

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 2

Short Title: Change Primary Date.

(Public)

Sponsors: Senators Gulley; Albertson, Ballance, Conder, Cooper, Dalton, Dannelly, Hoyle, Jordan, Kerr, Lee, Lucas, Miller, Odom, Perdue, Phillips, Plyler, Rand, Soles, Warren, Weinstein, Wellons, and Winner.

Referred to: Judiciary.

February 3, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR A LATER PRIMARY DATE.

3 The General Assembly of North Carolina enacts:

4 Section 1. G.S. 163-1(b) reads as rewritten:

5 "(b) On ~~Tuesday next after the first Monday in May~~ the second Tuesday after the first
6 Monday in September preceding each general election to be held in November for the
7 officers referred to in subsection (a) of this section, there shall be held in all election
8 precincts within the territory for which the officers are to be elected a primary election
9 for the purpose of nominating candidates for each political party in the State for those
10 offices."

11 Section 2. G.S. 163-111(e) reads as rewritten:

12 "(e) Date of Second Primary; Procedures. – If a second primary is required under
13 the provisions of this section, the appropriate board of elections, State or county, shall
14 order that it be held ~~four~~ three weeks after the first primary.

15 There shall be no registration of voters between the dates of the first and second
16 primaries. Persons whose qualifications to register and vote mature after the day of the
17 first primary and before the day of the second primary may register on the day of the
18 second primary and, when thus registered, shall be entitled to vote in the second primary.

1 The second primary is a continuation of the first primary and any voter who files a proper
2 and timely affidavit of transfer of precinct, under the provisions of G.S. 163-72(c), before
3 the first primary may vote in the second primary without having to refile the affidavit of
4 transfer if he is otherwise qualified to vote in the second primary. Subject to this
5 provision for registration, the second primary shall be held under the laws, rules, and
6 regulations provided for the first primary."

7 Section 3. (a) G.S. 163-106(c) reads as rewritten:

8 "(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary
9 nominations for the following offices shall file their notice of candidacy with the State
10 Board of Elections no earlier than 12:00 noon on the ~~first Monday in January~~ last Monday
11 in June and no later than 12:00 noon on the ~~first Monday in February~~ second Monday
12 thereafter preceding the primary:

13 Governor

14 Lieutenant Governor

15 All State executive officers

16 Justices of the Supreme Court, Judges of the Court of Appeals

17 Judges of the district courts

18 United States Senators

19 Members of the House of Representatives of the United States

20 District attorneys

21 Candidates seeking party primary nominations for the following offices shall file their
22 notice of candidacy with the county board of elections no earlier than 12:00 noon on the
23 ~~first Monday in January~~ last Monday in June and no later than 12:00 noon on the ~~first~~
24 ~~Monday in February~~ second Monday thereafter preceding the primary:

25 State Senators

26 Members of the State House of Representatives

27 All county offices."

28 (b) G.S. 163-323(b) reads as rewritten:

29 "(b) Time for Filing Notice of Candidacy. – Candidates seeking election to the
30 following offices shall file their notice of candidacy with the State Board of Elections no
31 earlier than 12:00 noon on the ~~first Monday in January~~ last Monday in June and no later
32 than 12:00 noon on the ~~first Monday in February~~ second Monday thereafter preceding the
33 election:

34 Judges of the superior courts."

35 Section 4. G.S. 163-98 reads as rewritten:

36 "**§ 163-98. General election participation by new political party.**

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

42 For the first general election following the date on which it qualifies under G.S. 163-
43 96, a new political party shall select its candidates by party convention. Following

1 adjournment of the nominating convention, but not later than the ~~first day of July prior to~~
2 ~~the general election, day of the primary election~~ under G.S. 163-1(b), the president of the
3 convention shall certify to the State Board of Elections the names of persons chosen in
4 the convention as the new party's candidates for ~~State, congressional, and national~~ offices in
5 the ensuing general election. The State Board of Elections shall print names thus certified
6 on the appropriate ballots as the nominees of the new party."

