

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 737

Short Title: Open Primary Act. (Public)

Sponsors: Representatives Goodman and Harrison (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 13, 2017

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH OPEN PRIMARIES WHEREBY CERTAIN CANDIDATES ARE
NOMINATED FOR OFFICE BY THE QUALIFIED VOTERS IN THE STATE,
WITHOUT REGARD TO THE CANDIDATE'S POLITICAL PARTY AFFILIATION,
AND THE TWO CANDIDATES RECEIVING THE HIGHEST NUMBER OF VOTES
COMPETE FOR OFFICE AT THE GENERAL ELECTION AND TO MAKE VARIOUS
CONFORMING STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

PART I. VOTER-NOMINATED PRIMARY ELECTIONS

SECTION 1.1. G.S. 163-1(b), as amended by Section 2 of S.L. 2017-3, reads as
rewritten:

"(b) On Tuesday next after the first Monday in May preceding each general election to
be held in November for the officers referred to in subsection (a) of this section, there shall be
held in all election precincts within the territory for which the officers are to be elected a
voter-nominated primary election for the purpose of nominating candidates for each political
party in the State for those certain offices. For purposes of Subchapters I through VIII of this
Chapter, a "voter-nominated primary election" is a primary in which a qualified voter may vote
at the primary for any candidate described in this subsection without regard to the political
party affiliation disclosed by either the candidate or the voter, with the two candidates receiving
the highest vote totals for each of those offices in the primary election competing for office at
the general election. A "voter-nominated office" is a congressional or State elective office for
which a candidate may choose to have the candidate's political party affiliation or lack of
political party affiliation indicated on the ballot. The following offices shall be voter-nominated
offices:

- (1) Governor.
- (2) Lieutenant Governor.
- (3) Secretary of State.
- (4) State Treasurer.
- (5) Commissioner of Agriculture.
- (6) Commissioner of Insurance.
- (7) Commissioner of Labor.
- (8) Attorney General.
- (9) Superintendent of Public Instruction.
- (10) State Auditor.



* H 7 3 7 - V - 1 *

- 1 (11) United States Senator.
2 (12) Member of the United States House of Representatives.
3 (13) State Senator.
4 (14) Member of the State House of Representatives.
5 (15) Justices of the Supreme Court.
6 (16) Judges of the Court of Appeals.
7 (17) Judges of the Superior Court.
8 (18) Judges of the District Court.
9 (19) District Attorneys.

10 (b1) Nothing in subsection (b) of this section shall prohibit a political party or political
11 party committee from endorsing, supporting, or opposing a candidate for an office listed in
12 subsection (b) of this section."

13 **SECTION 1.2.** G.S. 163-11 reads as rewritten:

14 "**§ 163-11. Filling vacancies in the General Assembly.**

15 (a) ~~If a vacancy shall occur in the General Assembly by death, resignation, or otherwise~~
16 ~~than by expiration of term, the Governor shall immediately appoint for the unexpired part of the~~
17 ~~term the person recommended by the political party executive committee provided by this~~
18 ~~section. The Governor shall make the appointment within seven days of receiving the~~
19 ~~recommendation of the appropriate committee. If the Governor fails to make the appointment~~
20 ~~within the required period, he shall be presumed to have made the appointment and the~~
21 ~~legislative body to which the appointee was recommended is directed to seat the appointee as a~~
22 ~~member in good standing for the duration of the unexpired term.~~until an election shall be held
23 to fill the office pursuant to the Governor's powers and duties under G.S. 147-12.

24 (b) ~~If the district consists solely of one county and includes all of that county, the~~
25 ~~Governor shall appoint the person recommended by the county executive committee of the~~
26 ~~political party with which the vacating member was affiliated when elected, it being the party~~
27 ~~executive committee of the county which the vacating member was resident.~~

28 (c) ~~If the district consists solely of one county but includes less than all of the county,~~
29 ~~the Governor shall appoint the person recommended by the county executive committee of the~~
30 ~~political party with which the vacating member was affiliated when elected, it being the county~~
31 ~~executive committee of the county which the vacating member was resident, provided that in~~
32 ~~voting only those county executive committee members who reside in the district shall be~~
33 ~~eligible to vote.~~

34 (d) ~~If the district consists of more than one county, the Governor shall appoint for the~~
35 ~~unexpired portion of the term the person recommended by the State House of Representatives~~
36 ~~district committee or the Senatorial district committee of the political party with which the~~
37 ~~vacating member was affiliated when elected. In the case where all of a county is included~~
38 ~~within a district, the county convention or county executive committee of that political party~~
39 ~~shall elect or appoint at least one member from that county to serve on the State House of~~
40 ~~Representatives district executive committee or State Senatorial district executive committee.~~
41 ~~In the case where only part of a county is included within a district, the county convention or~~
42 ~~county executive committee of that political party shall elect or appoint at least one member~~
43 ~~from that county to serve on the State House of Representatives district committee or the State~~
44 ~~Senatorial district committee, but only the delegates to the county convention or the members~~
45 ~~of the county executive committee who reside in the district may vote in electing the district~~
46 ~~committee member. When the State House of Representatives district committee or the State~~
47 ~~Senatorial district committee meets, a member shall be entitled to cast for his county (or the~~
48 ~~part of his county within the district) one vote for each 300 persons or major fraction thereof~~
49 ~~residing within that county, or in the case where less than the whole county is in the district one~~
50 ~~vote for each 300 persons or major fraction thereof residing in that part of the district within the~~
51 ~~county.~~

1 ~~A county convention or county executive committee may elect more than one member to~~
2 ~~the district committee but in the event that more than one member is selected from that county,~~
3 ~~then each member shall cast an equal share of the votes allotted to the county.~~

4 (e) No person is eligible for appointment to fill a vacancy in the Senate or the House of
5 Representatives under this section, unless that person would have been qualified to vote as an
6 elector for that office if an election were to be held on the date of appointment. This section is
7 intended to implement the provisions of Section 8 of Article VI of the Constitution."

8 **SECTION 1.3.** G.S. 163-12 reads as rewritten:

9 **"§ 163-12. Filling vacancy in United States Senate.**

10 Whenever there shall be a vacancy in the office of United States Senator from this State,
11 whether caused by death, resignation, or otherwise than by expiration of term, the Governor
12 shall appoint to fill the vacancy until an election shall be held to fill the office. ~~If the Senator~~
13 ~~was elected as the nominee of a political party, the person appointed by the Governor shall be a~~
14 ~~person affiliated with that same political party.~~ The Governor shall issue a writ for the election
15 of a Senator to be held at the time of the first election for members of the General Assembly
16 that is held more than 60 days after the vacancy occurs. The person elected shall hold the office
17 for the remainder of the unexpired term. The election shall take effect from the date of the
18 canvassing of the returns."

