

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

SESSION LAW 2001-374
SENATE BILL 16

AN ACT TO ABOLISH MUNICIPAL BOARDS OF ELECTIONS IN MUNICIPALITIES OTHER THAN MORGANTON, GRANITE FALLS, OLD FORT, AND RHODHISS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 23 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-280.1. Municipal boards of elections abolished.

Municipal boards of elections in all municipalities other than the City of Morganton, the Town of Granite Falls, the Town of Old Fort, and the Town of Rhodhiss, whether created by general statute or by local act, are abolished. The terms of all members of all such municipal boards of elections which are abolished by this section, and all precinct officials appointed by such municipal boards of elections, if those terms have not expired prior to January 1, 2002, expire January 1, 2002."

SECTION 2. G.S. 163-285 reads as rewritten:

"§ 163-285. Administration by county board of elections; optional by municipality. Morganton, Granite Falls, Old Fort, and Rhodhiss.

(a) ~~Any city, town or incorporated village which conducts its elections on a nonpartisan basis. The City of Morganton, the Town of Old Fort, the Town of Granite Falls, and the Town of Rhodhiss may conduct its their own elections, or it they may request the county board of elections of the county in which it is they are located to conduct its their elections. A county board of elections shall conduct the elections of each city, town or incorporated village municipality so requesting and the city, town or incorporated village municipality shall pay the cost thereof according to a formula mutually agreed upon by the county board of elections and the city municipal council. The elections for any other municipality shall be conducted by the county board of elections, and the municipality shall pay the cost thereof according to a formula mutually agreed upon by the county board of elections and the municipal council. If a mutual agreement cannot be reached, then the State Board of Elections shall prescribe the agreement, to which both parties are bound, or, in its discretion, the State Board of Elections shall have authority to instruct the county board of elections to decline the administration of the elections for such city, town or incorporated village bound.~~

- (1) The elections of ~~cities, towns or incorporated villages municipalities~~ which lie in more than one county shall be conducted either (i) by the county in which the greater number of the ~~city's municipality's~~ citizens reside, according to the most recent federal census of population, or (ii) jointly by the boards of elections of each county in which such ~~city, town or incorporated village municipality~~ is located, as may be mutually agreed upon by the county boards of elections so affected, or (iii) in the case of the City of Morganton or the Towns of Old Fort, Granite Falls, or Rhodhiss, by a municipal board of elections appointed by the governing body of the municipality. The State Board of Elections shall have authority to promulgate regulations for more detailed administration and conduct of municipal elections by county

or municipal boards of elections for ~~cities~~ municipalities situated in more than one county.

- (2) Any ~~city, town or incorporated village~~ municipality electing to have its elections conducted by the county board of elections as provided by this section, shall do so no later than January 1, 1973 provided, however, the county board of elections shall be entitled to 90 days' notice prior to the effective date decided upon by the municipality. For efficient administration the State Board of Elections shall have the authority to delay the effective date of all such agreements under this section and shall set a date certain on which such agreements shall commence. The State Board of Elections shall also have the authority to permit any ~~city, town or incorporated village~~ municipality to exercise the options under this Article subsequent to the deadline stated in this section.

- (3) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 762, s. 63.

(b) The county board of elections shall have authority to require maps or definitive outlines of the boundaries constituting any municipality or special district whose elections that county board administers and shall be immediately advised of any change or relocation of such boundaries.

(c) The term 'special district' includes a sanitary district, fire district, or school administrative unit, notwithstanding the fact that the taxes of the special district may be levied by a municipality."

SECTION 3. G.S. 163-304 reads as rewritten:

"§ 163-304. State Board of Elections to have jurisdiction over municipal elections and election officials, and to advise; emergency and ongoing administration by county board.

(a) Authority and Duty of State Board. – The State Board of Elections shall have the same authority over municipal elections and election officials as it has over county and State elections and election officials. The State Board of Elections shall advise and assist cities, towns, incorporated villages and special districts, municipal boards of elections, their members and legal officers on the conduct and administration of their elections and registration procedure.

The ~~city~~ municipal council shall provide written notification to the State Board of Elections of the appointment of each member of its municipal board of elections within five days after the appointment. The municipal board of elections and the ~~city~~ municipal council shall provide such other information about the municipal board of elections as the State Board may require. Members of the municipal board of elections and municipal elections officials shall participate in training provided by the State Board pursuant to G.S. 163-82.24. The State Board shall provide the same training, materials, and assistance to municipal boards of elections that it provides to county boards of elections.