7 Section 5. G.S. 163-122(a) reads as rewritten:

8 "(a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. – Any
9 qualified voter who seeks to have his name printed on the general election ballot as an
10 unaffiliated candidate shall:

11 (1) If the office is a statewide office, file written petitions with the State
12 Board of Elections supporting his candidacy for a specified office.
13 These petitions must be filed with the State Board of Elections on or
14 before 12:00 noon on the last Friday in ~~June~~ August preceding the
15 general election and must be signed by qualified voters of the State
16 equal in number to two percent (2%) of the total number of registered
17 voters in the State as reflected by the most recent statistical report issued
18 by the State Board of Elections. Each petition shall be presented to the
19 chairman of the board of elections of the county in which the signatures
20 were obtained. The chairman shall examine the names on the petition
21 and place a check mark on the petition by the name of each signer who
22 is qualified and registered to vote in his county and shall attach to the
23 petition his signed certificate. Said certificates shall state that the
24 signatures on the petition have been checked against the registration
25 records and shall indicate the number of signers to be qualified and
26 registered to vote in his county. The chairman shall return each petition,
27 together with the certificate required in this section, to the person who
28 presented it to him for checking. Verification by the chairman of the
29 county board of elections shall be completed within two weeks from the
30 date such petitions are presented and a fee of five cents (5¢) for each
31 name appearing on the petition has been received.

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~~ August 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. Each
40 petition shall be presented to the chairman of the board of elections of
41 the county in which the signatures were obtained. The chairman shall
42 examine the names on the petition and the procedure for certification
43 shall be the same as specified in (1) above.

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

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

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

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

33 Section 6. G.S. 163-123(c) reads as rewritten:

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

35 (1) If the office is a statewide office, file written petitions with the State
36 Board of Elections supporting his candidacy for a specified office.
37 These petitions shall be filed on or before noon ~~on the 90th day before the~~
38 ~~general election.~~ the day of the primary under G.S. 163-1(b). They shall
39 be signed by 500 qualified voters of the State. Before being filed with
40 the State Board of Elections, each petition shall be presented to the
41 board of elections of the county in which the signatures were obtained.
42 A petition presented to a county board of elections shall contain only
43 names of voters registered in that county. The chairman of the county

1 board of elections shall examine the names on the petition and place a
2 check mark by the name of each signer who is qualified and registered
3 to vote in his county. The chairman of the county board shall attach to
4 the petition his signed certificate. On his certificate the chairman shall
5 state that the signatures on the petition have been checked against the
6 registration records and shall indicate the number of signers who are
7 qualified and registered to vote in his county and eligible to vote for that
8 office. The chairman shall return each petition, together with the
9 certificate required in this section, to the person who presented it to him
10 for checking. The chairman of the county board shall complete the
11 verification within two weeks from the date the petition is presented. At
12 the time of submitting the petition, a fee of five cents (5¢) shall be paid
13 for each name appearing on the petition.

14 (2) If the office is a district office comprising all or part of two or more
15 counties, file written petitions with the State Board of Elections
16 supporting his candidacy for a specified office. These petitions must be
17 filed with the State Board of Elections on or before noon on the ~~90th day~~
18 ~~before the general election day of the primary under G.S. 163-1(b)~~ and
19 must be signed by 250 qualified voters. Before being filed with the State
20 Board of Elections, each petition shall be presented to the board of
21 elections of the county in which the signatures were obtained. A petition
22 presented to a county board of elections shall contain only names of
23 voters registered in that county who are eligible to vote for that office.
24 The chairman of the county board shall examine the names on the
25 petition and the procedure for certification shall be the same as specified
26 in subdivision (1).