19 **SECTION 1.4.** G.S. 163-13 reads as rewritten:

20 **"§ 163-13. Filling vacancy in United States House of Representatives.**

21 (a) Special Election. – If at any time after expiration of any Congress and before
22 another election, or if at any time after an election, there shall be a vacancy in this State's
23 representation in the House of Representatives of the United States Congress, the Governor
24 shall issue a writ of election, and by proclamation fix the date on which an election to fill the
25 vacancy shall be held in the appropriate congressional district.

26 (b) Nominating Procedures. – ~~If a congressional vacancy occurs beginning on the tenth~~
27 ~~day before the filing period ends under G.S. 163-106(c) preceding the next succeeding general~~
28 ~~election, candidates for the special election to fill the vacancy shall not be nominated in~~
29 ~~primaries. Instead, nominations may be made by the political party congressional district~~
30 ~~executive committees in the district in which the vacancy occurs. The chairman and secretary~~
31 ~~of each political party congressional district executive committee nominating a candidate shall~~
32 ~~immediately certify his name and party affiliation to the State Board of Elections so that it may~~
33 ~~be printed on the special election ballots.~~

34 ~~If the congressional vacancy occurs before the tenth day before the filing period ends under~~
35 ~~G.S. 163-106(c) prior to the next succeeding general election, the~~ The Governor shall call a
36 special primary for the purpose of nominating candidates to be voted on in a special election
37 called by the Governor in accordance with the provisions of subsection (a) of this section. Such
38 a primary election shall be conducted in accordance with the general laws governing primaries,
39 except that the opening and closing dates for filing notices of candidacy with the State Board of
40 Elections shall be fixed by the Governor in his call for the special primary. The Governor may
41 also fix the absentee voting period for the special election and for the special first primary, but
42 such period shall not be less than 30 days."

43 **SECTION 1.5.** G.S. 163-59 reads as rewritten:

44 **"§ 163-59. Right to participate or vote in party primary.**

45 ~~No~~ In political party primary elections only, no person shall be entitled to vote or otherwise
46 participate in the primary election of any political party unless that person complies with all of
47 the following:

- 48 (1) Is a registered voter.
- 49 (2) Has declared and has had recorded on the registration book or record the fact
50 that the voter affiliates with the political party in whose primary the voter
51 proposes to vote or participate.

(3) Is in good faith a member of that party.

Notwithstanding the previous paragraph, any unaffiliated voter who is authorized under G.S. 163-119 may also vote in the primary if the voter is otherwise eligible to vote in that primary except for subdivisions (2) and (3) of the previous paragraph.

Any person who will become qualified by age to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary. In addition, persons who will become qualified by age to register and vote in the general election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections."

SECTION 1.6. G.S. 163-82.4(c) reads as rewritten:

"(c) Party Affiliation or Unaffiliated Status. – The application form described in G.S. 163-82.3(a) shall provide a place for the applicant to state a preference to be affiliated with one of the political parties in G.S. 163-96, or a preference to be an "unaffiliated" voter. Every person who applies to register shall state his preference. If the applicant fails to declare a preference for a party or for unaffiliated status, that person shall be listed as "unaffiliated", except that if the person is already registered to vote in the county and that person's registration already contains a party affiliation, the county board shall not change the registrant's status to "unaffiliated" unless the registrant clearly indicates a desire in accordance with G.S. 163-82.17 for such a change. An unaffiliated registrant shall not be eligible to vote in any political party primary, except as provided in G.S. 163-119, but may vote in any other ~~primary-primary,~~ including a voter-nominated primary, or general election. The application form shall so state."

SECTION 1.7. G.S. 163-106, as amended by Section 21(a) of S.L. 2016-125 and Section 5 of S.L. 2017-3, reads as rewritten:

"§ 163-106. Notices of ~~candidacy;~~candidacy for party primary and voter-nominated primary; pledge; with whom filed; date for filing; withdrawal.

(a) Notice and Pledge. – No one shall be voted for in a primary election without having filed a notice of candidacy with the appropriate board of elections, State or county, as required by this section. To this end every candidate for selection as the nominee of a political party shall file with and place in the possession of the board of elections specified in subsection (c) of this section, a notice and pledge in the following form:

Date _____

I hereby file notice as a candidate for nomination as _____ in the _____ party primary election to be held on _____, _____ I affiliate with the _____ party, (and I certify that I am now registered on the registration records of the precinct in which I reside as an affiliate of the _____ party.)

I pledge that if I am defeated in the primary, I will not run for the same office as a write-in candidate in the next general election.

Signed _____

(Name of Candidate)

Witness:

(Title of witness)

Every candidate for nomination as voter-nominated candidate shall file with and place in the possession of the board of elections specified in subsection (c) of this section a notice and pledge in the following form:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

Date _____

I hereby file notice as a voter-nominated candidate for nomination as
in the primary election to be held on _____, I
certify that I am seeking office as a voter-nominated candidate irrespective
of my political party affiliation.

I pledge that if I am defeated in the primary, I will not run for the same
office as a write-in candidate in the next general election.

Signed _____

(Name of Candidate)

Witness:

(Title of witness)

Each candidate shall sign the notice of candidacy in the presence of the chairman or secretary of the board of elections, State or county, with which the candidate files. In the alternative, a candidate may have the candidate's signature on the notice of candidacy acknowledged and certified to by an officer authorized to take acknowledgments and administer oaths, in which case the candidate may mail or deliver by commercial courier service the candidate's notice of candidacy to the appropriate board of elections.

In signing the notice of candidacy the candidate shall use only that candidate's legal name and may use any nickname by which he is commonly known. A candidate may also, in lieu of that candidate's legal first name and legal middle initial or middle name (if any) sign a nickname, provided that the candidate appends to the notice of candidacy an affidavit that the candidate has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way that candidate's name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

A notice of candidacy signed by an agent or any person other than the candidate shall be invalid.

Prior to the date on which candidates may commence filing, the State Board of Elections shall print and furnish, at State expense, to each county board of elections a sufficient number of the notice of candidacy forms prescribed by this subsection for use by candidates required to file with county boards of elections.

...

(b) Eligibility to File. – No person shall be permitted to file as a candidate in a party primary unless that person has been affiliated with ~~that~~ the candidate's political party for at least 90 days as of the date of that person filing such notice of candidacy. A person registered as "unaffiliated" shall be ineligible to file as a candidate in a party primary election. This section shall not apply to individuals seeking office as voter-nominated candidates.

(c) Time for Filing Notice of Candidacy. – Candidates seeking ~~party primary~~ nomination office in a voter-nominated primary election for the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the primary:

- Governor
- Lieutenant Governor
- All State executive officers
- Justices of the Supreme Court
- Judges of the Court of Appeals
- Judges of the superior court
- Judges of the district court

1 United States Senators
2 Members of the House of Representatives of the United States
3 District attorneys
4 Candidates seeking office in a voter-nominated primary election or, in the case of a county
5 office, party primary nominations for the following offices shall file their notice of candidacy
6 with the county board of elections no earlier than 12:00 noon on the second Monday in
7 February and no later than 12:00 noon on the last business day in February preceding the
8 primary:

9 State Senators

10 Members of the State House of Representatives

11 All county offices.

12 ...