The county and municipal boards of elections shall be governed by the same rules for settling controversies with respect to counting ballots or certification of the returns of the vote in any municipal or special district election as are in effect for settling such controversies in county and State elections.

(b) Emergency Administration if Municipal Board Is Not Appointed. – If a ~~city~~ municipal council in a ~~city~~ municipality that has elected pursuant to G.S. 163-285 to conduct its own elections has not appointed a municipal board of elections and reported the appointments to the Executive Secretary-Director by ~~March~~ June 1 in the year in which the ~~city~~ municipal election is to occur, the Executive Secretary-Director shall notify the ~~city~~ municipal council that, unless a municipal board of elections is appointed and the Executive Secretary-Director notified of its appointment by ~~April~~ June 15 of that year, the county board of elections shall be ordered to conduct that ~~city's~~ municipality's elections that year on an emergency basis. If the ~~city~~ municipal council does not so appoint and so notify by ~~April~~ June 15, the Executive Secretary-Director

shall order the county board of elections to conduct the ~~city's~~ municipality's elections that year on an emergency basis.

(c) Emergency Administration Due to Serious Violations. – If a ~~city-municipal~~ council or municipal board of elections has committed violations of the applicable portions of this Chapter prior to a ~~city-municipal~~ election and those violations are of such magnitude as to give rise to reasonable doubt as to the ability of the municipal board of elections to conduct that election with competence and fairness, the Executive Secretary-Director of the State Board, with the approval of at least four members of the State Board, may order the county board of elections to conduct the remainder of that election on an emergency basis. Before an order is made under this subsection, the ~~city~~ municipal council and municipal board of elections shall be given an opportunity to be heard by the State Board.

(d) ~~Ongoing Permanent~~ County Administration. – The State Board of Elections may designate the county board of elections as the ~~ongoing permanent~~ agency to conduct a ~~city's~~ municipality's elections if all the following conditions are met:

- (1) In more than one election conducted by that ~~city-municipality~~ either (i) the ~~city's~~ municipality's elections have been administered on an emergency basis pursuant to subsection (b) or (c) of this section or (ii) a new election has been ordered because of irregularities in the ~~city's~~ municipality's administration of the election.
- (2) The State Board finds that the interest of the residents of the ~~city~~ municipality in fair and competent administration of elections requires that the ~~city-municipality~~ not conduct its own elections.
- (3) The ~~city-municipal~~ council and municipal board of elections are given an opportunity to be heard before the State Board.
- (4) The State Board by a vote of at least four of its members designates the county board of elections as the ~~ongoing permanent~~ agency to conduct that ~~city's~~ municipality's elections.

The ~~city-municipal~~ council may not elect to conduct its own elections under G.S. 163-285 ~~until every member of the city council has been elected in a election conducted by the county board of elections after the State Board's designation. if the State Board has designated the county board of elections under this subsection as the permanent agency to conduct the municipality's elections.~~

(e) Reimbursement. – If the county board of elections administers a ~~city's~~ municipality's elections pursuant to subsection (b), (c), or (d) of this section, the ~~city~~ municipality shall reimburse the county board of elections in the manner set forth in G.S. 163-285."

SECTION 4. The State Board of Elections shall inspect the operations of the municipal boards of elections in the City of Morganton, the Town of Granite Falls, the Town of Old Fort, and the Town of Rhodhiss during September, October, or November of 2001. The State Board shall make subsequent inspections as needed. Those municipalities shall cooperate with the State Board fully. If an inspection generates findings that election laws or regulations have been violated, the State Board shall take appropriate action under G.S. 163-304 or other applicable law.

SECTION 5. This act prevails over local acts.

SECTION 6. Sections 1 and 2 of this act become effective January 1, 2002, and apply to all primaries and elections held on and after that date. Section 3 of this act becomes effective when this act becomes law with respect to the City of Morganton, the Town of Granite Falls, the Town of Old Fort, and the Town of Rhodhiss. Section 3 of this act becomes effective January 1, 2002, with respect to all other municipalities. Section 4 of this act is effective when this act becomes law. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of August, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:56 a.m. this 17th day of August, 2001