

Article 14A.

Voting.

Part 1. Definitions.

**§ 163-165. Definitions.**

In addition to the definitions stated below, the definitions set forth in Article 15A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article:

- (1) **(Effective until January 1, 2018 or September 1, 2019 – see note)** "Ballot" means an instrument on which a voter indicates that voter's choice for a ballot item so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term "ballot" may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, the face of a lever voting machine, the image on a direct record electronic unit, or a ballot used on any other voting system.
- (1) **(Effective January 1, 2018 or September 1, 2019 – see note)** "Ballot" means an instrument on which a voter indicates that voter's choice for a ballot item so that it may be recorded as a vote for or against a certain candidate or referendum proposal, and is evidenced by an individual paper document that bears marks made by the voter by hand or through electronic means, whether preprinted or printed in the voting enclosure.
- (2) "Ballot item" means a single item on a ballot in which the voters are to choose between or among the candidates or proposals listed.
- (3) "Ballot style" means the version of a ballot within a jurisdiction that an individual voter is eligible to vote. For example, in a county that uses essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for commissioner in different districts. The different versions of the county's official ballot containing only those district ballot items one individual voter may vote are the county's different ballot styles.
- (4) "Election" means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this State or the United States. The term includes primaries, general elections, referenda, and special elections.
- (5) "Official ballot" means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of elections. The term does not include a sample ballot or a specimen ballot.
- (5a) Repealed by Session Laws 2015-103, s. 5(a), effective January 1, 2018 or September 1, 2019. See notes.
- (6) "Provisional official ballot" means an official ballot that is voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote. Except for its envelope, a provisional official ballot shall not be marked to make it identifiable to the voter.
- (7) "Referendum" means the event in which voters cast votes for or against ballot questions other than the election of candidates to office.
- (8) "Voting booth" means the private space in which a voter is to mark an official ballot.

- (9) "Voting enclosure" means the room within the voting place that is used for voting.
- (10) "Voting place" means the building or area of the building that contains the voting enclosure.
- (11) "Voting system" means a system of casting and tabulating ballots. The term includes systems of paper ballots counted by hand as well as systems utilizing mechanical and electronic voting equipment. (2001-460, s. 3; 2001-466, s. 3(a), (b); 2002-159, s. 21(h); 2006-262, s. 4; 2013-381, ss. 30.1, 30.2; 2015-103, ss. 4(a), 5(a), 6(b).)

## Part 2. Ballots and Voting Systems.

### **§ 163-165.1. Scope and general rules.**

- (a) Scope. – This Article shall apply to all elections in this State.
- (b) Requirements of Official Ballots in Voting. – In any election conducted under this Article:
  - (1) All voting shall be by official ballot.
  - (2) Only votes cast on an official ballot shall be counted.
- (c) Compliance With This Article. – All ballots shall comply with the provisions of this Article.
- (d) Other Uses Prohibited. – An official ballot shall not be used for any purpose not authorized by this Article.
- (e) Voted ballots and paper and electronic records of individual voted ballots shall be treated as confidential, and no person other than elections officials performing their duties may have access to voted ballots or paper or electronic records of individual voted ballots except by court order or order of the appropriate board of elections as part of the resolution of an election protest or investigation of an alleged election irregularity or violation. Voted ballots and paper and electronic records of individual voted ballots shall not be disclosed to members of the public in such a way as to disclose how a particular voter voted, unless a court orders otherwise. Any person who has access to an official voted ballot or record and knowingly discloses in violation of this section how an individual has voted that ballot is guilty of a Class 1 misdemeanor. (2001-460, s. 3; 2002-159, s. 55(o); 2005-323, s. 1(f); 2007-391, s. 9(a).)

### **§ 163-165.2. Sample ballots.**

- (a) County Board to Produce and Distribute Sample Ballots. – The county board of elections shall produce sample ballots, in all the necessary ballot styles of the official ballot, for every election to be held in the county. The sample ballots shall be given an appearance that clearly distinguishes them from official ballots. The county board shall distribute sample ballots to the chief judge of every precinct in which the election is to be conducted. The chief judge shall post a sample ballot in the voting place and may use it for instructional purposes. The county board of elections may use the sample ballot for other informational purposes.
- (b) Document Resembling an Official Ballot to Contain Disclaimer. – No person other than a board of elections shall produce or disseminate a document substantially resembling an official ballot unless the document contains on its face a prominent statement that the document was not produced by a board of elections and is not an official ballot. (2001-460, s. 3.)

### **§ 163-165.3. Responsibilities for preparing official ballots.**

(a) State Board Responsibilities. – The State Board of Elections shall certify the official ballots and voter instructions to be used in every election that is subject to this Article. In conducting its certification, the State Board shall adhere to the following:

- (1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification and times for the State Board to complete the certification.
- (2) The State Board of Elections shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board of Elections may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.
- (3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.
- (4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Article and standards adopted by the State Board.
- (5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.
- (6) The State Board is not required to certify or review every official ballot style in the county but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

The State Board shall be responsible for oversight of all ballot coding. In order to produce the data necessary for equipment programming, each county shall either contract with a qualified vendor certified by the State Board or be certified by the State Board to produce the data.

(b) County Board Responsibilities. – Each county board of elections shall prepare and produce official ballots for all elections in that county. The county board of elections shall submit the format of each official ballot and set of instructions to the State Board of Elections for review and certification in accordance with the schedule established by the State Board. The county board of elections shall follow the directions of the State Board in placing candidates, referenda, and other material on official ballots and in placing instructions.

(c) Late Changes in Ballots. – The State Board shall promulgate rules for late changes in ballots. The rules shall provide for the reprinting, where practical, of official ballots as a result of replacement candidates to fill vacancies in accordance with G.S. 163-114 or other late changes. If an official ballot is not reprinted, a vote for a candidate who has been replaced in accordance with G.S. 163-114 will count for the replacement candidate.

(d) Special Ballots. – The State Board of Elections, with the approval of a county board of elections, may produce special official ballots, such as those for disabled voters, where production by the State Board would be more practical than production by the county board. (2001-460, s. 3; 2007-391, s. 24(a); 2008-187, s. 33(a); 2009-541, s. 18(a).)

#### **§ 163-165.4. Standards for official ballots.**

The State Board of Elections shall ensure that official ballots throughout the State have all the following characteristics:

- (1) Are readily understandable by voters.
- (2) Present all candidates and questions in a fair and nondiscriminatory manner.
- (3) Allow every voter to cast a vote in every ballot item without difficulty.
- (4) Facilitate an accurate vote count.
- (5) Are uniform in content and format, subject to varied presentations required or made desirable by different voting systems. (2001-460, s. 3; 2013-381, s. 29.1.)

**§ 163-165.4A. Punch-card ballots and lever machines.**

(a) No ballot may be used in any referendum, primary, or other election as an official ballot if it requires the voter to punch out a hole with a stylus or other tool.

(a1) No lever machine voting system may be used in any referendum, primary, or other election as a means of voting the official ballot. A "lever machine voting system" is a voting system on which the voter casts a vote by pressing a lever and the vote is mechanically recorded by the machine.

(b) In any counties that used punch-card ballots as official ballots or lever machines in the election of November 2000, and in any municipalities located in those counties, this section becomes effective January 1, 2006. It is the intent of the General Assembly that any county that uses county funds to replace voting equipment to satisfy this section shall be given priority in appropriations to counties for voting equipment. (2001-310, ss. 1, 3; 2003-226, s. 12.)