13 (f) Candidates required to file their notice of candidacy with the State Board of
14 Elections under subsection (c) of this section shall file along with their notice a certificate
15 signed by the chairman of the board of elections or the director of elections of the county in
16 which they are registered to vote, stating that the person is registered to vote in that county,
17 stating the preference for designating the party with which the person is affiliated, and that the
18 person has not changed his affiliation from another party or from unaffiliated within three
19 months prior to the filing deadline under subsection (c) of this section-section, when applicable
20 to that office. In issuing such certificate, the chairman or director shall check the registration
21 records of the county to verify such information. During the period commencing 36 hours
22 immediately preceding the filing deadline the State Board of Elections shall accept, on a
23 conditional basis, the notice of candidacy of a candidate who has failed to secure the
24 verification ordered herein subject to receipt of verification no later than three days following
25 the filing deadline. The State Board of Elections shall prescribe the form for such certificate,
26 and distribute it to each county board of elections no later than the last Monday in December of
27 each odd-numbered year.

28"

29 **SECTION 1.8.** G.S. 163-107.1, as amended by Section 21(c) of S.L. 2016-125 and
30 Section 7 of S.L. 2017-3, reads as rewritten:

31 "**§ 163-107.1. Petition in lieu of payment of filing fee.**

32 (a) Any qualified voter who seeks office in a voter-nominated primary or nomination in
33 the party primary of the political party with which he ~~affiliates~~ affiliates, when applicable, may,
34 in lieu of payment of any filing fee required for the office he seeks, file a written petition
35 requesting him to be a candidate for a specified office with the appropriate board of elections,
36 State, county or municipal.

37 (b) If the candidate is seeking the office of United States Senator, Governor, Lieutenant
38 Governor, any State executive officer, Justice of the Supreme Court, or Judge of the Court of
39 Appeals, the petition must be signed by 10,000 registered voters ~~who are members of the~~
40 ~~political party in whose primary the candidate desires to run, except that in the case of a~~
41 ~~political party as defined by G.S. 163-96(a)(2) which will be making nominations by primary~~
42 ~~election, the petition must be signed by five percent (5%) of the registered voters of the State~~
43 ~~who are affiliated with the same political party in whose primary the candidate desires to run,~~
44 ~~or in the alternative, the petition shall be signed by no less than 8,000 registered voters~~
45 ~~regardless of the voter's political party affiliation, whichever requirement is greater.~~affiliation.
46 The petition must be filed with the State Board of Elections not later than 12:00 noon on
47 Monday preceding the filing deadline before the primary in which he seeks to run. The names
48 on the petition shall be verified by the board of elections of the county where the signer is
49 registered, and the petition must be presented to the county board of elections at least 15 days
50 before the petition is due to be filed with the State Board of Elections. When a proper petition
51 has been filed, the candidate's name shall be printed on the primary ballot.

1 (c) County, Municipal and District Primaries. – If the candidate is seeking one of the
2 offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this section, or a
3 municipal or any other office requiring a partisan primary which is not set forth in
4 G.S. 163-106(c) or (d), the candidate shall file a written petition with the appropriate board of
5 elections no later than 12:00 noon on Monday preceding the filing deadline before the primary.
6 ~~The~~ If the office the candidate is seeking is a voter-nominated office, the petition shall be
7 signed by five percent (5%) of the registered voters of the election area in which the office will
8 be voted for, for. If the office the candidate is seeking is a party primary office, the petition shall
9 be signed by five percent (5%) of the registered voters of the election area in which the office
10 will be voted for, who are affiliated with the same political party in whose primary the
11 candidate desires to run, or in the alternative, the petition shall be signed by no less than 200
12 registered voters regardless of said voter's political party affiliation, whichever requirement is
13 greater. The board of elections shall verify the names on the petition, and if the petition is
14 found to be sufficient, the candidate's name shall be printed on the appropriate primary ballot.
15 Petitions for candidates for member of the U.S. House of Representatives, District Attorney,
16 judge of the superior court, judge of the district court, and members of the State House of
17 Representatives from multi-county districts or members of the State Senate from multi-county
18 districts must be presented to the county board of elections for verification at least 15 days
19 before the petition is due to be filed with the State Board of Elections, and such petition must
20 be filed with the State Board of Elections no later than 12:00 noon on Monday preceding the
21 filing deadline. The State Board of Elections may adopt rules to implement this section and to
22 provide standard petition forms.

23 (d) Nonpartisan Primaries and Elections. – Any qualified voter who seeks to be a
24 candidate in any nonpartisan primary or election may, in lieu of payment of the filing fee
25 required, file a written petition signed by five percent (5%) of the registered voters in the
26 election area in which the office will be voted for with the appropriate board of elections. Any
27 qualified voter may sign the petition. The petition shall state the candidate's name, address and
28 the office which he is seeking. The petition must be filed with the appropriate board of
29 elections no later than 60 days prior to the filing deadline for the primary or election, and if
30 found to be sufficient, the candidate's name shall be printed on the ballot."

31 **SECTION 1.9.** G.S. 163-108(a) reads as rewritten:

32 "(a) Within three days after the time for filing notices of candidacy with the State Board
33 of Elections under the provisions of G.S. 163-106(c) has expired, the chairman or secretary of
34 that Board shall certify to the Secretary of State the name, address, and party ~~affiliation~~
35 affiliation, if the candidate has a preference for party affiliation, when applicable, of each
36 person who has filed with the State Board of Elections, indicating in each instance the office
37 sought."

38 **SECTION 1.10.** G.S. 163-110 reads as rewritten:

39 **"§ 163-110. Candidates declared nominees without primary.**

40 If a nominee for a single office is to be selected and only one candidate ~~of a political~~
41 ~~party~~ files for that office, whether in a voter-nominated primary, party primary, or nonpartisan
42 primary, or if nominees for two or more offices (constituting a group) are to be selected, and
43 only the number of candidates equal to the number of the positions to be filled file ~~for a~~
44 ~~political party~~ for said offices, whether in a voter-nominated primary, party primary, or
45 nonpartisan primary, then the appropriate board of elections shall, upon the expiration of the
46 filing period for said office, declare such persons as the nominees or nominee ~~of that party, for~~
47 that office, and the names shall not be printed on the primary ballot, but shall be printed on the
48 general election ballot as candidate ~~for that political party~~ for that office. For the following
49 offices, this declaration shall be made by the county board of elections with which the aspirant
50 filed notice of candidacy: All county offices, State Senators in single-county senatorial districts,

1 and members of the State House of Representatives in single-county representative districts.
2 For all other offices, this declaration shall be made by the State Board of Elections."

