

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 638

Short Title: Uniform Faithful Presidential Electors Act. (Public)

Sponsors: Representatives Jordan and Stam (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Elections.

April 6, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO ADOPT THE UNIFORM FAITHFUL PRESIDENTIAL ELECTORS ACT.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. Article 18 of Chapter 163 is repealed.

5 SECTION 2. Chapter 163 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 18B.

8 "Faithful Presidential Electors Act.

9 "**§ 163-216.1. Designation of State's electors.**

10 (a) For each elector position in this State, a political party contesting the position shall
11 submit to the Secretary of State the names of two qualified individuals. One of the individuals
12 must be designated "elector nominee" and the other "alternate elector nominee." Except as
13 otherwise provided in this Article, this State's electors are the winning elector nominees under
14 the laws of this State.

15 (b) The names of candidates for electors of President and Vice President nominated by
16 any political party recognized in this State under G.S. 163-96, or nominated under
17 G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his or
18 her name printed on the general election ballot as an unaffiliated candidate under G.S. 163-122,
19 shall be filed with the Secretary of State but shall not be printed on the ballot. In the case of the
20 unaffiliated candidate, the names of candidates for electors must be filed with the Secretary of
21 State no later than 12:00 noon on the first Friday in August. In place of their names, there shall
22 be printed on the ballot the names of the candidates for President and Vice President of each
23 political party recognized in this State and the name of any candidate for President who has
24 qualified to have his or her name printed on the general election ballot under G.S. 163-122. A
25 candidate for President who has qualified for the general election ballot as an unaffiliated
26 candidate under G.S. 163-122 shall, no later than 12:00 noon on the first Friday in August, file
27 with the State Board of Elections the name of a candidate for Vice President, whose name shall
28 also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for
29 the electors of the party or unaffiliated candidate by which those candidates were nominated
30 and whose names have been filed with the Secretary of State.

31 "**§ 163-216.2. Pledge.**

32 Each elector nominee and alternate elector nominee of a political party shall execute the
33 following pledge: "If selected for the position of elector, I agree to serve and to mark my ballots
34 for President and Vice President for the nominees for those offices of the party that nominated



1 me." The executed pledges must accompany the submission of the corresponding names to the
2 Secretary of State.

3 **"§ 163-216.3. Certification of electors.**

4 In submitting this State's certificate of ascertainment as required by 3 U.S.C. § 6, the
5 Governor shall certify this State's electors and state in the certificate all of the following:

- 6 (1) The electors will serve as electors unless a vacancy occurs in the office of
7 elector before the end of the meeting at which elector votes are cast, in
8 which case a substitute elector will fill the vacancy.
9 (2) If a substitute elector is appointed to fill a vacancy, the Governor will submit
10 an amended certificate of ascertainment stating the names on the final list of
11 this State's electors.

12 **"§ 163-216.4. Presiding officer; elector vacancy.**

13 (a) The Secretary of State shall preside at the meeting of electors described in this
14 Article.

15 (b) The position of an elector not present to vote is vacant. The Secretary of State shall
16 appoint an individual as a substitute elector to fill a vacancy as follows:

- 17 (1) If the alternate elector is present to vote, by appointing the alternate elector
18 for the vacant position.
19 (2) If the alternate elector for the vacant position is not present to vote, by
20 appointing an elector chosen by lot from among the alternate electors present
21 to vote who were nominated by the same political party.
22 (3) If the number of alternate electors present to vote is insufficient to fill any
23 vacant position under subdivisions (1) and (2) of this subsection, by
24 appointing any immediately available individual who is qualified to serve as
25 an elector and chosen through nomination by and plurality vote of the
26 remaining electors, including nomination and vote by a single elector if only
27 one remains.
28 (4) If there is a tie between at least two nominees for substitute elector in a vote
29 conducted under subdivision (3) of this subsection, by appointing an elector
30 chosen by lot from among those nominees.
31 (5) If all elector positions are vacant and cannot be filled pursuant to
32 subdivisions (1) through (4) of this subsection, by appointing a single
33 presidential elector, with remaining vacant positions to be filled under
34 subdivision (3) of this subsection and, if necessary, subdivision (4) of this
35 subsection.