**§ 163-165.4B. Butterfly ballots.**

No butterfly ballot may be used as an official ballot in any referendum, primary, or other election. The term "butterfly ballot" means a ballot having more than one column listing ballot choices that share a common column for designating those choices. (2001-310, ss. 2, 3.)

**§ 163-165.4C. (Effective January 1, 2018) Prohibited voting systems.**

A voting system that does not use or produce a ballot shall not be used in any referendum, primary, or other election as a means of voting or counting an official ballot. (2015-103, s. 5(b).)

**§ 163-165.5. Contents of official ballots.**

(a) Except as provided in this section, each official ballot shall contain all the following elements:

- (1) The heading prescribed by the State Board of Elections. The heading shall include the term "Official Ballot".
- (2) The title of each office to be voted on and the number of votes allowed in each ballot item.
- (3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways that do

not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent. The State Board of Elections shall establish a review procedure that local boards of elections shall follow to ensure that candidates' names appear on the official ballot in accordance with this subdivision.

- (4) Party designations in partisan ballot items and in nonpartisan ballot items as required by G.S. 163-323(h).
- (5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123. No space for write-ins is required unless a write-in candidate has qualified under G.S. 163-123 or unless the ballot item is exempt from G.S. 163-123.
- (6) Instructions to voters, unless the State Board of Elections allows instructions to be placed elsewhere than on the official ballot.
- (7) The printed title and facsimile signature of the chair of the county board of elections.

(b) Notwithstanding subsection (a) of this section, an official ballot created and printed by use of a voting system in the voting enclosure shall be counted if all of the following apply:

- (1) Each of the following are printed on that official ballot:
  - a. The date of the election.
  - b. The precinct name or a unique identification code associated with that ballot style.
  - c. The choices made by the voter for all ballot items in which the voter cast a vote.
- (2) The electronic display of the voting system seen by the voter contains all of the information required by subsection (a) of this section.
- (3) The voter is capable of reviewing the printed official ballot, and voiding that ballot, prior to casting that voter's ballot.
- (4) The voter's choices in and on the electronic display are removed prior to the next voter using that voting equipment. (2001-460, s. 3; 2003-209, s. 1; 2007-391, s. 10; 2008-187, s. 33(a); 2015-103, s. 4(b); 2015-292, s. 1.)

**§ 163-165.5A.** Expired.

**§ 163-165.5B. Ballots may be combined.**

Notwithstanding any other statute or local act, a county board of elections, with the approval of the State Board of Elections, may combine ballot items on the same official ballot. (2007-391, s. 7; 2008-187, s. 33(a).)

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

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

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

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

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

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

- (2) Candidates registered with other political parties, in alphabetical order by party and in alphabetical order within the party.
- (3) Unaffiliated candidates, in alphabetical order.
- (e) No Straight-Party Voting. – Each official ballot shall not contain any place that allows a voter with one mark to vote for the candidates of a party for more than one office.
- (f) Write-In Voting. – Each official ballot shall be so arranged so that voters may cast write-in votes for candidates except where prohibited by G.S. 163-123 or other statutes governing write-in votes. Instructions for general election ballots shall clearly advise voters of the rules of this subsection and of the statutes governing write-in voting.
- (g) Order of Precedence for Referenda. – The referendum questions to be voted on shall be arranged on the official ballot in the following order:
  - (1) Proposed amendments to the North Carolina Constitution, in the chronological order in which the proposals were approved by the General Assembly. Proposed amendments shall be designated by only the short caption provided by the Constitutional Amendments Publication Commission under Article 4A of Chapter 147 of the General Statutes.
  - (2) Other referenda to be voted on by all voters in the State, in the chronological order in which the proposals were approved by the General Assembly.
  - (3) Referenda to be voted on by fewer than all the voters in the State, in the chronological order of the acts by which the referenda were properly authorized. (2001-460, s. 3; 2002-158, s. 14; 2013-381, ss. 31.1, 32.1; 2014-111, s. 2; 2015-66, s. 4; 2016-109, ss. 3, 4(a).)

**§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

- (a) (Effective until January 1, 2018 or September 1, 2019 – see note) Only voting systems that have been certified by the State Board of Elections in accordance with the procedures set forth by the State Board of Elections and subject to the standards set forth in this section and that have not been subsequently decertified shall be permitted for use in elections in this State. Those certified voting systems shall be valid in any election held in the State or in any county, municipality, or other electoral district in the State. Subject to all other applicable rules adopted by the State Board of Elections and, with respect to federal elections, subject to all applicable federal regulations governing voting systems, paper ballots marked by the voter and counted by hand shall be deemed a certified voting system. The State Board of Elections shall certify optical scan voting systems, optical scan with ballot markers voting systems, and direct record electronic voting systems if any of those systems meet all applicable requirements of federal and State law. The State Board may certify voting systems only if they meet the requirements set forth in this section and only if they generate either a paper ballot or a paper record by which voters may verify their votes before casting them and which provides a backup means of counting the vote that the voter casts. Those voting systems may include optical scan and direct record electronic (DRE) voting systems. Among other requirements as set by the State Board of Elections, the certification requirements shall require at least all of the following elements:
  - (1) That the vendor post a bond or letter of credit to cover damages resulting from defects in the voting system. Damages may include, among other items, any costs of conducting a new election attributable to those defects.

- (2) That the voting system comply with all federal requirements for voting systems.
- (3) That the voting system must have the capacity to include in voting district returns the votes cast by voters outside of the precinct associated with that voter's voter registration.
- (4) With respect to electronic voting systems, that the voting system generate a paper record of each individual vote cast, which paper record shall be maintained in a secure fashion and shall serve as a backup record for purposes of any hand-to-eye count, hand-to-eye recount, or other audit. Electronic systems that employ optical scan technology to count paper ballots shall be deemed to satisfy this requirement.
- (5) With respect to DRE voting systems, that the paper record generated by the system be viewable by the voter before the vote is cast electronically, and that the system permit the voter to correct any discrepancy between the electronic vote and the paper record before the vote is cast.
- (6) With respect to all voting systems using electronic means, that the vendor provide access to all of any information required to be placed in escrow by a vendor pursuant to G.S. 163-165.9A for review and examination by the State Board of Elections; the Department of Information Technology; the State chairs of each political party recognized under G.S. 163-96; the purchasing county; and designees as provided in subdivision (9) of subsection (d) of this section.
- (7) That the vendor must quote a statewide uniform price for each unit of the equipment.
- (8) That the vendor must separately agree with the purchasing county that if it is granted a contract to provide software for an electronic voting system but fails to debug, modify, repair, or update the software as agreed or in the event of the vendor having bankruptcy filed for or against it, the source code described in G.S. 163-165.9A(a) shall be turned over to the purchasing county by the escrow agent chosen under G.S. 163-165.9A(a)(1) for the purposes of continuing use of the software for the period of the contract and for permitting access to the persons described in subdivision (6) of this subsection for the purpose of reviewing the source code.

As part of the certification requirements, the State Board of Elections shall address the mandatory terms of the contract for the purchase of the voting system and the maintenance and training related to that voting system.