3 **SECTION 1.11.** G.S. 163-111, as amended by Section 21(d) of S.L. 2016-125 and
4 Section 8 of S.L. 2017-3, reads as rewritten:

5 "**§ 163-111. Determination of primary results; second primaries, results.**

6 (a) ~~Nomination Determined by Substantial Plurality; Definition of Substantial~~
7 ~~Plurality-General; Primary Election Method.~~ – ~~Except as otherwise provided in this section,~~
8 ~~nominations in primary elections shall be determined by a substantial plurality of the votes cast.~~
9 ~~A substantial plurality within the meaning of this section shall be determined as follows:~~

10 (1) ~~If a nominee for a single office is to be selected, and there is more than one~~
11 ~~person seeking nomination, the substantial plurality shall be ascertained by~~
12 ~~multiplying the total vote cast for all aspirants by forty percent (40%). Any~~
13 ~~excess of the sum so ascertained shall be a substantial plurality, and the~~
14 ~~aspirant who obtains a substantial plurality shall be declared the nominee. If~~
15 ~~two candidates receive a substantial plurality, the candidate receiving the~~
16 ~~highest vote shall be declared the nominee.~~

17 (2) ~~If nominees for two or more offices (constituting a group) are to be selected,~~
18 ~~and there are more persons seeking nomination than there are offices, the~~
19 ~~substantial plurality shall be ascertained by dividing the total vote cast for all~~
20 ~~aspirants by the number of positions to be filled, and by multiplying the~~
21 ~~result by forty percent (40%). Any excess of the sum so ascertained shall be~~
22 ~~a substantial plurality, and the aspirants who obtain a substantial plurality~~
23 ~~shall be declared the nominees. If more candidates obtain a substantial~~
24 ~~plurality than there are positions to be filled, those having the highest vote~~
25 ~~(equal to the number of positions to be filled) shall be declared the~~
26 ~~nominees. For voter-nominated offices described in G.S. 163-1(b), there shall~~
27 ~~be a primary to narrow the field of candidates to two candidates for each~~
28 ~~position to be filled if, when the filing period closes, there are more than two~~
29 ~~candidates for a single office or the number of candidates for a group of~~
30 ~~offices exceeds twice the number of positions to be filled. If only one or two~~
31 ~~candidates file for a single office, no primary shall be held for that office and~~
32 ~~the candidates shall be declared nominated. If the number of candidates for a~~
33 ~~group of offices does not exceed twice the number of positions to be filled,~~
34 ~~no primary shall be held for those offices and the candidates shall be~~
35 ~~declared nominated.~~

36 (a1) Determination of Nominees. – In the primary, the two candidates for a single office
37 receiving the highest number of votes, and those candidates for a group of offices receiving the
38 highest number of votes, equal to twice the number of positions to be filled, shall be declared
39 nominated. If two or more candidates receiving the highest number of votes each receive the
40 same number of votes, the State Board of Elections shall determine their relative ranking by lot
41 and shall declare the nominees accordingly. The canvass of the primary shall be held on the
42 same date as the primary canvass fixed under G.S. 163-182.5. The canvass shall be conducted
43 in accordance with Article 15A of this Chapter.

44 (a2) Determination of Election Winners. – In the general election, the names of those
45 candidates declared nominated without a primary and those candidates nominated in the
46 primary shall be placed on the ballot. The candidate for a single office receiving the highest
47 number of votes shall be elected. Those candidates for a group of offices receiving the highest
48 number of votes, equal in number to the number of positions to be filled, shall be elected. If
49 two candidates receiving the highest number of votes each received the same number of votes,
50 the State Board of Elections shall determine the winner by lot.

51 (a3) This section prevails over any local act.

1 ~~(b) Right to Demand Second Primary.— If an insufficient number of aspirants receive a~~
2 ~~substantial plurality of the votes cast for a given office or group of offices in a primary, a~~
3 ~~second primary, subject to the conditions specified in this section, shall be held:~~

4 ~~(1) If a nominee for a single office is to be selected and no aspirant receives a~~
5 ~~substantial plurality of the votes cast, the aspirant receiving the highest~~
6 ~~number of votes shall be declared nominated by the appropriate board of~~
7 ~~elections unless the aspirant receiving the second highest number of votes~~
8 ~~shall request a second primary in accordance with the provisions of~~
9 ~~subsection (c) of this section. In the second primary only the two aspirants~~
10 ~~who received the highest and next highest number of votes shall be voted~~
11 ~~for.~~

12 ~~(2) If nominees for two or more offices (constituting a group) are to be selected~~
13 ~~and aspirants for some or all of the positions within the group do not receive~~
14 ~~a substantial plurality of the votes, those candidates equal in number to the~~
15 ~~positions remaining to be filled and having the highest number of votes shall~~
16 ~~be declared the nominees unless some one or all of the aspirants equal in~~
17 ~~number to the positions remaining to be filled and having the second highest~~
18 ~~number of votes shall request a second primary in accordance with the~~
19 ~~provisions of subsection (c) of this section. In the second primary to select~~
20 ~~nominees for the positions in the group remaining to be filled, the names of~~
21 ~~all those candidates receiving the highest number of votes and all those~~
22 ~~receiving the second highest number of votes and demanding a second~~
23 ~~primary shall be printed on the ballot.~~

24 ~~(e) Procedure for Requesting Second Primary.—~~

25 ~~(1) A candidate who is apparently entitled to demand a second primary,~~
26 ~~according to the unofficial results, for one of the offices listed below, and~~
27 ~~desiring to do so, shall file a request for a second primary in writing with the~~
28 ~~Executive Director of the State Board of Elections no later than 12:00 noon~~
29 ~~on the ninth day (including Saturdays and Sundays) following the date on~~
30 ~~which the primary was conducted, and such request shall be subject to the~~
31 ~~certification of the official results by the State Board of Elections. If the vote~~
32 ~~certification by the State Board of Elections determines that a candidate who~~
33 ~~was not originally thought to be eligible to call for a second primary is in~~
34 ~~fact eligible to call for a second primary, the Executive Director of the State~~
35 ~~Board of Elections shall immediately notify such candidate and permit the~~
36 ~~candidate to exercise any options available to the candidate within a 48-hour~~
37 ~~period following the notification:~~

38 ~~Governor,~~

39 ~~Lieutenant Governor,~~

40 ~~All State executive officers,~~

41 ~~Justices, Judges, or District Attorneys of the General Court of~~
42 ~~Justice,~~

43 ~~United States Senators,~~

44 ~~Members of the United States House of Representatives,~~

45 ~~State Senators in multi-county senatorial districts, and~~

46 ~~Members of the State House of Representatives in multi-county~~
47 ~~representative districts.~~

48 ~~(2) A candidate who is apparently entitled to demand a second primary,~~
49 ~~according to the unofficial results, for one of the offices listed below and~~
50 ~~desiring to do so, shall file a request for a second primary in writing with the~~
51 ~~chairman or director of the county board of elections no later than 12:00~~

noon on the ninth day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the county board of elections:

State Senators in single county senatorial districts,

Members of the State House of Representatives in single county representative districts, and

All county officers.

