

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 709

Short Title: Election Law Amendments.

(Public)

Sponsors: Representatives Alexander, McMahan (Cosponsors); Baddour, Beall, Black, Church, Cole, Cunningham, Earle, Easterling, Fox, H. Hunter, Luebke, Miller, Mosley, Nye, Oldham, Ramsey, Saunders, Wainwright, Wilkins, and C. Wilson.

Referred to: Election Law and Campaign Reform.

March 31, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ELECTION LAWS TO SIMPLIFY BALLOTS AND TO ALLOW FLEXIBILITY IN ALLOCATION OF VOTING MACHINES.

The General Assembly of North Carolina enacts:

–UNOPPOSED CANDIDATES FOR OFFICES CREATED BY STATUTE DECLARED ELECTED, NOTICE OF WRITE-IN CANDIDACY IN MUNICIPAL AND NONPARTISAN ELECTIONS.

Section 1. (a) Article 13 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-135.1. Unopposed candidate for statutory office not to appear on ballot.

(a) If there are no more candidates for an office than there are positions to be elected, whether such candidates are by:

- (1) Nomination of a party under Article 9 or 10 of Chapter 163 of the General Statutes;
- (2) Nomination by petition under G.S. 163-122;
- (3) Qualification as a write-in candidate under G.S. 163-123;
- (4) Notice of candidacy under G.S. 139-6, 163-291, or 163-294.2; or
- (5) Some other means allowed by general law or local act

1 those candidates are appointed to hold the office, as if they had been elected, and no
2 general election shall be held.

3 (b) The determination as to whether no election shall be held shall be made by the
4 county board of elections as soon as the deadline for verifying write-in petitions, (the last
5 method of qualification) under G.S. 163-123(c)(1) and (3) has passed, except that if a
6 party has nominated a candidate and there is a vacancy in nomination which can be filled
7 under G.S. 163-114, the determination shall be made on the tenth day after the deadline
8 for verifying write-in petitions under G.S. 163-123(c)(1) and (3).

9 (c) If a determination is made by the county board of elections that no election
10 shall be held, it shall issue a certificate appointing the person to office. The person so
11 certified shall qualify for office as if elected in the general election.

12 (d) This section applies only to offices which were established by statute. Such
13 offices include, but are not limited to:

14 (1) Boards of county commissioners;

15 (2) Registers of deeds;

16 (3) Coroners in counties which have such office;

17 (4) Boards of education;

18 (5) Mayors;

19 (6) City councils;

20 (7) Sanitary district boards;

21 (8) Soil and water conservation district supervisors; and

22 (9) Other elective offices created by local act.

23 (e) For the purpose of any law relating to the office a person is appointed to under
24 this section, including, but not limited to, terms of office, existence and filling of
25 vacancies, and removal from office, a person appointed to office under this section is
26 considered to have been elected."

27 (b) 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 petition,
36 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.

- 1 (c) Petitions for Write-in Candidacy. – An applicant for write-in candidacy shall:
- 2 (1) If the office is a statewide office, file written petitions with the State
- 3 Board of Elections supporting his candidacy for a specified office.
- 4 These petitions shall be filed on or before noon on the 90th day before
- 5 the general election. They shall be signed by 500 qualified voters of the
- 6 State. Before being filed with the State Board of Elections, each petition
- 7 shall be presented to the board of elections of the county in which the
- 8 signatures were obtained. A petition presented to a county board of
- 9 elections shall contain only names of voters registered in that county.
- 10 The chairman of the county board of elections shall examine the names
- 11 on the petition and place a check mark by the name of each signer who
- 12 is qualified and registered to vote in his county. The chairman of the
- 13 county board shall attach to the petition his signed certificate. On his
- 14 certificate the chairman shall state that the signatures on the petition
- 15 have been checked against the registration records and shall indicate the
- 16 number of signers who are qualified and registered to vote in his county
- 17 and eligible to vote for that office. The chairman shall return each
- 18 petition, together with the certificate required in this section, to the
- 19 person who presented it to him for checking. The chairman of the
- 20 county board shall complete the verification within two weeks from the
- 21 date the petition is presented. At the time of submitting the petition, a
- 22 fee of five cents (5¢) shall be paid for each name appearing on the
- 23 petition.
- 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 procedure
- 35 for certification shall be the same as specified in subdivision (1).
- 36 (3) If the office is a county office, or is a school administrative unit ~~office~~
- 37 ~~elected on a partisan basis, office, or is a legislative or superior court~~
- 38 district consisting of a single county or a portion of a county, file written
- 39 petitions with the county board of elections supporting his candidacy for
- 40 a specified office. A petition presented to a county board of elections
- 41 shall contain only names of voters registered in that county. These
- 42 petitions must be filed on or before noon on the 90th day before the
- 43 general election and must be signed by 100 qualified voters who are

