

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 1446

Short Title: Better Elections Act.

(Public)

Sponsors: Representatives Blust; Capps and Rhodes.

Referred to: Election Law and Campaign Finance Reform.

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO REFORM THE ELECTION LAWS FOR THE PURPOSE OF MAKING
VOTING SIMPLER AND FAIRER.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 163-165.6(e) reads as rewritten:

"(e) Straight-Party Voting. – Each official ballot shall be arranged so that the voter may cast one vote for a party's nominees for all ~~offices except President and Vice President. A vote for President and Vice President shall be cast separately from a straight party vote.~~ offices. The official ballot shall be prepared so that a voter may cast a straight-party vote, but then make an exception to that straight-party vote by voting for a candidate not nominated by that party or by voting for fewer than all the candidates nominated by that party. Instructions for general election ballots shall clearly advise voters of the rules in this subsection and of the statutes providing for the counting of ballots."

SECTION 1.(b) G.S. 163-182.1(a)(7) reads as rewritten:

"(7) Straight-party ticket and split-ticket votes shall be counted in general elections according to the following guidelines:

- a. If a voter casts a vote for a straight-party ticket, that vote shall be counted for all the candidates of that party, ~~other than those for President and Vice President,~~ party in the partisan ballot items on that official ballot except as otherwise provided in this subdivision.
- b. If a voter casts a vote for a straight-party ticket and also votes in a partisan ballot item for a candidate not of that party, the official ballot shall be counted in that ballot item only for the individually marked candidate. In partisan ballot items where no mark is made for an individual candidate, the official ballot shall be counted for the candidates of the party whose straight ticket the voter voted.

- 1 c. If a voter casts a vote for a straight-party ticket and also casts a
2 write-in vote in any partisan ballot item, the straight-party ticket
3 vote shall not control the way the official ballot is counted in
4 that ballot item, except to the extent it would control in the case
5 of crossover voting under this subdivision. The following
6 principles shall apply:
- 7 1. If the write-in vote is proper under subdivision (6) of this
8 subsection, that write-in candidate shall receive a vote.
 - 9 2. If the write-in vote is not proper under subdivision (6) of
10 this subsection and no other candidate is individually
11 marked in that ballot item, then no vote shall be counted
12 in that ballot item.
 - 13 3. If the straight-ticket voter casts both write-in votes and
14 individually marked votes for ballot candidates in a
15 ballot item, then the write-in and individually marked
16 votes shall be counted unless the write-in is not proper
17 under subdivision (6) of this subsection or an overvote
18 results."

19 **SECTION 2.(a)** G.S. 163-166.12 reads as rewritten:

20 "**§ 163-166.12. Requirements for certain voters who register by mail. Voter**
21 **identification.**

22 (a) Voting in Person. —~~An individual who has registered to vote by mail on or~~
23 ~~after January 1, 2003, and has not previously voted in an election that includes a ballot~~
24 ~~item for federal office in North Carolina, Every individual seeking to vote in person~~
25 shall present to a local election official at a voting place or one-stop (early voting) site
26 before voting there one of the following:

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

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

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

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

43 (c) The Right to Vote Provisionally. – If an individual is required under
44 subsection (a) or (b) of this section to present identification in order to vote, but that

1 individual does not present the required identification, that individual may vote a
2 provisional official ballot. If the voter is at the voting place, the voter may vote
3 provisionally there without unnecessary delay. If the voter is voting by mail-in absentee
4 ballot, the mailed ballot without the required identification shall be treated as a
5 provisional official ballot.

6 (d) Exemptions. —~~This Subsection (b) of this section~~ does not apply to any of the
7 following:

8 (1) An individual who registers by mail and submits as part of the
9 registration application either of the following:

10 a. A copy of a current and valid photo identification.

11 b. A copy of one of the following documents that shows the name
12 and address of the voter: a current utility bill, bank statement,
13 government check, paycheck, or other government document.

14 (2) An individual who registers by mail and submits as part of the
15 registration application the individual's drivers license number or at
16 least the last four digits of the individual's social security number
17 where an election official matches either or both of the numbers
18 submitted with an existing State identification record bearing the same
19 number, name, and date of birth contained in the submitted
20 registration.

21 (3) An individual who is entitled to vote by absentee ballot under the
22 Uniformed and Overseas Citizens Absentee Voting Act.

23 (4) An individual who is entitled to vote otherwise than in person under
24 section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and
25 Handicapped Act.