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

(d) Tie Votes; How Determined.—

(1) In the event of a tie for the highest number of votes in a first primary between two candidates for party nomination for a single county, or single county legislative district office, the board of elections of the county in which the two candidates were voted for shall conduct a recount and declare the results. If the recount shows a tie vote, a second primary shall be held on the date prescribed in subsection (e) of this section between the two candidates having an equal vote, unless one of the aspirants, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections with which he filed notice of candidacy. Should that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision, no recount shall be held, but all of the tied candidates shall be entered in a second primary.

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

(3) In the event one candidate receives the highest number of votes cast in a first primary, but short of a substantial plurality, and two or more of the other candidates receive the second highest number of votes cast in an equal number, the proper board of elections shall declare the candidate having the highest vote to be the party nominee, unless all but one of the tied candidates give written notice of withdrawal to the proper board of elections within three days after the result of the first primary has been officially declared. If all but one of the tied candidates withdraw within the prescribed three day period, and the remaining candidate demands a second primary in

1 accordance with the provisions of subsection (e) of this section, a second
2 primary shall be held between the candidate who received the highest vote
3 and the remaining candidate who received the second highest vote.

4 (e) ~~Date of Second Primary; Procedures.~~— If a second primary is required under the
5 provisions of this section, the appropriate board of elections, State or county, shall order that it
6 be held 10 weeks after the first primary if any of the offices for which a second primary is
7 required are for a candidate for the office of United States Senate or member of the United
8 States House of Representatives. Otherwise, the second primary shall be held seven weeks after
9 the first primary.

10 ~~There shall be no registration of voters between the dates of the first and second primaries.~~
11 ~~Persons whose qualifications to register and vote mature after the day of the first primary and~~
12 ~~before the day of the second primary may register on the day of the second primary and, when~~
13 ~~thus registered, shall be entitled to vote in the second primary. The second primary is a~~
14 ~~continuation of the first primary and any voter who files a proper and timely written affirmation~~
15 ~~of change of address within the county under the provisions of G.S. 163-82.15, in the first~~
16 ~~primary may vote in the second primary without having to refile that written affirmation if the~~
17 ~~voter is otherwise qualified to vote in the second primary. Subject to this provision for~~
18 ~~registration, the second primary shall be held under the laws, rules, and regulations provided~~
19 ~~for the first primary.~~

20 ~~(f) No Third Primary Permitted.~~— In no case shall there be a third primary. The
21 candidates receiving the highest number of votes in the second primary shall be nominated. If
22 in a second primary there is a tie for the highest number of votes between two candidates, the
23 proper party executive committee shall select the party nominee for the office in accordance
24 with the provisions of G.S. 163-114."

25 **SECTION 1.12.** G.S. 163-112 reads as rewritten:

26 "**§ 163-112. Death of candidate before primary; vacancy in single office.**

27 (a) Death of One of Two Candidates within 30 Days after the Filing Period Closes. – If
28 at the time the filing period closes, only two persons have filed notice of candidacy for
29 nomination ~~by a political party~~ to a single office, and one of the candidates dies within 30 days
30 after the filing period closes, then the proper board of elections shall, upon notice of the death,
31 reopen the filing period for that ~~party~~ contest, for an additional three days. Should no candidate
32 file during the three days, the board of elections shall certify the remaining candidate as the
33 nominee ~~of his party~~ as provided in G.S. 163-110.

34 (b) Death of One of More Than Two Candidates within 30 Days after the Filing Period
35 Closes. – If at the close of the filing period more than two candidates have filed for a
36 single-seat office, and within 30 days after the filing period closes the board of elections
37 receives notice of a candidate's death, the board shall immediately open the filing period for
38 that ~~party~~ contest, for three additional days in order for candidates to file for that office. The
39 name of the deceased candidate shall not be printed on the ballot.

40 In the event a candidate's death occurs more than 30 days after the closing of the original
41 filing period, the names of the remaining candidates shall be printed on the ballot. If the ballots
42 have been printed at the time death occurs, the ballots shall not be reprinted and any votes cast
43 for a deceased candidate shall not be counted or considered for any purpose. In the event the
44 death of a candidate or candidates leaves only one candidate, then such candidate shall be
45 certified as the ~~party's~~ nominee for that office.

46 (c) Vacancy in Group Offices within 30 Days after the Filing Period Closes. – If at the
47 time the filing period closes more persons have filed notice of candidacy for nomination ~~by a~~
48 ~~political party~~ to an office constituting a group than there are positions to be filled, and a
49 candidate or candidates die within 30 days after the filing period closes, and there remains only
50 the number of candidates equal to or fewer than the number of positions to be filled, the
51 appropriate board of elections shall reopen the filing period for that ~~party~~ contest, for three days

1 for that office. Should no persons file during the three-day period, then those candidates already
 2 filed shall be certified as the ~~party~~-nominees for that office.

3 (d) Vacancy in Group Offices More Than 30 Days after the Filing Period Closes. – In
 4 the event a candidate or candidates death occurs more than 30 days after the original filing
 5 period closes for an office constituting a group, then regardless of the number of candidates
 6 filed for nomination, the board of elections shall be governed as follows:

- 7 (1) If the ballots have not been printed at the time the board of elections receives
 8 notice of the death, the deceased candidate's name shall not be printed on the
 9 ballot.
- 10 (2) If the ballots have been printed at the time the board of elections receives
 11 notice of the death, the ballots shall not be reprinted but votes cast for the
 12 deceased candidate shall not be counted for any purpose.
- 13 (3) In the event the death of a candidate or candidates results in the number of
 14 candidates being equal to or less than the number of positions to be filled for
 15 that office, then the remaining candidates shall be certified as the ~~party~~
 16 nominees for that office and no primary shall be held for that office.
- 17 (4) If death or disqualification of candidates results in the number of candidates
 18 being less than the number of positions to be filled for that office, then ~~the~~
 19 ~~appropriate party executive committee shall, positions shall be filled~~
 20 ~~in accordance with G.S. 163-114, make nominations of persons equal to the~~
 21 ~~number of positions to be filled~~ G.S. 163-114 and no primary shall be held
 22 and those names shall be printed on the general election ballot."

23 **SECTION 1.13.** G.S. 163-113 reads as rewritten:

24 **"§ 163-113. Nominee's right to withdraw as candidate.**

25 A person who has been declared the nominee ~~of a political party~~ for a specified office under
 26 the provisions of G.S. 163-182.15 or G.S. 163-110, shall not be permitted to resign as a
 27 candidate unless, prior to the first day on which military and overseas absentee ballots are
 28 transmitted to voters under Article 21A of this Chapter, ~~that [the]the~~ person submits to the
 29 board of elections which certified the nomination a written request that person be permitted to
 30 withdraw."