(a) **(Effective January 1, 2018 or September 1, 2019 – see note)** Only voting systems that have been certified by the State Board of Elections in accordance with the procedures set forth by the State Board of Elections and subject to the standards set forth in this section and that have not been subsequently decertified shall be permitted for use in elections in this State. Those certified voting systems shall be valid in any election held in the State or in any county, municipality, or other electoral district in the State. Subject to all other applicable rules adopted by the State Board of Elections and, with respect to federal elections, subject to all applicable federal regulations governing voting systems, paper ballots marked by the voter and counted by hand shall be deemed a certified voting system. The State Board of Elections shall certify optical scan voting systems, optical scan with ballot markers voting systems, and direct record electronic



voting systems if any of those systems meet all applicable requirements of federal and State law. The State Board may certify voting systems only if they meet the requirements set forth in this section and only if they generate a paper ballot which provides a backup means of counting the vote that the voter casts. Those voting systems may include optical scan and direct record electronic (DRE) voting systems that produce a paper ballot. Among other requirements as set by the State Board of Elections, the certification requirements shall require at least all of the following elements:

- (1) That the vendor post a bond or letter of credit to cover damages resulting from defects in the voting system. Damages may include, among other items, any costs of conducting a new election attributable to those defects.
- (2) That the voting system comply with all federal requirements for voting systems.
- (3) That the voting system must have the capacity to include in voting district returns the votes cast by voters outside of the precinct associated with that voter's voter registration.
- (4) With respect to electronic voting systems, that the voting system generate a paper ballot of each individual vote cast, which paper ballot shall be maintained in a secure fashion and shall serve as a backup record for purposes of any hand-to-eye count, hand-to-eye recount, or other audit. Electronic systems that employ optical scan technology to count paper ballots shall be deemed to satisfy this requirement.
- (5) With respect to DRE voting systems, that the paper ballot generated by the system be viewable by the voter before the vote is cast electronically, and that the system permit the voter to correct any discrepancy between the electronic vote and the paper ballot before the vote is cast.
- (6) With respect to all voting systems using electronic means, that the vendor provide access to all of any information required to be placed in escrow by a vendor pursuant to G.S. 163-165.9A for review and examination by the State Board of Elections; the Department of Information Technology; the State chairs of each political party recognized under G.S. 163-96; the purchasing county; and designees as provided in subdivision (9) of subsection (d) of this section.
- (7) That the vendor must quote a statewide uniform price for each unit of the equipment.
- (8) That the vendor must separately agree with the purchasing county that if it is granted a contract to provide software for an electronic voting system but fails to debug, modify, repair, or update the software as agreed or in the event of the vendor having bankruptcy filed for or against it, the source code described in G.S. 163-165.9A(a) shall be turned over to the purchasing county by the escrow agent chosen under G.S. 163-165.9A(a)(1) for the purposes of continuing use of the software for the period of the contract and for permitting access to the persons described in subdivision (6) of this subsection for the purpose of reviewing the source code.

As part of the certification requirements, the State Board of Elections shall address the mandatory terms of the contract for the purchase of the voting system and the maintenance and training related to that voting system.

(a1) Federal Assistance. – The State Board may use guidelines, information, testing reports, certification, decertification, recertification, and any relevant data produced by the Election Assistance Commission, its Standards Board, its Board of Advisors, or the Technical Guidelines Development Committee as established in Title II of the Help America Vote Act of 2002 with regard to any action or investigation the State Board may take concerning a voting system. The State Board may use, for the purposes of voting system certification, laboratories accredited by the Election Assistance Commission under the provisions of section 231(2) of the Help America Vote Act of 2002.

(a2) Only electronic poll books that have been certified by the State Board in accordance with procedures and subject to standards adopted by the State Board shall be permitted for use in elections in this State.

(b) The State Board may also, upon notice and hearing, decertify types, makes, and models of voting systems. Upon decertifying a type, make, or model of voting system, the State Board shall determine the process by which the decertified system is discontinued in any county. A county may appeal a decision by the State Board concerning the process by which the decertified system is discontinued in that county to the Superior Court of Wake County. The county has 30 days from the time it receives notice of the State Board's decision on the process by which the decertified system is discontinued in that county to make that appeal.

(c) Prior to certifying a voting system, the State Board of Elections shall review, or designate an independent expert to review, all source code made available by the vendor pursuant to this section and certify only those voting systems compliant with State and federal law. At a minimum, the State Board's review shall include a review of security, application vulnerability, application code, wireless security, security policy and processes, security/privacy program management, technology infrastructure and security controls, security organization and governance, and operational effectiveness, as applicable to that voting system. Any portion of the report containing specific information related to any trade secret as designated pursuant to G.S. 132-1.2 shall be confidential and shall be accessed only under the rules adopted pursuant to subdivision (9) of subsection (d) of this section. The State Board may hear and discuss the report of any such review under G.S. 143-318.11(a)(1).

(d) **(Effective until January 1, 2018 or September 1, 2019 – see note)** Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of certified voting systems, including all of the following:

- (1) Procedures for county boards of elections to utilize when recommending the purchase of a certified voting system for use in that county.
- (2) Form of official ballot labels to be used on voting systems.
- (3) Operation and manner of voting on voting systems.
- (4) Instruction of precinct officials in the use of voting systems.
- (5) Instruction of voters in the use of voting systems.
- (6) Assistance to voters using voting systems.
- (7) Duties of custodians of voting systems.
- (8) Examination and testing of voting systems in a public forum in the county before and after use in an election.
- (9) Notwithstanding G.S. 132-1.2, procedures for the review and examination of any information placed in escrow by a vendor pursuant to G.S. 163-165.9A by only the following persons:
  - a. State Board of Elections.

- b. Department of Information Technology.
- c. The State chairs of each political party recognized under G.S. 163-96.
- d. The purchasing county.

Each person listed in sub-subdivisions a. through d. of this subdivision may designate up to three persons as that person's agents to review and examine the information. No person shall designate under this subdivision a business competitor of the vendor whose proprietary information is being reviewed and examined. For purposes of this review and examination, any designees under this subdivision and the State party chairs shall be treated as public officials under G.S. 132-2.

- (10) With respect to electronic voting systems, procedures to maintain the integrity of both the electronic vote count and the paper record. Those procedures shall at a minimum include procedures to protect against the alteration of the paper record after a machine vote has been recorded and procedures to prevent removal by the voter from the voting enclosure of any paper record or copy of an individually voted ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper record.
- (11) Compliance with section 301 of the Help America Vote Act of 2002.

Any rules adopted under this subsection shall be in conjunction with procedures and standards adopted under G.S. 163-182.1, are exempt from Chapter 150B of the General Statutes, and are subject to the same procedures for notice and publication set forth in G.S. 163-182.1.

(d) **(Effective January 1, 2018 or September 1, 2019 – see note)** Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of certified voting systems, including all of the following:

- (1) Procedures for county boards of elections to utilize when recommending the purchase of a certified voting system for use in that county.
- (2) Form of official ballot labels to be used on voting systems.
- (3) Operation and manner of voting on voting systems.
- (4) Instruction of precinct officials in the use of voting systems.
- (5) Instruction of voters in the use of voting systems.
- (6) Assistance to voters using voting systems.
- (7) Duties of custodians of voting systems.
- (8) Examination and testing of voting systems in a public forum in the county before and after use in an election.
- (9) Notwithstanding G.S. 132-1.2, procedures for the review and examination of any information placed in escrow by a vendor pursuant to G.S. 163-165.9A by only the following persons:
  - a. State Board of Elections.
  - b. Department of Information Technology.
  - c. The State chairs of each political party recognized under G.S. 163-96.
  - d. The purchasing county

Each person listed in sub-subdivisions a. through d. of this subdivision may designate up to three persons as that person's agents to review and examine the information. No person shall designate under this subdivision a business competitor of the vendor whose proprietary information is being reviewed and

examined. For purposes of this review and examination, any designees under this subdivision and the State party chairs shall be treated as public officials under G.S. 132-2.