27 (3) If the office is a county office, or is a school administrative unit office
28 elected on a partisan basis, or is a legislative district consisting of a
29 single county or a portion of a county, file written petitions with the
30 county board of elections supporting his candidacy for a specified
31 office. A petition presented to a county board of elections shall contain
32 only names of voters registered in that county. These petitions must be
33 filed on or before noon on the ~~90th day before the general election day of~~
34 ~~the primary under G.S. 163-1(b)~~ and must be signed by 100 qualified
35 voters who are eligible to vote for the office, unless fewer than 5,000
36 persons are eligible to vote for the office as shown by the most recent
37 records of the appropriate board of elections. If fewer than 5,000
38 persons are eligible to vote for the office, an applicant's petition must be
39 signed by not less than one percent (1%) of those registered voters.
40 Before being filed with the county board of elections, each petition shall
41 be presented to the county board of elections for examination. The
42 chairman of the county board of elections shall examine the names on

1 the petition and the procedure for certification shall be the same as
2 specified in subdivision (1)."

3 Section 7. G.S. 163-114 reads as rewritten:

4 "**§ 163-114. Filling vacancies among party nominees occurring after nomination and**
5 **before election.**

6 If any person nominated as a candidate of a political party for one of the offices listed
7 below (either in a primary or convention or by virtue of having no opposition in a
8 primary) dies, resigns, or for any reason becomes ineligible or disqualified before the
9 date of the ensuing general election, the vacancy shall be filled by appointment according
10 to the following instructions:

11		
12	Position	Vacancy is to be filled by
13	Any elective State office	appointment of State
14	United States Senator	executive committee of
15		political party in which
16		vacancy occurs
17		
18	A district office, including:	
19	Member of the United States	
20	House of Representatives	
21	Judge of district court	
22	District Attorney	Appropriate district executive
23	State Senator in a multi-	committee of political party
24	county senatorial district	in which vacancy occurs
25	Member of State House of	
26	Representatives in a multi-	
27	county representative	
28	district	
29		
30	State Senator in a single-	County executive committee
31	county senatorial district	of political party in which
32	Member of State House of	vacancy occurs, provided, in
33	Representatives in a	the case of the State
34	single-county	Senator or State
35	representative district	Representative in a
36	Any elective county office	single-county district where
37		not all the county is
38		located in that district,
39		then in voting, only those
40		members of the county
41		executive committee who
42		reside within the
43		district shall vote

1
2 The party executive making a nomination in accordance with the provisions of this
3 section shall certify the name of its nominee to the chairman of the board of elections,
4 State or county, charged with the duty of printing the ballots on which the name is to
5 appear. If at the time a nomination is made under this section the general election ballots
6 have already been printed, the provisions of G.S. 163-139 shall apply. ~~If any person
7 nominated as a candidate of a political party vacates such nomination and such vacancy arises
8 from a cause other than death and the vacancy in nomination occurs more than 120 days before
9 the general election, the vacancy in nomination may be filled under this section only if the
10 appropriate executive committee certifies the name of the nominee in accordance with this
11 paragraph at least 75 days before the general election.~~

12 In a county which is partly in a multi-county superior court district, in choosing that
13 county's member or members of the superior court district executive committee for the
14 multi-county district, only the county convention delegates or county executive
15 committee members who reside within the area of the county which is within that multi-
16 county district may vote.

17 In a county not all of which is located in one congressional district, in choosing the
18 congressional district executive committee member or members from that area of the
19 county, only the county convention delegates or county executive committee members
20 who reside within the area of the county which is within the congressional district may
21 vote.

22 In a county which is partly in a multi-county senatorial district or which is partly in a
23 multi-county House of Representatives district, in choosing that county's member or
24 members of the senatorial district executive committee or House of Representatives
25 district executive committee for the multi-county district, only the county convention
26 delegates or county executive committee members who reside within the area of the
27 county which is within that multi-county district may vote."