31 **SECTION 1.14.** G.S. 163-114, as amended by Section 9 of S.L. 2017-3, reads as
 32 rewritten:

33 **"§ 163-114. Filling vacancies among ~~party~~-nominees occurring after nomination and**
 34 **before election.**

35 Except as otherwise provided, if any voter-nominated candidate for one of the offices listed
 36 in G.S. 163-1(b), either in a primary or by virtue of having no opposition in a primary, dies,
 37 resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing
 38 general election, the vacancy shall be filled by the Governor pursuant to powers enumerated
 39 under G.S. 147-12(a)(3). If any person nominated as a candidate of a political party for one of
 40 the offices listed below (either in a primary or convention or by virtue of having no opposition
 41 in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date
 42 of the ensuing general election, the vacancy shall be filled by appointment according to the
 43 following instructions:

44		
45	Position	
46	President	Vacancy is to be filled by appointment of
47	Vice President	national executive committee of
48		political party in which vacancy occurs
49		
50	Presidential elector or alternate elector	Vacancy is to be filled by appointment of
51	Any elective State office	State executive committee of political

1	United States Senator	party in which vacancy occurs
2		
3	A district office, including:	Appropriate district executive committee of
4	Member of the United States House	political party in which vacancy occurs
5	of Representatives	
6	Judge of district court	
7	District Attorney	
8	State Senator in a multi-county	
9	senatorial district	
10	Member of State House of	
11	Representatives in a multi-county	
12	representative district	
13		
14	State Senator in a single-county-	County executive committee of political
15	senatorial district	party in which vacancy occurs, <u>occurs</u>
16	Member of State House of	provided, in the case of the State
17	Representatives in a single-county-	Senator or State Representative in a
18	representative district	single-county district where not all the
19	Any elective county office	county is located in that district, then in
20		voting, only those members of the
21		county executive committee who reside
22		within the district shall vote
23	Judge of superior court in a	County executive committee of political
24	single-county judicial district	party in which vacancy occurs;
25	where the district is the whole	provided, in the case of a superior court
26	county or part of the county	judge in a single-county district where
27		not all the county is located in that
28		district, then in voting, only those members
29		of the county executive committee who
30		reside within the district shall vote
31	Judge of superior court in a	Appropriate district executive committee of
32	multicounty judicial district	political party in which vacancy occurs.
33		

34 The party executive making a nomination in accordance with the provisions of this section shall
 35 certify the name of its nominee to the chairman of the board of elections, State or county, that
 36 has jurisdiction over the ballot item under G.S. 163-182.4. If at the time a nomination is made
 37 under this section the general election ballots have already been printed, the provisions of
 38 G.S.163-165.3(c) shall apply. If a vacancy occurs in a nomination of a political party and that
 39 vacancy arises from a cause other than death and the vacancy in nomination occurs more than
 40 120 days before the general election, the vacancy in nomination may be filled under this section
 41 only if the appropriate executive committee certifies the name of the nominee in accordance
 42 with this paragraph at least 75 days before the general election.

43 ~~In a county which is partly in a multicounty judicial district, in choosing that county's~~
 44 ~~member or members of the judicial district executive committee for the multicounty district,~~
 45 ~~only the county convention delegates or county executive committee members who reside~~
 46 ~~within the area of the county which is within that multicounty district may vote.~~

47 ~~In a county not all of which is located in one congressional district, in choosing the~~
 48 ~~congressional district executive committee member or members from that area of the county,~~
 49 ~~only the county convention delegates or county executive committee members who reside~~
 50 ~~within the area of the county which is within the congressional district may vote.~~

1 ~~In a county which is partly in a multi-county senatorial district or which is partly in a~~
2 ~~multi-county House of Representatives district, in choosing that county's member or members~~
3 ~~of the senatorial district executive committee or House of Representatives district executive~~
4 ~~committee for the multi-county district, only the county convention delegates or county~~
5 ~~executive committee members who reside within the area of the county which is within that~~
6 ~~multi-county district may vote.~~

7 An individual whose name appeared on the ballot in a primary election preliminary to the
8 general election shall not be eligible to be nominated to fill a vacancy ~~in the nomination of~~
9 ~~another party~~ for the same office in the same year."

10 **SECTION 1.15.** G.S. 163-115 reads as rewritten:

11 **"§ 163-115. Special provisions for obtaining nominations when vacancies occur in certain**
12 **offices.**

13 ...

14 (c) If a vacancy occurs in an elective State or district office (other than member of the
15 United States House of Representatives) during the period opening 10 days before the filing
16 period for the office ends and closing 30 days before the ensuing general election, a nomination
17 shall be made ~~by the proper executive committee of each political party~~ as provided in
18 G.S. 163-114, and the names of the nominees shall be printed on the general election ballots.

19 ...

20 (e) If a vacancy occurs in the office of United States Senator, and the vacancy occurs:

21 (1) Beginning on the tenth day before the filing period ends under
22 G.S. 163-106(c), a nomination shall be made ~~by the State executive~~
23 ~~committee of each political party~~ as provided in G.S. 163-114 and the names
24 of the nominees shall be printed on the general election ballots.

25 (2) Prior to the tenth day before the filing period ends under G.S. 163-106(c),
26 nominations shall be made by primary election as provided by this Article."

27 **SECTION 1.16.** G.S. 163-119 is repealed.

28 **SECTION 1.17.** The catch line for G.S. 163-123 reads as rewritten:

29 **"§ 163-123. Declaration of intent and petitions for write-in candidates in partisan**
30 **elections."**

31 **SECTION 1.18.** G.S. 163-165.6 reads as rewritten:

32 **"§ 163-165.6. Arrangement of official ballots.**

33 ...

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

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

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

41 (3) ~~Partisan Voter-nominated offices as listed under G.S. 163-1(b)~~ shall be listed
42 before partisan offices, and partisan offices, regardless of the size of the
43 constituency, shall be listed before nonpartisan offices.

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

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

3 (6) Ballot items for retention elections held under Article 1A of Chapter 7A of
4 the General Statutes shall be grouped with like State offices, but shall be
5 listed after offices for which an election is conducted under Article 25 of this
6 Chapter.

7 (c) Order of Candidates on Primary and Nonpartisan Official Ballots. – The order in
8 which candidates shall appear on a county's official ballots in any (i) ~~primary ballot item,~~
9 ~~whether the primary is partisan or nonpartisan, and (ii) in any nonpartisan general election~~
10 ~~ballot item under Article 25 of this Chapter~~ primary ballot item shall be determined by the
11 county board of elections using a process designed by the State Board of Elections for random
12 selection. The same random selection process shall be used for all primaries and elections in a
13 calendar year.

14 (d) Order of Party Candidates on General Election Official Ballot. – Candidates in any
15 ballot item on a general election official ballot shall appear in the following order:

16 (1) Nominees of political parties that reflect at least five percent (5%) of
17 statewide voter registration, according to the most recent statistical report
18 published by the State Board of Elections, in alphabetical order by party
19 beginning with the party whose nominee for Governor received the most
20 votes in the most recent gubernatorial election, and in alphabetical order
21 within the party.

22 (1a) Voter-nominated candidates, in alphabetical order by order of precedence
23 pursuant to subsection (b) of this section.

24 (2) Nominees of other political parties, in alphabetical order by party and in
25 alphabetical order within the party.

26 (3) Unaffiliated candidates, in alphabetical order.