- (10) With respect to electronic voting systems, procedures to maintain the integrity of both the electronic vote count and the paper ballot. Those procedures shall at a minimum include procedures to protect against the alteration of the paper ballot after a machine vote has been recorded and procedures to prevent removal by the voter from the voting enclosure of any individually voted paper ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper ballot.

- (11) Compliance with section 301 of the Help America Vote Act of 2002.

Any rules adopted under this subsection shall be in conjunction with procedures and standards adopted under G.S. 163-182.1, are exempt from Chapter 150B of the General Statutes, and are subject to the same procedures for notice and publication set forth in G.S. 163-182.1.

(e) The State Board of Elections shall facilitate training and support of the voting systems utilized by the counties. The training may be conducted through the use of videoconferencing or other technology. (2001-460, s. 3; 2003-226, s. 11; 2005-323, s. 1(a)-(d); 2006-264, s. 76(a); 2007-391, s. 6(d); 2008-187, s. 33(b); 2009-541, s. 19; 2013-381, s. 30.3; 2015-103, ss. 6(b), 10, 11(a); 2015-241, s. 7A.4(gg); 2016-109, s. 9(b).)

#### **§ 163-165.8. Voting systems: powers and duties of board of county commissioners.**

The board of county commissioners, with the approval of the county board of elections, may adopt and acquire only a voting system of a type, make, and model certified by the State Board of Elections for use in some or all voting places in the county at some or all elections.

The board of county commissioners may decline to adopt and acquire any voting system recommended by the county board of elections but may not adopt and acquire any voting system that has not been approved by the county board of elections. Article 8 of Chapter 143 of the General Statutes does not apply to the purchase of a voting system certified by the State Board of Elections. (2001-460, s. 3; 2005-323, s. 3.)

#### **§ 163-165.9. Voting systems: powers and duties of county board of elections.**

(a) Before approving the adoption and acquisition of any voting system by the board of county commissioners, the county board of elections shall do all of the following:

- (1) Recommend to the board of county commissioners which type of voting system should be acquired by the county.
- (2) Witness a demonstration, in that county or at a site designated by the State Board of Elections, of the type of voting system to be recommended and also witness a demonstration of at least one other type of voting system certified by the State Board of Elections.
- (3) Test, during an election, the proposed voting system in at least one precinct in the county where the voting system would be used if adopted.

(b) After the acquisition of any voting system, the county board of elections shall comply with any requirements of the State Board of Elections regarding training and support of the voting system by completing all of the following:

- (1) The county board of elections shall comply with all specifications of its voting system vendor for ballot printers. The county board of elections is authorized to contract with noncertified ballot printing vendors, so long as the noncertified ballot printing vendor meets all specifications and all quality assurance requirements as set by the State Board of Elections.
- (2) The county board of elections shall annually maintain software license and maintenance agreements necessary to maintain the warranty of its voting system. A county board of elections may employ qualified personnel to maintain a voting system in lieu of entering into maintenance agreements necessary to maintain the warranty of its voting system. State Board of Elections is not required to provide routine maintenance to any county board of elections that does not maintain the warranty of its voting system. If the State Board of Elections provides any maintenance to a county that has not maintained the warranty of its voting system, the county shall reimburse the State for the cost. The State Board of Elections shall annually report to the House and Senate Committees on Appropriations, to the Fiscal Research Division, and to the Joint Legislative Commission on Governmental Operations on implementation of this subdivision. If requested by the county board of elections, the State Board of Elections may enter into contracts on behalf of that county under this subdivision, but such contracts must also be approved by the county board of elections. Any contract entered into under this subdivision shall be paid from non-State funds. Neither a county nor the State Board of Elections shall enter into any contract with any vendor for software license and maintenance agreements unless the vendor agrees to (i) operate a training program for qualification of county personnel under this subsection with training offered within the State of North Carolina and (ii) not dishonor warranties merely because the county is employing qualified personnel to maintain the voting system as long as the county:
  - a. Pays the costs of the annual software licensing agreement for that county.
  - b. Ensures that equipment (i) remains in full compliance with State certification requirements and (ii) remains in stock and supply available to the county for up to five years after the vendor discontinues distribution or sale of the equipment.
  - c. Maintains a tracking record to record and timely report all hardware issues and all repairs and provides those records for review by the vendor and by the State Board of Elections.
  - d. Provides that only parts provided by the vendor would be used to repair the vendor's equipment, contingent on (i) the county being able to purchase necessary parts in a timely manner from the vendor and (ii) the vendor providing the equipment at least at the lowest price at which it sells the equipment to any other customer in the United States.
  - e. Accepts financial responsibility for expenses related to voting equipment failure during an election if the failure is caused solely by work of the county technician.

- (3) The county board of elections shall not replace any voting system, or any portion thereof, without approval of the State Board of Elections.
- (4) The county board of elections may have its voting system repaired pursuant to its maintenance agreement but shall notify the State Board of Elections at the time of every repair, according to guidelines that shall be provided by the State Board of Elections. (2001-460, s. 3; 2005-323, s. 4; 2007-391, s. 25; 2008-187, s. 33(a); 2009-541, s. 20; 2011-145, s. 26.3(a); 2012-142, s. 23.3(a).)

**§ 163-165.9A. Voting systems: requirements for voting systems vendors; penalties.**

(a) Duties of Vendor. – Every vendor that has a contract to provide a voting system in North Carolina shall do all of the following:

- (1) The vendor shall place in escrow with an independent escrow agent approved by the State Board of Elections all software that is relevant to functionality, setup, configuration, and operation of the voting system, including, but not limited to, a complete copy of the source and executable code, build scripts, object libraries, application program interfaces, and complete documentation of all aspects of the system including, but not limited to, compiling instructions, design documentation, technical documentation, user documentation, hardware and software specifications, drawings, records, and data. The State Board of Elections may require in its request for proposal that additional items be escrowed, and if any vendor that agrees in a contract to escrow additional items, those items shall be subject to the provisions of this section. The documentation shall include a list of programmers responsible for creating the software and a sworn affidavit that the source code includes all relevant program statements in low-level and high-level languages.
- (2) The vendor shall notify the State Board of Elections of any change in any item required to be escrowed by subdivision (1) of this subsection.
- (3) The chief executive officer of the vendor shall sign a sworn affidavit that the source code and other material in escrow is the same being used in its voting systems in this State. The chief executive officer shall ensure that the statement is true on a continuing basis.
- (4) The vendor shall promptly notify the State Board of Elections and the county board of elections of any county using its voting system of any decertification of the same system in any state, of any defect in the same system known to have occurred anywhere, and of any relevant defect known to have occurred in similar systems.
- (5) The vendor shall maintain an office in North Carolina with staff to service the contract.

(b) Penalties. – Willful violation of any of the duties in subsection (a) of this section is a Class G felony. Substitution of source code into an operating voting system without notification as provided by subdivision (a)(2) of this section is a Class I felony. In addition to any other applicable penalties, violations of this section are subject to a civil penalty to be assessed by the State Board of Elections in its discretion in an amount of up to one hundred thousand dollars (\$100,000) per violation. A civil penalty assessed under this section shall be subject to the provisions of G.S. 163-278.34(e). (2005-323, s. 2(a).)