36 (c) To qualify as a substitute elector under subsection (b) of this section, an individual
37 who has not executed the pledge required under G.S. 163-216.3 shall execute the following
38 pledge: "I agree to serve and to mark my ballots for President and Vice President consistent
39 with the pledge of the individual to whose elector position I have succeeded."

40 **"§ 163-216.5. Elector voting.**

41 (a) At the time designated for elector voting and after all vacant positions have been
42 filled under G.S. 163-216.4, the Secretary of State shall provide each elector with a presidential
43 and a vice presidential ballot. The elector shall mark the elector's presidential and vice
44 presidential ballots with the elector's votes for the offices of President and Vice President,
45 respectively, along with the elector's signature and the elector's legibly printed name.

46 (b) Each elector shall present both completed ballots to the Secretary of State, who shall
47 examine the ballots and accept as cast all ballots of electors whose votes are consistent with
48 their pledges executed under this Article. The Secretary of State may not accept and may not
49 count either an elector's presidential or vice presidential ballot if the elector has not marked
50 both ballots or has marked a ballot in violation of the elector's pledge.

1 (c) An elector who refuses to present a ballot, presents an unmarked ballot, or presents
2 a ballot marked in violation of the elector's pledge executed under this Article vacates the office
3 of elector, creating a vacant position to be filled under G.S. 163-216.4.

4 (d) The Secretary of State shall distribute ballots to and collect ballots from a substitute
5 elector and repeat the process under this section of examining ballots, declaring and filling
6 vacant positions as required, and recording appropriately completed ballots from the substituted
7 electors until all of this State's electoral votes have been cast and recorded.

8 **"§ 163-216.6. Elector replacement; associated certificates.**

9 (a) After the vote of this State's electors is completed, if the final list of electors differs
10 from any list that the Governor previously included on a certificate of ascertainment prepared
11 and transmitted under 3 U.S.C. § 6, the Secretary of State immediately shall prepare an
12 amended certificate of ascertainment and transmit it to the Governor for the Governor's
13 signature.

14 (b) The Governor immediately shall deliver the signed amended certificate of
15 ascertainment to the Secretary of State and a signed duplicate original of the amended
16 certificate of ascertainment to all individuals entitled to receive this State's certificate of
17 ascertainment, indicating that the amended certificate of ascertainment is to be substituted for
18 the certificate of ascertainment previously submitted.

19 (c) The Secretary of State shall prepare a certificate of vote. The electors on the final
20 list shall sign the certificate. The Secretary of State shall process and transmit the signed
21 certificate with the amended certificate of ascertainment under 3 U.S.C. §§ 9, 10, and 11.

22 **"§ 163-216.7. Electors and dual office holding.**

23 (a) Upon receiving the filing of a name as a candidate for elector under G.S. 163-216.1,
24 the Secretary of State shall notify that candidate of the dual-office holding requirements of the
25 North Carolina Constitution and the General Statutes, including specifically that if an
26 individual elected as elector holds another elective office at the time of taking the oath of office
27 as elector, that other office is vacated upon taking the oath of office.

28 (b) During January of each year in which electors are elected, the Secretary of State
29 shall notify each political party authorized to nominate electors of (i) the requirement under
30 G.S. 163-1(c) to nominate first and second alternate elector and (ii) the dual-office holding
31 requirements of the North Carolina Constitution and the General Statutes, including specifically
32 that if a person elected as elector holds another elective office at the time of taking the oath of
33 office as elector, that other office is vacated upon taking the oath of office.

34 (c) The office of elector may be held in addition to the maximum number of appointive
35 offices allowed by G.S. 128-1.1."

36 **SECTION 3.** This act becomes effective January 1, 2012, and applies to
37 presidential elections held on or after that date.