27 ~~(d1) Order of Candidates for Judge of the Court of Appeals on General Election Official~~
28 ~~Ballot. Candidates for judge of the Court of Appeals on a general election official ballot shall~~
29 ~~appear in the following order:~~

30 ~~(1) Candidates registered with political parties that reflect at least five percent~~
31 ~~(5%) of statewide voter registration, according to the most recent statistical~~
32 ~~report published by the State Board of Elections, in alphabetical order by~~
33 ~~party beginning with the party whose nominee for Governor received the~~
34 ~~most votes in the most recent gubernatorial election and in alphabetical order~~
35 ~~within the party.~~

36 ~~(2) Candidates registered with other political parties, in alphabetical order by~~
37 ~~party and in alphabetical order within the party.~~

38 ~~(3) Unaffiliated candidates, in alphabetical order.~~

39 "...."

40 **SECTION 1.19.** G.S. 163-226.1 reads as rewritten:

41 "**§ 163-226.1. Absentee voting in primary.**

42 A qualified voter may vote by absentee ballot in a ~~partisan primary provided the qualified~~
43 ~~voter is affiliated, at the time the qualified voter makes application for absentee ballots, with~~
44 ~~the political party in whose primary the qualified voter wishes to vote, except that an~~
45 ~~unaffiliated voter may vote in a party primary if permitted under G.S. 163-119. The official~~
46 ~~registration records of the county in which the voter is registered shall be proof of whether the~~
47 ~~qualified voter is affiliated with a political party and of the party, if any, with which the~~
48 ~~qualified voter is affiliated.~~ primary as permitted under this Chapter."

49 **SECTION 1.20.** G.S. 163-227.2(b) reads as rewritten:

50 "(b) Not earlier than the second Thursday before an election, in which absentee ballots
51 are authorized, in which a voter seeks to vote and not later than 1:00 P.M. on the last Saturday

1 before that election, the voter shall appear in person only at the office of the county board of
2 elections, except as provided in subsection (g) of this section. A county board of elections shall
3 conduct one-stop voting on the last Saturday before the election until 1:00 P.M. That voter shall
4 enter the voting enclosure at the board office through the appropriate entrance and shall at once
5 state his or her name and place of residence to an authorized member or employee of the board
6 and present photo identification in accordance with G.S. 163-166.13. In a primary election, the
7 voter shall also state the political party with which the voter affiliates ~~and in whose primary the~~
8 ~~voter desires to vote, or if for that~~ the voter is an unaffiliated voter ~~permitted to vote in the~~
9 ~~primary of a particular party under G.S. 163-119, the voter shall state the name of the~~
10 ~~authorizing political party in whose primary he wishes to vote.~~ voter. The board member or
11 employee to whom the voter gives this information shall announce the name and residence of
12 the voter in a distinct tone of voice. After examining the registration records, an employee of
13 the board shall state whether the person seeking to vote is duly registered. If the voter is found
14 to be registered that voter may request that the authorized member or employee of the board
15 furnish the voter with an application ~~form as specified in G.S. 163-227.~~ form. The voter shall
16 complete the application in the presence of the authorized member or employee of the board,
17 and shall deliver the application to that person."
18

19 PART II. CONFORMING STATUTORY CHANGES

20 **SECTION 2.1.** G.S. 18C-112(e) reads as rewritten:

21 "(e) If any member takes any of the following actions, the member vacates office as a
22 member of the Commission and the vacancy shall be filled as provided by G.S. 18C-111(c):

- 23 (1) Files a notice of candidacy under G.S. 163-106 or G.S. 163-323 or a petition
24 under G.S. 163-107.1 or G.S. 163-325.
- 25 (2) Is nominated to fill a vacancy among ~~party~~-nominees under G.S. 163-114 or
26 G.S. 163-115.
- 27 (3) Files a petition as an unaffiliated candidate under G.S. 163-122.
- 28 (4) Files a declaration of intent as a write-in candidate under G.S. 163-123.
- 29 (5) Is nominated by party convention under G.S. 163-98."

30 **SECTION 2.2.** G.S. 160A-23.1(d) reads as rewritten:

31 "(d) If the council adopts the resolution provided for in subsection (a) of this section and
32 does not adopt the changes, or does adopt the changes, but approval under the Voting Rights
33 Act of 1965, as amended, is required, and notice of such approval is not received, by the end of
34 the third day before the opening of the filing period, the municipal election shall be rescheduled
35 as provided in this subsection and current officeholders shall hold over until their successors
36 are elected and qualified. For cities using the:

- 37 (1) Partisan primary and election method under G.S. 163-291, the primary shall
38 be held on the primary election date for county officers in the second year
39 following a federal decennial census, ~~the second primary, if necessary, shall~~
40 ~~be held on the second primary election date for county officers in that year,~~
41 and the general election shall be held on the general election date for county
42 officers in that year.
- 43 (2) Nonpartisan primary and election method under G.S. 163-294, the primary
44 shall be held on the primary election date for county officers in the second
45 year following a federal decennial census, and the election shall be held on
46 the general election date ~~for the second primary~~ for county officers in that
47 year.
- 48 (3) Nonpartisan plurality election method under G.S. 163-292, the election shall
49 be held on the primary election date for county officers in the second year
50 following a federal decennial census.

- 1 (4) Election and runoff method under G.S. 163-293, the election shall be held on
2 the primary election date for county officers in the second year following a
3 federal decennial census, ~~and the runoffs, if necessary, shall be held on the~~
4 ~~date for the second primary for county officers in that year~~ but the results
5 shall instead be determined by the nonpartisan plurality election method
6 under G.S. 163-292.

7 The organizational meeting of the new council may be held at any time after the results of
8 the election have been officially determined and published, but not later than the time and date
9 of the first regular meeting of the council in November of the second year following a federal
10 decennial census, except in the case of partisan municipal elections, when the organizational
11 meeting shall be held not later than the time and date of the first regular meeting of the council
12 in December of the second year following a federal decennial census."

13 **SECTION 2.3.** G.S. 163-55(c) reads as rewritten:

14 "(c) Elections. – For purposes of the 30-day residence requirement to vote in an election
15 in subsection (a) of this section, the term "election" means the day of the primary, ~~second~~
16 ~~primary~~, general election, special election, or referendum."