**§ 163-165.10. Adequacy of voting system for each precinct.**

The county board of elections shall make available for each precinct voting place an adequate quantity of official ballots or equipment. When the board of county commissioners has decided to adopt and purchase or lease a voting system for voting places under the provisions of G.S. 165-165.8, the board of county commissioners shall, as soon as practical, provide for each of those voting places sufficient equipment of the approved voting system in complete working order. If it is impractical to furnish each voting place with the equipment of the approved voting system, that which has been obtained may be placed in voting places chosen by the county board of elections. In that case, the county board of elections shall choose the voting places and allocate the equipment in a way that as nearly as practicable provides equal access to the voting system for each voter. The county board of elections shall appoint as many voting system custodians as may be necessary for the proper preparation of the system for each election and for its maintenance, storage, and care. The Executive Director of the State Board of Elections may permit a county board of elections to provide more than one type of voting system in a precinct, but only upon a finding that doing so is necessary to comply with federal or State law. (2001-460, s. 3; 2005-428, s. 2.)

Part 3. Procedures at the voting place.

**§ 163-166:** Repealed by Session Laws 1997-443, s. 31.

**§ 163-166.01. Hours for voting.**

In every election, the voting place shall be open at 6:30 A.M. and shall be closed at 7:30 P.M. If the polls are delayed in opening for more than 15 minutes, or are interrupted for more than 15 minutes after opening, the State Board of Elections may extend the closing time by an equal number of minutes. As authorized by law, the State Board of Elections shall be available either in person or by teleconference on the day of election to approve any such extension. If any voter is in line to vote at the time the polls are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who arrives at the voting place after the closing of the polls.

Any voter who votes after the statutory poll closing time of 7:30 P.M. by virtue of a federal or State court order or any other lawful order, including an order of a county board of elections, shall be allowed to vote, under the provisions of that order, only by using a provisional official ballot. Any special provisional official ballots cast under this section shall be separated, counted, and held apart from other provisional ballots cast by other voters not under the effect of the order extending the closing time of the voting place. If the court order has not been reversed or stayed by the time of the county canvass, the total for that category of provisional ballots shall be added to the official canvass. (2001-460, s. 3; 2003-226, s. 14; 2013-381, s. 33.1.)

**§ 163-166.1. Duties of county board of elections.**

The county board of elections shall:

- (1) Provide for the timely delivery to each voting place of the supplies, records, and equipment necessary for the conduct of the election.
- (2) Ensure that adequate procedures are in place at each voting place for a safe, secure, fair, and honest election.
- (3) Respond to precinct officials' questions and problems where necessary.

- (4) Provide adequate technical support for the voting system, which shall be done in conjunction with the State Board of Elections. (2001-460, s. 3; 2009-541, s. 21.)

**§ 163-166.2. Arrangement of the voting enclosure.**

Each voting enclosure shall contain at a minimum:

- (1) A sufficient number of private spaces for all voters to mark their official ballots in secrecy.
- (2) Adequate space and furniture for the separate functions of:
  - a. The checking of voter registration records.
  - b. The distribution of official ballots.
  - c. Private discussion with voters concerning irregular situations.
- (3) A telephone or some facility for communication with the county board of elections.

The equipment and furniture in the voting enclosure shall be arranged so that it can be generally seen from the public space of the enclosure. (2001-460, s. 3.)

**§ 163-166.3. Limited access to the voting enclosure.**

(a) **Persons Who May Enter Voting Enclosure.** – During the time allowed for voting in the voting place, only the following persons may enter the voting enclosure:

- (1) An election official.
- (2) An observer appointed pursuant to G.S. 163-45.
- (2a) A runner appointed pursuant to G.S. 163-45, but only to the extent necessary to announce that runner's presence and to receive the voter list as provided in G.S. 163-45.
- (3) A person seeking to vote in that voting place on that day but only while in the process of voting or seeking to vote.
- (4) A voter in that precinct while entering or explaining a challenge pursuant to G.S. 163-87 or G.S. 163-88.
- (5) A person authorized under G.S. 163-166.8 to assist a voter but, except as provided in subdivision (6) of this section, only while assisting that voter.
- (6) Minor children of the voter under the age of 18, or minor children under the age of 18 in the care of the voter, but only while accompanying the voter and while under the control of the voter.
- (7) Persons conducting or participating in a simulated election within the voting place or voting enclosure, if that simulated election is approved by the county board of elections.
- (8) Any other person determined by election officials to have an urgent need to enter the voting enclosure but only to the extent necessary to address that need.

(b) **Photographing Voters Prohibited.** – No person shall photograph, videotape, or otherwise record the image of any voter within the voting enclosure, except with the permission of both the voter and the chief judge of the precinct. If the voter is a candidate, only the permission of the voter is required. This subsection shall also apply to one-stop sites under G.S. 163-227.2. This subsection does not apply to cameras used as a regular part of the security of the facility that is a voting place or one-stop site.



(c) Photographing Voted Ballot Prohibited. – No person shall photograph, videotape, or otherwise record the image of a voted official ballot for any purpose not otherwise permitted under law. (2001-460, s. 3; 2005-428, s. 1(b); 2007-391, s. 23; 2008-187, s. 33(a).)

**§ 163-166.4. Limitation on activity in the voting place and in a buffer zone around it.**

(a) Buffer Zone. – No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity in the voting place or in a buffer zone which shall be prescribed by the county board of elections around the voting place. In determining the dimensions of that buffer zone for each voting place, the county board of elections shall, where practical, set the limit at 50 feet from the door of entrance to the voting place, measured when that door is closed, but in no event shall it set the limit at more than 50 feet or at less than 25 feet.

(a1) Area for Election-Related Activity. – Except as provided in subsection (b) of this section, the county board of elections shall also provide an area adjacent to the buffer zone for each voting place in which persons or groups of persons may distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity.

(b) Special Agreements About Election-Related Activity. – The Executive Director of the State Board of Elections may grant special permission for a county board of elections to enter into an agreement with the owners or managers of a nonpublic building to use the building as a voting place on the condition that election-related activity as described in subsection (a1) of this section not be permitted on their property adjacent to the buffer zone, if the Executive Director finds all of the following:

- (1) That no other suitable voting place can be secured for the precinct.
- (2) That the county board will require the chief judge of the precinct to monitor the grounds around the voting place to ensure that the restriction on election-related activity shall apply to all candidates and parties equally.
- (3) That the pattern of voting places subject to agreements under this subsection does not disproportionately favor any party, racial or ethnic group, or candidate.

An agreement under this subsection shall be valid for as long as the nonpublic building is used as a voting place.

(c) Notice About Buffer Zone and Area for Election-Related Activity. – No later than 30 days before each election, the county board of elections shall make available to the public the following information concerning each voting place:

- (1) The door from which the buffer zone is measured.
- (2) The distance the buffer zone extends from that door.
- (3) Any available information concerning where political activity, including sign placement, is permitted beyond the buffer zone.

(d) Buffer Zone and Area for Election-Related Activity at One-Stop Sites. – Except as modified in this subsection, the provisions of this section shall apply to one-stop voting sites in G.S. 163-227.2.

- (1) Subsection (b) of this section shall not apply.
- (2) The notice in subsection (c) of this section shall be provided no later than 10 days before the opening of one-stop voting at the site. (2001-460, s. 3; 2003-365, s. 1; 2007-391, s. 13; 2008-187, s. 33(a); 2009-541, s. 22(a).)

**§ 163-166.5. Procedures at voting place before voting begins.**

The State Board of Elections shall promulgate rules for precinct officials to set up the voting place before voting begins. Those rules shall emphasize:

- (1) Continual participation or monitoring by officials of more than one party.
- (2) Security of official ballots, records, and equipment.
- (3) The appearance as well as the reality of care, efficiency, impartiality, and honest election administration.

The county boards of elections and precinct officials shall adhere to those procedures. (2001-460, s. 3.)