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

11 (4) If the office is a municipal office governed by Subchapter IX of this
12 Chapter, file written petitions with the board of elections conducting the
13 election for that municipality supporting his candidacy for a specified
14 office. A petition presented to a board of elections shall contain only
15 names of voters registered in the area for which the election is being
16 conducted. These petitions must be filed on or before noon on the
17 seventh day after the filing deadline under G.S. 139-6, 163-291, or 163-
18 294.2 and must be signed by 100 qualified voters who are eligible to
19 vote for the office, unless fewer than 5,000 persons are eligible to
20 vote for the office as shown by the most recent records of the appropriate
21 board of elections. If fewer than 5,000 persons are eligible to vote for
22 the office, an applicant's petition must be signed by not less than one
23 percent (1%) of those registered voters. Before being filed with the
24 county board of elections, each petition shall be presented to the board
25 of elections for examination. The chairman of the board of elections
26 shall examine the names on the petition and the procedure for
27 certification shall be the same as specified in subdivision (1) of this
28 subsection.

29 (d) Form of Petition. – Petitions requesting the qualification of a write-in candidate
30 in a general election shall contain on the heading of each page of the petition in bold print
31 or in capital letters the words: 'THE UNDERSIGNED REGISTERED VOTERS IN
32 COUNTY HEREBY PETITION ON BEHALF OF AS A
33 WRITE-IN CANDIDATE IN THE NEXT GENERAL ELECTION. THE
34 UNDERSIGNED HEREBY PETITION THAT SUBJECT CANDIDATE BE PLACED
35 ON THE LIST OF QUALIFIED WRITE-IN CANDIDATES WHOSE VOTES ARE TO
36 BE COUNTED AND RECORDED IN ACCORDANCE WITH G.S. 163-123.'

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

40 (f) Counting and Recording of Votes. – If a qualified voter has complied with the
41 provisions of subsections (a), (b), and (c) and is not excluded by subsection (e), the board
42 of elections with which petition has been filed shall count votes for him according to the
43 procedures set out in G.S. 163-170(5), and the appropriate board of elections shall record

1 those votes on the official abstract. Write-in votes for names other than those of qualified
2 write-in candidates shall not be counted for any purpose and shall not be recorded on the
3 abstract.

4 ~~(g) Municipal and Nonpartisan Elections Excluded. — This section does not apply~~
5 ~~to municipal elections conducted under Subchapter IX of Chapter 163 of the General~~
6 ~~Statutes, and does not apply to nonpartisan elections.~~

7 (c) This section applies to elections held on or after January 1, 1998.

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9 –SIMPLIFY BALLOT WORDING.

10 Section 2. G.S. 163-140(b)(7) reads as rewritten:

11 "(7) Ballot for Constitutional Amendments and Other Propositions
12 Submitted to the People: The form of ballot used in submitting a
13 constitutional amendment or other proposition or issue to the voters of
14 the entire State shall be prepared by the State Board of Elections and
15 approved by the Attorney General. The form of ballot used in
16 submitting propositions and issues to the voters of a single county or
17 subdivision shall be prepared by the county board of elections. In a
18 referendum the issue presented to the voters with respect to each
19 constitutional amendment, question, or proposition, shall be printed in
20 the form laid down by the General Assembly or other body submitting
21 it. In preparing ballot questions, the submitting entity should seek to
22 use simplified language that will reduce voter confusion. If more than
23 one amendment, question, or proposition is submitted on a single ballot,
24 each shall be printed in a separate section, and the sections shall be
25 numbered consecutively. On the face of the ballot, above the issue or
26 issues being submitted, shall be printed instructions for marking the
27 voter's choice, in addition to the following instruction: 'If you tear or
28 deface or wrongly mark this ballot, return it and get another.' On the
29 bottom of the ballot shall be printed an identified facsimile of the
30 signature of the chairman of the responsible board of elections, State or
31 county."

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33 –FLEXIBILITY IN VOTING EQUIPMENT ALLOCATION.

34 Section 3. G.S. 163-166 is repealed.

35 Section 4. This act is effective when it becomes law.