

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE DRH50105-LB-220 (1/11)

Short Title: Election Fairness Act of 2011.

(Public)

Sponsors: Representatives Jones, Parfitt, and Hager (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ROTATE THE ORDER OF CANDIDATES AND POLITICAL PARTIES AS THEY APPEAR ON BALLOTS, TO ELIMINATE STRAIGHT-PARTY TICKET VOTING, AND TO PROVIDE PARTISAN BALANCE ON THE STATE BOARD OF ELECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-165.6 reads as rewritten:

"§ 163-165.6. Arrangement of official ballots.

(a) Order of Precedence Generally. – Candidate ballot items shall be arranged on the official ballot before referenda.

(b) Order of Precedence for Candidate Ballot Items. – The State Board of Elections shall promulgate rules prescribing the order of offices to be voted on the official ballot. Those rules shall adhere to the following guidelines:

(1) Federal offices shall be listed before State and local offices. Member of the United States House of Representatives shall be listed immediately after United States Senator.

(2) State and local offices shall be listed according to the size of the electorate.

(3) Partisan offices, regardless of the size of the constituency, shall be listed before nonpartisan offices.

(4) When offices are in the same class, they shall be listed in alphabetical order by office name, or in numerical or alphabetical order by district name. Governor and Lieutenant Governor, in that order, shall be listed before other Council of State offices. Mayor shall be listed before other citywide offices. Chair of a board, where elected separately, shall be listed before other board seats having the same electorate. Chief Justice shall be listed before Associate Justices.

(5) Ballot items for full terms of an office shall be listed before ballot items for partial terms of the same office.

(c) Order of Candidates and Parties on Primary Official Ballots. – The order in which candidates and political parties shall appear on a county's official ballots in any primary ballot item shall be determined by the county board of elections using a process designed by the State Board of Elections for random selection-rotation of names. The method shall rotate the official ballots so that the names of candidates and parties appear in the maximum number of different orders. The process used shall result in a reasonably even rotation of differently ordered official ballots among the ballot styles in each county in the same election. All the official ballots of the



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1 same ballot style in the county shall be in the same order. The same process of rotation among
2 ballot styles shall be used for candidates in party primary ballot items, nonpartisan ballot items,
3 and partisan general election ballot items. In rotating names in a partisan general election, there
4 shall be no distinction in the rotation system between party nominees and unaffiliated
5 candidates. In a partisan general election, rotation is not required among multiple nominees of
6 the same party in a multi-seat ballot item, as long as the groups of party nominees are rotated
7 by party name. Rotation is not required of choices in referenda.

8 (d) ~~Order of Party Candidates on General Election Official Ballot.~~ — Candidates in any
9 ballot item on a general election official ballot shall appear in the following order:

10 (1) ~~Nominees of political parties that reflect at least five percent (5%) of~~
11 ~~statewide voter registration, according to the most recent statistical report~~
12 ~~published by the State Board of Elections, in alphabetical order by party and~~
13 ~~in alphabetical order within the party.~~

14 (2) ~~Nominees of other political parties, in alphabetical order by party and in~~
15 ~~alphabetical order within the party.~~

16 (e) No Straight-Party Voting. — Each official ballot shall not contain any place that
17 allows a voter with one mark to vote for the candidates of a party for more than one office. ~~be~~
18 ~~arranged so that the voter may cast one vote for a party's nominees for all offices except~~
19 ~~President and Vice President. A vote for President and Vice President shall be cast separately~~
20 ~~from a straight party vote. The official ballot shall be prepared so that a voter may cast a~~
21 ~~straight party vote, but then make an exception to that straight party vote by voting for a~~
22 ~~candidate not nominated by that party or by voting for fewer than all the candidates nominated~~
23 ~~by that party. Instructions for general election ballots shall clearly advise voters of the rules in~~
24 ~~this subsection and of the statutes providing for the counting of ballots.~~

25 (f) Write-In Voting. — Each official ballot shall be so arranged so that voters may cast
26 write-in votes for candidates except where prohibited by G.S. 163-123 or other statutes
27 governing write-in votes. Instructions for general election ballots shall clearly advise voters of
28 the rules of this subsection and of the statutes governing write-in voting.

29 (g) Order of Precedence for Referenda. — The referendum questions to be voted on shall
30 be arranged on the official ballot in the following order:

31 (1) Proposed amendments to the North Carolina Constitution, in the
32 chronological order in which the proposals were approved by the General
33 Assembly.

34 (2) Other referenda to be voted on by all voters in the State, in the chronological
35 order in which the proposals were approved by the General Assembly.

36 (3) Referenda to be voted on by fewer than all the voters in the State, in the
37 chronological order of the acts by which the referenda were properly
38 authorized."

39 **SECTION 2.** G.S. 163-182.1(a)(7) is repealed.

40 **SECTION 3.(a)** G.S. 163-19 reads as rewritten:

41 "**§ 163-19. State Board of Elections; appointment; term of office; vacancies; oath of office.**

42 All of the terms of office of the present members of the State Board of Elections shall
43 expire on May 1, 1969, or when their successors in office are appointed and qualified.

44 The State Board of Elections shall consist of ~~five~~six registered voters whose terms of office
45 shall begin on May 1, 1969, and shall continue for four years, and until their successors are
46 appointed and qualified. The Governor shall appoint the members of this Board and likewise
47 shall appoint their successors every four years at the expiration of each four-year term. Not
48 more than three members of the Board shall be members of the same political party. The
49 Governor shall appoint the members from a list of nominees submitted to him by the State
50 party chairman of each of the two political parties having the highest number of registered
51 affiliates as reflected by the latest registration statistics published by the State Board of

1 Elections. Each party chairman shall submit a list of five nominees who are affiliated with that
2 political party.

3 Any vacancy occurring in the Board shall be filled by the Governor, and the person so
4 appointed shall fill the unexpired term. The Governor shall fill the vacancy from a list of three
5 nominees submitted to him by the State party chairman of the political party that nominated the
6 vacating member as provided by the preceding paragraph. The three nominees must be
7 affiliated with that political party.

8 At the first meeting held after new appointments are made, the members of the State Board
9 of Elections shall take the following oath:

10 "I, _____, do solemnly swear (or affirm) that I will support the Constitution
11 of the United States; that I will be faithful and bear true allegiance to the State of North
12 Carolina, and to the constitutional powers and authorities which are or may be
13 established for the government thereof; that I will endeavor to support, maintain and
14 defend the Constitution of said State, and that I will well and truly execute the duties of
15 the office of member of the State Board of Elections according to the best of my
16 knowledge and ability, according to law, so help me, God."

17 After taking the prescribed oath, the Board shall organize by electing one of its members
18 chairman and another secretary.

19 No person shall be eligible to serve as a member of the State Board of Elections who holds
20 any elective or appointive office under the government of the United States, or of the State of
21 North Carolina or any political subdivision thereof. No person who holds any office in a
22 political party, or organization, or who is a candidate for nomination or election to any office,
23 or who is a campaign manager or treasurer of any candidate in a primary or election shall be
24 eligible to serve as a member of the State Board of Elections."

25 **SECTION 3.(b)** The additional member of the State Board of Elections provided
26 by subsection (a) of this section shall be appointed by the Governor to serve a term to expire
27 April 30, 2013. The Governor shall fill the vacancy from a list of three nominees submitted to
28 him by the State party chairman of the political party that has only two members of the Board.

29 **SECTION 4.** Section 1 and 2 of this act become effective with respect to elections
30 conducted on or after January 1, 2012. The remainder of this act is effective when it becomes
31 law.