**§ 163-166.6. Designation of tasks.**

The State Board of Elections shall promulgate rules for the delegation of tasks among the election officials at each precinct. Those rules shall emphasize:

- (1) The need to place primary managerial responsibility upon the chief judge.
- (2) The need to have maximum multiparty participation in all duties where questions of partisan partiality might be raised.
- (3) The need to provide flexibility of management to the county board of elections and to the chief judge, in consideration of different abilities of officials, the different availability of officials, and the different needs of voters precinct by precinct. (2001-460, s. 3.)

**§ 163-166.7. Voting procedures.**

(a) **Checking Registration.** – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address and presenting photo identification in accordance with G.S. 163-166.13. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots. If a precinct official states that the person is duly registered, the person shall sign the pollbook, other voting record, or voter authorization document in accordance with subsection (c) of this section before voting.

(b) **Distribution of Official Ballots.** – If the voter is found to be duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that contains the official ballot. No voter in a primary shall be permitted to vote in more than one party's primary. The precinct officials shall provide the voter with any information the voter requests to enable that voter to vote as that voter desires.

(c) **(Effective until January 1, 2018)** The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

- (1) The voting system remains secure throughout the period voting is being conducted.

- (2) Only properly voted official ballots or paper records of individual voted ballots are introduced into the voting system.
- (3) Except as provided by G.S. 163-166.9, no official ballots leave the voting enclosure during the time voting is being conducted there. The rules shall also provide that during that time no one shall remove from the voting enclosure any paper record or copy of an individually voted ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper record.
- (4) All improperly voted official ballots or paper records of individual voted ballots are returned to the precinct officials and marked as spoiled.
- (5) Voters leave the voting place promptly after voting.
- (6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.
- (7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
- (8) The registration records are kept secure. The State Board of Elections shall permit the use of electronic registration records in the voting place in lieu of or in addition to a paper pollbook or other registration record.
- (9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.
- (10) The voter, before voting, shall sign that voter's name on the pollbook, other voting record, or voter authorization document. If the voter is unable to sign, a precinct official shall enter the person's name on the same document before the voter votes.

(c) **(Effective January 1, 2018)** The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

- (1) The voting system remains secure throughout the period voting is being conducted.
- (2) Only properly voted official ballots are introduced into the voting system.
- (3) Except as provided by G.S. 163-166.9, no official ballots leave the voting enclosure during the time voting is being conducted there. The rules shall also provide that during that time no one shall remove from the voting enclosure any paper record or copy of an individually voted ballot or of any other device or item whose removal from the voting enclosure could permit compromise of the integrity of either the machine count or the paper record.
- (4) All improperly voted official ballots are returned to the precinct officials and marked as spoiled.
- (5) Voters leave the voting place promptly after voting.
- (6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.

- (7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
- (8) The registration records are kept secure. The State Board of Elections shall permit the use of electronic registration records in the voting place in lieu of or in addition to a paper pollbook or other registration record.
- (9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.
- (10) The voter, before voting, shall sign that voter's name on the pollbook, other voting record, or voter authorization document. If the voter is unable to sign, a precinct official shall enter the person's name on the same document before the voter votes. (2001-460, s. 3; 2003-226, s. 14.1; 2005-323, s. 1(a1); 2005-428, s. 12; 2013-381, ss. 2.5, 30.4.)

**§ 163-166.7A. Voter education and information.**

(a) Posting the Information. – For each election that involves candidates for federal or State office, each county board of elections shall post at each active voting place the following information in a manner and format approved by the State Board of Elections:

- (1) A sample ballot as required by G.S. 163-165.2.
- (2) The date of the election and the hours the voting place will be open.
- (3) Instructions on how to vote, including how to cast a vote or correct a vote on the voting systems available for use in that voting place.
- (4) Instructions on how to cast a provisional ballot.
- (5) Instructions to mail-in registrants and first-time voters on how to comply with the requirements in section 303(b) of the Help America Vote Act of 2002 concerning voter identifications.
- (6) General information on voting rights under applicable federal and State law, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if the voter believes those rights have been violated.
- (7) General information on federal and State laws that prohibit acts of fraud and misrepresentation as to voting and elections.

(b) Intent. – The posting required by subsection (a) of this section is intended to meet the mandate of the voting information requirements in section 302(b) of the Help America Vote Act of 2002. (2003-226, s. 8.)

**§ 163-166.8. Assistance to voters.**

(a) Any registered voter qualified to vote in the election shall be entitled to assistance with entering and exiting the voting booth and in preparing ballots in accordance with the following rules:

- (1) Any voter is entitled to assistance from the voter's spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild, as chosen by the voter.
- (2) A voter in any of the following four categories is entitled to assistance from a person of the voter's choice, other than the voter's employer or agent of that employer or an officer or agent of the voter's union:

- a. A voter who, on account of physical disability, is unable to enter the voting booth without assistance.
- b. A voter who, on account of physical disability, is unable to mark a ballot without assistance.
- c. A voter who, on account of illiteracy, is unable to mark a ballot without assistance.
- d. A voter who, on account of blindness, is unable to enter the voting booth or mark a ballot without assistance.

(b) A qualified voter seeking assistance in an election shall, upon arriving at the voting place, request permission from the chief judge to have assistance, stating the reasons. If the chief judge determines that such assistance is appropriate, the chief judge shall ask the voter to point out and identify the person the voter desires to provide such assistance. If the identified person meets the criteria in subsection (a) of this section, the chief judge shall request the person indicated to render the assistance. The chief judge, one of the judges, or one of the assistants may provide aid to the voter if so requested, if the election official is not prohibited by subdivision (a) (2) of this section. Under no circumstances shall any precinct official be assigned to assist a voter qualified for assistance, who was not specified by the voter.

(c) A person rendering assistance to a voter in an election shall be admitted to the voting booth with the voter being assisted. The State Board of Elections shall promulgate rules governing voter assistance, and those rules shall adhere to the following guidelines:

- (1) The person rendering assistance shall not in any manner seek to persuade or induce any voter to cast any vote in any particular way.
- (2) The person rendering assistance shall not make or keep any memorandum of anything which occurs within the voting booth.
- (3) The person rendering assistance shall not, directly or indirectly, reveal to any person how the assisted voter marked ballots, unless the person rendering assistance is called upon to testify in a judicial proceeding for a violation of the election laws. (2001-460, s. 3.)

#### **§ 163-166.9. Curbside voting.**

(a) In any election or referendum, if any qualified voter is able to travel to the voting place, but because of age or physical disability and physical barriers encountered at the voting place is unable to enter the voting enclosure to vote in person without physical assistance, that voter shall be allowed to vote either in the vehicle conveying that voter or in the immediate proximity of the voting place.

(b) Any qualified voter voting under this section shall comply with G.S. 163-166.13(a) by one of the following means:

- (1) Presenting photo identification in accordance with G.S. 163-166.13.
- (2) Presenting a copy of a document listed in G.S. 163-166.12(a)(2).

(c) The State Board of Elections shall adopt rules for the administration of this section. (2001-460, s. 3; 2013-381, s. 2.6.)