28 Section 8. Article 20 of Chapter 163 of the General Statutes is amended by
29 adding a new section to read:

30 **"§ 163-226.4. Special deadlines for general election.**

31 Notwithstanding any other provision of this Article or Article 21 of this Chapter, the
32 State Board of Elections shall provide that absentee ballots shall be available for the
33 primary or general election at the earliest time practicable and may provide an alternative
34 schedule for meetings of the county board of elections under G.S. 163-230 to
35 accommodate the revised schedule."

36 Section 9. G.S. 163-179.1(a) reads as rewritten:

37 "(a) Whenever, according to the canvass made under this Article, the difference
38 between the number of votes received by a candidate who:

- 39 (1) Has received the number of votes necessary to be declared nominated
40 for an office in a primary election with a majority; or
41 (2) Has received the number of votes necessary to be declared nominated
42 for an office in a second primary election

1 and the number of votes received by any candidate in the race is not more than one
2 percent (1%) of the total votes which were cast for that office, except in multi-seat races
3 one percent (1%) of the total votes cast for those two candidates, the county board of
4 elections shall, before declaring the person nominated, order a recount of the primary if a
5 candidate whose votes fell within one percent (1%) of a successful candidate shall, by
6 noon on the ~~second~~ day (Saturdays and Sundays excepted) following the canvass, request
7 in writing such a recount."

8 Section 10. G.S. 163-192.1(a) reads as rewritten:

9 "(a) Whenever, according to the canvass made under this Article, the difference
10 between the number of votes received by a candidate who:

- 11 (1) Has received the number of votes necessary to be declared nominated
12 for an office in a primary election with a majority; or
- 13 (2) Received the number of votes necessary to be declared nominated for an
14 office in a second primary election

15 and the number of votes received by any candidate in the race is not more than one
16 percent (1%) of the total votes which were cast for that office, except in multi-seat races
17 one percent (1%) of the total votes cast for those two candidates, the State Board of
18 Elections shall, before declaring the person nominated, order a recount of the primary if a
19 candidate whose votes, according to a tally of the canvasses made under Article 15 of this
20 Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the
21 ~~eighth~~ sixth day (Saturdays and Sundays included) following the election, request in
22 writing such a recount. Provided, however, that in a statewide contest, no candidate shall
23 be entitled to an automatic recount under this section unless the difference is at least one-
24 half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. Provided
25 further that if the canvass made under this Article determines that a candidate who was
26 not originally thought to be within the percentage entitling him to a recount based on the
27 tally of canvasses made under Article 15 of this Chapter is in fact within the percentage
28 entitling him to a recount, the Executive Secretary-Director of the State Board of
29 Elections shall immediately notify the candidate and the candidate shall be entitled to a
30 recount if he so requests within ~~48~~ 24 hours of notification."

31 Section 11. If any members of any county board of education are elected at the
32 primary election and take office under a local act in July after the primary, they shall
33 instead take office on the same day in October after the primary, and the terms of any
34 such member which would otherwise expire in July of 1998 or July of 2000 are extended
35 accordingly.

36 Section 12. G.S. 163-111(c) reads as rewritten:

37 "(c) Procedure for Requesting Second Primary. –

- 38 (1) A candidate who is apparently entitled to demand a second primary,
39 according to the unofficial results, for one of the offices listed below,
40 and desiring to do so, shall file a request for a second primary in writing
41 or by telegram with the Executive Secretary-Director of the State Board
42 of Elections no later than 12:00 noon on the ~~seventh~~ sixth day (including
43 Saturdays and Sundays) following the date on which the primary was

1 conducted, and such request shall be subject to the certification of the
2 official results by the State Board of Elections. If the vote certification
3 by the State Board of Elections determines that a candidate who was not
4 originally thought to be eligible to call for a second primary is in fact
5 eligible to call for a second primary, the Executive Secretary-Director of
6 the State Board of Elections shall immediately notify such candidate
7 and permit him to exercise any options available to him within a ~~48-hour~~
8 24-hour period following the notification:

9 Governor,
10 Lieutenant Governor,
11 All State executive officers,
12 Justices, Judges, or District Attorneys of the General Court of
13 Justice,
14 United States Senators,
15 Members of the United States House of Representatives,
16 State Senators in multi-county senatorial districts, and
17 Members of the State House of Representatives in multi-county
18 representative districts.