17 **SECTION 2.4.** G.S. 163-82.6(d) reads as rewritten:

18 "(d) Instances When Person May Register and Vote on Primary or Election Day. – If a
19 person has become qualified to register and vote between the twenty-fifth day before a primary
20 or election and primary or election day, then that person may apply to register on primary or
21 election day by submitting an application form described in G.S. 163-82.3(a) or (b) to:

- 22 (1) A member of the county board of elections;
23 (2) The county director of elections; or
24 (3) The chief judge or a judge of the precinct in which the person is eligible to
25 vote,

26 and, if the application is approved, that person may vote the same day. The official in
27 subdivisions (1) through (3) of this subsection to whom the application is submitted shall
28 decide whether the applicant is eligible to vote. The applicant shall present to the official
29 written or documentary evidence that the applicant is the person he represents himself to be.
30 The official, if in doubt as to the right of the applicant to register, may require other evidence
31 satisfactory to that official as to the applicant's qualifications. If the official determines that the
32 person is eligible, the person shall be permitted to vote in the primary or election and the
33 county board shall add the person's name to the list of registered voters. If the official denies
34 the application, the person shall be permitted to vote a challenged ballot under the provisions of
35 G.S. 163-88.1, and may appeal the denial to the full county board of elections. The State Board
36 of Elections shall promulgate rules for the county boards of elections to follow in hearing
37 appeals for denial of primary or election day applications to register. ~~No person shall be~~
38 ~~permitted to register on the day of a second primary unless he shall have become qualified to~~
39 ~~register and vote between the date of the first primary and the date of the succeeding second~~
40 ~~primary."~~

41 **SECTION 2.5.** G.S. 163-82.17(a) reads as rewritten:

42 "(a) Registrant's Duty to Report. – Any registrant who desires to have the record of his
43 party affiliation or unaffiliated status changed on the registration list shall, no later than the last
44 day for making application to register under G.S. 163-82.6 before the election, indicate the
45 change on an application form as described in G.S. 163-82.3 or on a voter registration card
46 described in G.S. 163-82.8. No registrant shall be permitted to change party affiliation or
47 unaffiliated status for a ~~primary, second primary,~~ primary or special or general election after the
48 deadline for registration applications for that election as set out in G.S. 163-82.6."

49 **SECTION 2.6.** G.S. 163-226(c) reads as rewritten:

1 "(c) The Term "Election". – As used in this Subchapter, unless the context clearly
2 requires otherwise, the term "election" includes a general, primary, ~~second primary~~, runoff
3 election, bond election, referendum, or special election."

4 **SECTION 2.7.** G.S. 163-227.1 is repealed.

5 **SECTION 2.8.** G.S. 163-227.3(b) is repealed.

6 **SECTION 2.9.** G.S. 163-258.9(a) reads as rewritten:

7 "(a) Not later than 60 days before the statewide general election in even-numbered years
8 and not later than 50 days before any other election, the county board of elections shall transmit
9 a ballot and balloting materials to all covered voters who by that date submit a valid
10 military-overseas ballot ~~application, except for a second primary application.~~ application. Provided, in a
11 presidential election year, the board of elections shall provide general election ballots no later
12 than three days after nomination of the presidential and vice presidential candidates if that
13 nomination occurs later than 63 days prior to the statewide general election and makes
14 compliance with the 60-day deadline impossible. However, in the case of municipal elections,
15 absentee ballots shall be made available no later than 30 days before an election. ~~For a second
16 primary which includes a candidate for federal office, the county board of elections shall
17 transmit a ballot and balloting material to all covered voters who by that date submit a valid
18 military-overseas ballot application no later than 45 days before the second primary. For a
19 second primary which does not include a candidate for federal office, the transmission of the
20 ballot and ballot materials shall be as soon as practicable and shall be transmitted electronically
21 no later than three business days and by mail no later than 15 days from the date the appropriate
22 board of elections orders that the second primary be held pursuant to G.S. 163-111. If
23 additional offices are added to the ballot to fill a vacancy occurring after the deadline provided
24 by this subsection, those ballots shall be transmitted as soon as practicable."~~

25 **SECTION 2.10.** G.S. 163-258.16(a) reads as rewritten:

26 "(a) Not later than 100 days before a regularly scheduled election to which this Article
27 applies, and as soon as practicable in the case of an election or vacancy election not regularly
28 scheduled, each county board of elections shall prepare an election notice for that jurisdiction
29 to be used in conjunction with the federal write-in absentee ballot described in
30 G.S. 163-258.11. ~~For a second primary required by G.S. 163-111, the county board of elections
31 shall prepare, no later than the day following the date the appropriate board of elections orders
32 that a second primary be held, an election notice for that jurisdiction to be used in conjunction
33 with the federal write-in absentee ballot.~~ The election notice shall contain a list of all of the
34 ballot measures and federal, State, and local offices that, as of that date, the official expects to
35 be on the ballot on the date of the election. The notice also shall contain specific instructions
36 for how a voter is to indicate on the federal write-in absentee ballot the voter's choice for each
37 office to be filled and for each ballot measure to be contested."

38 **SECTION 2.11.** G.S. 163-258.29 reads as rewritten:

39 "**§ 163-258.29. Absentee voting at office of board of elections.**

40 Notwithstanding any other provisions of this Chapter, any covered voter under this Article
41 shall be permitted to vote an absentee ballot pursuant to G.S. 163-227.2 if the covered voter has
42 not already voted an absentee ballot which has been returned to the board of elections, and if
43 the covered voter will not be in the county on the day of the primary or election.

44 In the event an absentee application or ballot has already been mailed to the covered voter
45 applying to vote pursuant to G.S. 163-227.2, the board of elections shall void the application
46 and ballot unless the voted absentee ballot has been received by the board of elections. The
47 covered voter shall be eligible to vote pursuant to G.S. 163-227.2 no later than 5:00 P.M. on the
48 day next preceding the ~~primary, second primary~~ or election."

49 **SECTION 2.12.** G.S. 163-278.6(8) reads as rewritten:

50 "**§ 163-278.6. Definitions.**

51 When used in this Article:

1 ...

2 (8) The term "election" means any general or special election, a ~~first or second~~
3 primary, a run-off election, or an election to fill a vacancy. The term
4 "election" shall not include any local or statewide referendum."

5 **SECTION 2.13.** G.S. 163-278.13(d) reads as rewritten:

6 "(d) For the purposes of this section, the term "an election" means the period of time
7 from January 1 of an odd-numbered year through the day of the ~~primary, the day after the~~
8 ~~primary through the day of the second primary,~~primary or the day after the primary through
9 December 31 of the next even-numbered year, without regard to whether the candidate is
10 opposed or unopposed in the election, ~~except that where a candidate is not on the ballot in a~~
11 ~~second primary, that second primary is not "an election" with respect to that~~
12 ~~candidate election."~~

13 **SECTION 2.14.** G.S. 163-278.13B(d) is repealed.

14 **SECTION 2.15.** G.S. 163-278.40B(2) reads as rewritten:

15 **"§ 163-278.40B. Campaign report; partisan election.**

16 In any city election conducted on a partisan basis in accordance with G.S. 163-279(a)(2)
17 and 163-291, the following reports shall be filed in addition to the organizational report:

18 ...

19 (2) Pre-election Report. – The treasurer shall file a report 10 days before the
20 election, ~~unless a second primary is held and the candidate appeared on the~~
21 ~~ballot in the second primary, in which case the report shall be filed 10 days~~
22 ~~before the second primary election."~~

23 **PART III. EFFECTIVE DATE**

24 **SECTION 3.** This act is effective when it becomes law and applies to primaries
25 and elections held on or after January 1, 2018.
26