#### **§ 163-166.10. Procedures after the close of voting.**

The State Board of Elections shall promulgate rules for closing the voting place and delivering voting information to the county board of elections for counting, canvassing, and record maintenance. Those rules shall emphasize the need for the appearance as well as the

reality of security, accuracy, participation by representatives of more than one political party, openness of the process to public inspection, and honesty. The rules, at a minimum, shall include procedures to ensure all of the following:

- (1) The return and accurate accounting of all official ballots, regular, provisional, voted, unvoted, and spoiled, according to the provisions of Article 15A of this Chapter.
- (2) The certification of ballots and voter-authorization documents by precinct officials of more than one political party.
- (3) The delivery to the county board of elections of registration documents and information gleaned through the voting process that would be helpful in the accurate maintenance of the voter registration records.
- (4) The return to the county board of all issued equipment.
- (5) The restoration of the voting place to the condition in which it was found. (2001-460, ss. 3, 3.1.)

**§ 163-166.11. Provisional voting requirements.**

If an individual seeking to vote claims to be a registered voter in a jurisdiction as provided in G.S. 163-82.1 and though eligible to vote in the election does not appear on the official list of eligible registered voters in the voting place, that individual may cast a provisional official ballot as follows:

- (1) An election official at the voting place shall notify the individual that the individual may cast a provisional official ballot in that election.
- (2) The individual may cast a provisional official ballot at that voting place upon executing a written affirmation before an election official at the voting place, stating that the individual is a registered voter in the jurisdiction as provided in G.S. 163-82.1 in which the individual seeks to vote and is eligible to vote in that election.
- (2a) A voter who has moved within the county more than 30 days before election day but has not reported the move to the board of elections shall not be required on that account to vote a provisional ballot at the one-stop site, as long as the one-stop site has available all the information necessary to determine whether a voter is registered to vote in the county and which ballot the voter is eligible to vote based on the voter's proper residence address. The voter with that kind of unreported move shall be allowed to vote the same kind of absentee ballot as other one-stop voters as provided in G.S. 163-227.2(e2).
- (3) At the time the individual casts the provisional official ballot, the election officials shall provide the individual written information stating that anyone casting a provisional official ballot can ascertain whether and to what extent the ballot was counted and, if the ballot was not counted in whole or in part, the reason it was not counted. The State Board of Elections or the county board of elections shall establish a system for so informing a provisional voter. It shall make the system available to every provisional voter without charge, and it shall build into it reasonable procedures to protect the security, confidentiality, and integrity of the voter's personal information and vote.

- (4) The cast provisional official ballot and the written affirmation shall be secured by election officials at the voting place according to guidelines and procedures adopted by the State Board of Elections. At the close of the polls, election officials shall transmit the provisional official ballots cast at that voting place to the county board of elections for prompt verification according to guidelines and procedures adopted by the State Board of Elections.
- (5) Repealed by Session Laws 2014-111, s. 12(b), effective August 6, 2014. (2003-226, s. 15; 2005-2, s. 4; 2005-428, s. 6(b); 2013-381, s. 49.3; 2014-111, s. 12(b).)

**§ 163-166.11A. Notation on provisional ballot.**

Whenever a voter is permitted to vote a provisional ballot, the election official issuing the ballot shall annotate in writing or other means on the ballot that it is a provisional ballot. (2013-381, s. 52.1.)

**§ 163-166.12. Requirements for certain voters who register by mail.**

(a) Voting in Person. – An individual who has registered to vote by mail on or after January 1, 2003, and has not previously voted in an election that includes a ballot item for federal office in North Carolina, shall present to a local election official at a voting place before voting there one of the following:

- (1) A current and valid photo identification.
- (2) A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(b) Voting Mail-In Absentee. – An individual who has registered to vote by mail on or after January 1, 2003, and has not previously voted in an election that includes a ballot item for federal office in North Carolina, in order to cast a mail-in absentee vote, shall submit with the mailed-in absentee ballot one of the following:

- (1) A copy of a current and valid photo identification.
- (2) A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.

(b1) Notation of Identification Proof. – The county board of elections shall note the type of identification proof submitted by the voter under the provisions of subsection (a) or (b) of this section and may dispose of the tendered copy of identification proof as soon as the type of proof is noted in the voter registration records.

(b2) Voting When Identification Numbers Do Not Match. – Regardless of whether an individual has registered by mail or by another method, if the individual has provided with the registration form a drivers license number or last four digits of a Social Security number but the computer validation of the number as required by G.S. 163-82.12 did not result in a match, and the number has not been otherwise validated by the board of elections, in the first election in which the individual votes that individual shall submit with the ballot the form of identification described in subsection (a) or subsection (b) of this section, depending upon whether the ballot is voted in person or absentee. If that identification is provided and the board of elections does not determine that the individual is otherwise ineligible to vote a ballot, the failure of identification

numbers to match shall not prevent that individual from registering to vote and having that individual's vote counted.

(c) The Right to Vote Provisionally. – If an individual is required under subsection (a), (b), or (b2) of this section to present identification in order to vote, but that individual does not present the required identification, that individual may vote a provisional official ballot. If the voter is at the voting place, the voter may vote provisionally there without unnecessary delay. If the voter is voting by mail-in absentee ballot, the mailed ballot without the required identification shall be treated as a provisional official ballot.

(d) Exemptions. – This section does not apply to any of the following:

- (1) An individual who registers by mail and submits as part of the registration application either of the following:
  - a. A copy of a current and valid photo identification.
  - b. A copy of one of the following documents that shows the name and address of the voter: a current utility bill, bank statement, government check, paycheck, or other government document.
- (2) An individual who registers by mail and submits as part of the registration application the individual's drivers license number or at least the last four digits of the individual's social security number where an election official matches either or both of the numbers submitted with an existing State identification record bearing the same number, name, and date of birth contained in the submitted registration. If any individual's number does not match, the individual shall provide identification as required in subsection (b2) of this section in the first election in which the individual votes.
- (3) An individual who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act.
- (4) An individual who is entitled to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act.
- (5) An individual who is entitled to vote otherwise than in person under any other federal law. (2003-226, s. 16; 2004-127, s. 3; 2007-391, s. 21(a); 2008-187, s. 33(a); 2013-381, s. 16.4; 2013-410, s. 14(b).)

**§ 163-166.13. Photo identification requirement for voting in person.**

(a) Every qualified voter voting in person in accordance with this Article, G.S. 163-227.2, or G.S. 163-182.1A shall present photo identification bearing any reasonable resemblance to that voter to a local election official at the voting place before voting, except as follows:

- (1) For a registered voter voting curbside, that voter shall present identification under G.S. 163-166.9.
- (2) For a registered voter who has a sincerely held religious objection to being photographed and has filed a declaration in accordance with G.S. 163-82.7A at least 25 days before the election in which that voter is voting in person, that voter shall not be required to provide photo identification.
- (3) For a registered voter who is a victim of a natural disaster occurring within 60 days before election day that resulted in a disaster declaration by the President of the United States or the Governor of this State who declares the lack of



photo identification due to the natural disaster on a form provided by the State Board, that voter shall not be required to provide photo identification in any county subject to such declaration. The form shall be available from the State Board of Elections, from each county board of elections in a county subject to the disaster declaration, and at each polling place and one-stop early voting site in that county. The voter shall submit the completed form at the time of voting.

(b) Any voter who complies with subsection (a) of this section shall be permitted to vote.

(c) Any voter who does not comply with subsection (a) of this section shall be notified of the following options:

- (1) The voter is permitted to vote a provisional official ballot which shall be counted in accordance with G.S. 163-182.1A.
- (2) The voter is permitted to complete a reasonable impediment declaration, as provided in G.S. 163-166.15, and vote a provisional official ballot which shall be counted in accordance with G.S. 163-182.1B.
- (3) The voter is permitted to complete a written request for an absentee ballot in accordance with G.S. 163-227.2(b1) until the deadline for submission of requests for absentee ballots provided in G.S. 163-230.1.