19 (2) A candidate who is apparently entitled to demand a second primary,
20 according to the unofficial results, for one of the offices listed below
21 and desiring to do so, shall file a request for a second primary in writing
22 or by telegram with the chairman or director of the county board of
23 elections no later than 12:00 noon on the ~~seventh~~sixth day (including
24 Saturdays and Sundays) following the date on which the primary was
25 conducted, and such request shall be subject to the certification of the
26 official results by the county board of elections:

27 State Senators in single-county senatorial districts,
28 Members of the State House of Representatives in single-county
29 representative districts, and
30 All county officers.

31 (3) Immediately upon receipt of a request for a second primary the
32 appropriate board of elections, State or county, shall notify all
33 candidates entitled to participate in the second primary, by telephone
34 followed by written notice, that a second primary has been requested
35 and of the date of the second primary."

36 Section 13. G.S. 163-111(d) reads as rewritten:

37 "(d) Tie Votes; How Determined. –

38 (1) In the event of a tie for the highest number of votes in a first primary
39 between two candidates for party nomination for a single county, or
40 single-county legislative district office, the board of elections of the
41 county in which the two candidates were voted for shall conduct a
42 recount and declare the results. If the recount shows a tie vote, a second
43 primary shall be held on the date prescribed in subsection (e) of this

1 section between the two candidates having an equal vote, unless one of
2 the aspirants, within ~~three days~~ one day after the result of the recount has
3 been officially declared, files a written notice of withdrawal with the
4 board of elections with which he filed notice of candidacy. Should that
5 be done, the remaining aspirant shall be declared the nominee. In the
6 event of a tie for the highest number of votes in a first primary among
7 more than two candidates for party nomination for one of the offices
8 mentioned in this subdivision, no recount shall be held, but all of the
9 tied candidates shall be entered in a second primary.

10 (2) In the event of a tie for the highest number of votes in a first primary
11 between two candidates for a State office, for United States Senator, or
12 for any district office (including State Senator in a multi-county
13 senatorial district and member of the State House of Representatives in
14 a multi-county representative district), no recount shall be held solely by
15 reason of the tie, but the two candidates having an equal vote shall be
16 entered in a second primary to be held on the date prescribed in
17 subsection (e) of this section, unless one of the two candidates files a
18 written notice of withdrawal with the State Board of Elections within
19 ~~three days~~ one day after the result of the first primary has been officially
20 declared and published. Should that be done, the remaining aspirant
21 shall be declared the nominee. In the event of a tie for the highest
22 number of votes in a first primary among more than two candidates for
23 party nomination for one of the offices mentioned in this subdivision, no
24 recount shall be held, but all of the tied candidates shall be entered in a
25 second primary.

26 (3) In the event one candidate receives the highest number of votes cast in a
27 first primary, but short of a substantial plurality, and two or more of the
28 other candidates receive the second highest number of votes cast in an
29 equal number, the proper board of elections shall declare the candidate
30 having the highest vote to be the party nominee, unless all but one of the
31 tied candidates give written notice of withdrawal to the proper board of
32 elections within ~~three days~~ one day after the result of the first primary
33 has been officially declared. If all but one of the tied candidates
34 withdraw within the prescribed ~~three-day~~ period, and the remaining
35 candidate demands a second primary in accordance with the provisions
36 of subsection (c) of this section, a second primary shall be held between
37 the candidate who received the highest vote and the remaining candidate
38 who received the second highest vote."

39 Section 14. This act becomes effective January 1, 1998.