified in a court
6 order, if inspection of the address by that person is directed by that court order. It shall
7 not be a violation of this section if the address of a voter who is participating in the
8 Address Confidentiality Program is discovered by a member of the public in public
9 records disclosed by a county board of elections prior to December 1, 2001. Addresses
10 required to be kept confidential by this section shall not be made available to the jury
11 commission under the provisions of G.S. 9-2."

12 **SECTION 7.(b)** G.S. 9-2(g) reads as rewritten:

13 "(g) The custodian of the appropriate election registration records in each county
14 shall cooperate with the jury commission in its duty of compiling the list required by
15 this section. Nothing in this section authorizes the disclosure of addresses required to be
16 kept confidential by G.S. 163-82.10(d)."

17 **SECTION 8.** G.S. 163-221 reads as rewritten:

18 **"§ 163-221. Persons may not sign name of another to petition.**

19 (a) No person may sign the name of another person ~~to~~to any of the following:

20 (1) Any petition calling for an election or ~~referendum~~referendum.

21 (2) Any petition under G.S. 163-96 for the formulation of a new political
22 ~~party~~party.

23 (3) Any petition under G.S. 163-107.1 requesting a person to be a
24 ~~candidate~~candidate.

25 (4) Any petition under G.S. 163-122 to have the name of an unaffiliated
26 candidate placed on the general election ballot, or under G.S. 163-296
27 to have the name of an unaffiliated or nonpartisan candidate placed on
28 the regular municipal election ~~ballot~~or ballot.

29 (5) Any petition under G.S. 163-213.5 to place a name on the ballot under
30 the Presidential Preference Primary Act.

31 (6) Any petition under G.S. 163-123 to qualify as a write-in candidate.

32 (b) Any name signed on a petition, in violation of this section, shall be void.

33 (c) Any person who willfully violates this section is guilty of a Class 2
34 misdemeanor."

35 **SECTION 9.** G.S. 6-19.1 reads as rewritten:

36 **"§ 6-19.1. Attorney's fees to parties appealing or defending against agency**
37 **decision.**

38 In any civil action, other than an adjudication for the purpose of establishing or
39 fixing a rate, or a disciplinary action by a licensing board, brought by the State or
40 brought by a party who is contesting State action pursuant to G.S. 150B-43 or any other
41 appropriate provisions of law, unless the prevailing party is the State, the court may, in
42 its discretion, allow the prevailing party to recover reasonable attorney's fees, including
43 attorney's fees applicable to the administrative review portion of the case, in contested

1 cases arising under Article 3 of Chapter 150B, to be taxed as court costs against the
2 appropriate agency if:

- 3 (1) The court finds that the agency acted without substantial justification
4 in pressing its claim against the party; and
- 5 (2) The court finds that there are no special circumstances that would
6 make the award of attorney's fees unjust. The party shall petition for
7 the attorney's fees within 30 days following final disposition of the
8 case. The petition shall be supported by an affidavit setting forth the
9 basis for the request.

10 Nothing in this section shall be deemed to authorize the assessment of attorney's fees
11 for the administrative review portion of the case in contested cases arising under Article
12 9 of Chapter 131E of the General Statutes.

13 Nothing in this section shall be deemed to authorize the assessment of attorney's fees
14 against the State Board of Elections concerning any decision of the board pertaining to
15 election protests, contests, or disputes over election outcomes.

16 Nothing in this section grants permission to bring an action against an agency
17 otherwise immune from suit or gives a right to bring an action to a party who otherwise
18 lacks standing to bring the action.

19 Any attorney's fees assessed against an agency under this section shall be charged
20 against the operating expenses of the agency and shall not be reimbursed from any other
21 source."

22 **SECTION 10.** G.S. 163-182.13(a) reads as rewritten:

23 "(a) When State Board May Order New Election. – The State Board of Elections
24 may order a new election, upon agreement of at least four of its members, in the case of
25 any one or more of the following:

- 26 (1) Ineligible voters sufficient in number to change the outcome of the
27 election were allowed to vote in the election, and it is not possible
28 from examination of the official ballots to determine how those
29 ineligible voters voted and to correct the totals.
- 30 (2) Eligible voters sufficient in number to change the outcome of the
31 election were improperly prevented from voting.
- 32 (3) Other irregularities affected a sufficient number of votes to change the
33 outcome of the election.
- 34 (4) Irregularities or improprieties occurred to such an extent ~~that, although~~
35 ~~it is not possible to determine whether those irregularities or~~
36 ~~improprieties affected the outcome of the election, that~~ they taint the
37 results of the entire election and cast doubt on its fairness."

38 **SECTION 11.** G.S. 163-182.14 reads as rewritten:

39 "**§ 163-182.14. Appeal of a final decision to superior court.**

40 A copy of the final decision of the State Board of Elections on an election protest
41 shall be served on the parties personally or by certified mail. A decision to order a new
42 election is considered a final decision for purposes of seeking review of the decision.
43 An aggrieved party has the right to appeal the final decision to the Superior Court of
44 Wake County within 10 days of the date of service.

1 After the decision by the State Board of Elections has been served on the parties, the
2 certification of nomination or election or the results of the referendum shall issue
3 pursuant to G.S. 163-182.15 unless an appealing party obtains a stay of the certification
4 from the Superior Court of Wake County within 10 days after the date of service. The
5 court shall not issue a stay of certification unless the petitioner shows the court that the
6 petitioner has appealed the decision of the State Board of Elections, that the petitioner is
7 an aggrieved party, and that the petitioner is likely to prevail, ~~and that the results of the~~
8 ~~election would be changed in the petitioner's favor. Mere irregularities in the election~~
9 ~~which would not change the results of the election shall not be sufficient for the court to~~
10 ~~issue a stay of certification.~~ prevail."

11 **SECTION 12.** G.S. 163-213.4 reads as rewritten:

12 **"§ 163-213.4. Nomination by State Board of Elections.**

13 The State Board of Elections shall convene in Raleigh on the first ~~Tuesday in~~
14 ~~February business day after the close of the candidate-filing period established in G.S.~~
15 163-106(c) preceding the presidential preference primary election. At the meeting
16 required by this section, the State Board of Elections shall nominate as presidential
17 primary candidates all candidates affiliated with a political party, recognized pursuant to
18 the provisions of Article 9 of Chapter 163 of the General Statutes, who have become
19 eligible to receive payments from the Presidential Primary Matching Payment Account,
20 as provided in section 9033 of the U.S. Internal Revenue Code of 1954, as amended.
21 Immediately upon completion of these requirements, the Board shall release to the news
22 media all such nominees selected. Provided, however, nothing shall prohibit the partial
23 selection of nominees prior to the meeting required by this section, if all provisions
24 herein have been complied with."

25 **SECTION 13.** Section 3 of this act becomes effective January 1, 2004. The
26 remainder of this act is effective when it becomes law.