(d) The local election official to whom the photo identification is presented shall determine if the photo identification bears any reasonable resemblance to the voter presenting the photo identification. If it is determined that the photo identification does not bear any reasonable resemblance to the voter, the local election official shall comply with G.S. 163-166.14.

(e) Except as provided in subsection (e1) of this section, as used in this section, "photo identification" means any one of the following that contains a photograph of the registered voter, has a printed expiration date, and is unexpired, unless otherwise noted:

- (1) A North Carolina drivers license issued under Article 2 of Chapter 20 of the General Statutes, including a learner's permit or a provisional license, provided that it shall be acceptable if it has a printed expiration date that is not more than four years before it is presented for voting.
- (2) A special identification card for nonoperators issued under G.S. 20-37.7, provided that it shall be acceptable if it has a printed expiration date that is not more than four years before it is presented for voting.
- (3) A United States passport.
- (4) A United States military identification card, except there is no requirement that it have a printed expiration or issuance date.
- (5) A Veterans Identification Card issued by the United States Department of Veterans Affairs for use at Veterans Administration medical facilities facilities, except there is no requirement that it have a printed expiration or issuance date.
- (6) A tribal enrollment card issued by a federally recognized tribe, provided that if the tribal enrollment card does not contain a printed expiration date, it shall be acceptable if it has a printed issuance date that is not more than eight years before it is presented for voting.
- (7) A tribal enrollment card issued by a tribe recognized by this State under Chapter 71A of the General Statutes, provided that card meets all of the following criteria:

- a. Is issued in accordance with a process approved by the State Board of Elections that requires an application and proof of identity equivalent to the requirements for issuance of a special identification card by the Division of Motor Vehicles under G.S. 20-7 and G.S. 20-37.7.
  - b. Is signed by an elected official of the tribe.
- (8) A drivers license or nonoperators identification card issued by another state, the District of Columbia, or a territory or commonwealth of the United States, but only if the voter's voter registration was within 90 days of the election.
- (f) Any voter 70 years of age or older shall be permitted to present an expired form of photo identification listed in subsection (e) of this section, if that identification expired at any point after that voter's 70th birthday. (2013-381, s. 2.1; 2014-111, s. 7; 2015-103, s. 8(a).)

**§ 163-166.14. Evaluation of determination of nonreasonable resemblance of photo identification.**

(a) Any local election official that determines the photo identification presented by a voter in accordance with G.S. 163-166.13 does not bear any reasonable resemblance to that voter shall notify the judges of election of the determination.

(b) When notified under subsection (a) of this section, the judges of election present shall review the photo identification presented and the voter to determine if the photo identification bears any reasonable resemblance to that voter. The judges of election present may consider information presented by the voter in addition to the photo identification and shall construe all evidence presented in a light most favorable to the voter.

(c) A voter subject to subsections (a) and (b) of this section shall be permitted to vote unless the judges of election present unanimously agree that the photo identification presented does not bear any reasonable resemblance to that voter. The failure of the judges of election present to unanimously agree that photo identification presented by a voter does not bear any reasonable resemblance to that voter shall be dispositive of any challenges that may otherwise be made under G.S. 163-85(c)(10).

(d) A voter subject to subsections (a) and (b) of this section shall be permitted to vote a provisional ballot in accordance with G.S. 163-88.1 if the judges of election present unanimously agree that the photo identification presented does not bear any reasonable resemblance to that voter.

(e) At any time a voter presents photo identification to a local election official other than on election day, the county board of elections shall have available to the local election official judges of election for the review required under subsection (b) of this section, appointed with the same qualifications as is in Article 5 of this Chapter, except that the individuals may (i) reside anywhere in the county or (ii) be an employee of the county or the State. Neither the local election official nor the judges of election may be a county board member. The county board is not required to have the same judges of election available throughout the time period a voter may present photo identification other than on election day but shall have at least two judges, who are not of the same political party affiliation, available at all times during that period.

(f) Any local or State employee appointed to serve as a judge of election may hold that office in addition to the number permitted by G.S. 128-1.1.

(g) The county board of elections shall cause to be made a record of all voters subject to subsection (c) of this section. The record shall include all of the following:

- (1) The name and address of the voter.

- (2) The name of the local election official under subsection (a) of this section.
  - (3) The names and a record of how each judge of election voted under subsection (b) of this section.
  - (4) The date of the determinations under subsections (a) and (b) of this section.
  - (5) A brief description of the photo identification presented by the voter.
- (h) For purposes of this section, the term "judges of election" shall have the following meanings:
- (1) On election day, the chief judge and judges of election as appointed under Article 5 of this Chapter.
  - (2) Any time other than on election day, the individuals appointed under subsection (e) of this section.
- (i) The State Board shall adopt rules for the administration of this section. (2013-381, s. 2.2; 2014-111, s. 6.)

**§ 163-166.15. Reasonable impediment declarations.**

(a) Any voter who does not comply with the photo identification requirement of G.S. 163-166.13(a) due to a reasonable impediment that prevents the voter from obtaining photo identification may vote a provisional official ballot in accordance with this section.

(b) The voter shall complete a reasonable impediment declaration on a form provided by the State Board declaring that the voter meets all of the following criteria:

- (1) Is the same individual who personally appeared at the polling place.
- (2) Cast the provisional ballot while voting in person in accordance with this Article or G.S. 163-227.2.
- (3) Suffers from a reasonable impediment that prevents the voter from obtaining photo identification. The voter also shall list the impediment, as set forth in subsection (e) of this section, unless otherwise prohibited by State or federal law.

(c) The voter shall also present identification in the form of (i) a copy of a document listed in G.S. 163-166.12(a)(2) or the voter registration card issued to the voter by the county board of elections or (ii) the last four digits of the voter's Social Security number and the voter's date of birth. Upon compliance with this section, the voter may cast a provisional ballot. The declaration and a notation on the declaration form that the voter has provided the required identification shall be submitted with the provisional ballot envelope to the county board of elections and shall be counted in accordance with G.S. 163-182.1B.

(d) If a voter fails to present identification, as required in subsection (c) of this section, but completes a reasonable impediment declaration, the voter shall be permitted to vote a provisional official ballot. The declaration and a notation on the declaration form that the voter has not provided the required identification shall be submitted with the provisional ballot envelope to the county board of elections. The ballot shall be counted in accordance with G.S. 163-182.1B if the voter presents the required identification to the county board of elections in accordance with G.S. 163-182.1B.

(e) The reasonable impediment declaration form provided by the State Board shall, at a minimum, include the following:

- (1) Separate boxes that a voter may check to identify the reasonable impediment, including at least the following:
  - a. Lack of transportation.

- b. Disability or illness.
  - c. Lack of birth certificate or other documents needed to obtain photo identification.
  - d. Work schedule.
  - e. Family responsibilities.
  - f. Lost or stolen photo identification.
  - g. Photo identification applied for but not received by the voter voting in person.
  - h. Other reasonable impediment. If the voter checks the "other reasonable impediment" box, a further brief written identification of the reasonable impediment shall be required, including the option to indicate that State or federal law prohibits listing the impediment.
- (2) A space for the voter to provide the last four digits of the Social Security number and the voter's date of birth, if the voter opts to provide this information as identification in accordance with subsection (c) of this section.
  - (3) A space to note whether the voter has provided a copy of the document listed in G.S. 163-166.12(a)(2) or the voter registration card issued to the voter by the county board of elections. (2015-103, s. 8(d).)

**§ 163-167:** Reserved for future codification purposes.