26 (5) An individual who is entitled to vote otherwise than in person under
27 any other federal law."

28 **SECTION 2.(b)** G.S. 163-166.7(a) reads as rewritten:

29 "(a) Checking Registration. – A person seeking to vote shall enter the voting
30 enclosure through the appropriate entrance. A precinct official assigned to check
31 registration shall at once ask the voter to state current name and residence ~~address.~~
32 address and to present an identification document in accordance with G.S. 163-166.12.
33 The voter shall answer by stating current name and residence address. In a primary
34 election, that voter shall also be asked to state, and shall state, the political party with
35 which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter
36 wishes to vote. After examination, that official shall state whether that voter is duly
37 registered to vote in that precinct and shall direct that voter to the voting equipment or
38 to the official assigned to distribute official ballots. If a precinct official states that the
39 person is duly registered, the person shall sign the pollbook, other voting record, or
40 voter authorization document in accordance with subsection (c) of this section before
41 voting."

42 **SECTION 2.(c)** G.S. 163-227.2(b) reads as rewritten:

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

1 last Saturday before that election, the voter shall appear in person only at the office of
2 the county board of elections, except as provided in subsection (g) of this section. A
3 county board of elections shall conduct one-stop voting on the last Saturday before the
4 election until 1:00 P.M. and may conduct it until 5:00 P.M. on that Saturday. That voter
5 shall enter the voting enclosure at the board office through the appropriate entrance and
6 shall at once state his or her name and place of residence to an authorized member or
7 employee of the ~~board~~ board and present an identification document in accordance with
8 G.S. 163-166.12. In a primary election, the voter shall also state the political party with
9 which the voter affiliates and in whose primary the voter desires to vote, or if the voter
10 is an unaffiliated voter permitted to vote in the primary of a particular party under
11 G.S. 163-119, the voter shall state the name of the authorizing political party in whose
12 primary he wishes to vote. The board member or employee to whom the voter gives this
13 information shall announce the name and residence of the voter in a distinct tone of
14 voice. After examining the registration records, an employee of the board shall state
15 whether the person seeking to vote is duly registered. If the voter is found to be
16 registered that voter may request that the authorized member or employee of the board
17 furnish the voter with an application form as specified in G.S. 163-227. The voter shall
18 complete the application in the presence of the authorized member or employee of the
19 board, and shall deliver the application to that person."

20 **SECTION 3.** G.S. 163-227.2(g) reads as rewritten:

21 "(g) Notwithstanding any other provision of this section, a county board of
22 elections by unanimous vote of all its members may provide for one or more sites in that
23 county for absentee ballots to be applied for and cast under this section. ~~Any site other~~
24 ~~than the county board of elections office shall be in any building or part of a building~~
25 ~~that the county board of elections is entitled under G.S. 163-129 to demand and use as a~~
26 ~~voting place.~~ Every individual staffing any of those sites shall be a member or full-time
27 employee of the county board of elections or an employee of the county board of
28 elections whom the board has given training equivalent to that given a full-time
29 employee. Those sites must be approved by the State Board of Elections as part of a
30 Plan for Implementation approved by both the county board of elections and by the
31 State Board of Elections which shall also provide adequate security of the ballots and
32 provisions to avoid allowing persons to vote who have already voted. The Plan for
33 Implementation shall include a provision for the presence of political party observers at
34 each one-stop site equivalent to the provisions in G.S. 163-45 for party observers at
35 voting places on election day. A county board of elections may propose in its Plan not
36 to offer one-stop voting at the county board of elections office; the State Board may
37 approve that proposal in a Plan only if the Plan includes at least one site reasonably
38 proximate to the county board of elections office and the State Board finds that the sites
39 in the Plan as a whole provide adequate coverage of the county's electorate. If a county
40 board of elections has considered a proposed Plan or Plans for Implementation and has
41 been unable to reach unanimity in favor of a Plan, a member or members of that county
42 board of elections may petition the State Board of Elections to adopt a plan for it. If
43 petitioned, the State Board may also receive and consider alternative petitions from
44 another member or members of that county board. The State Board of Elections may

1 adopt a Plan for that county. The State Board, in that plan, shall take into consideration
2 factors including geographic, demographic, and partisan interests of that county."

3 **SECTION 4.** G.S. 163-165.6(d) reads as rewritten:

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

7 (1) Nominees of political parties that reflect at least five percent (5%) of
8 statewide voter registration, according to the most recent statistical
9 report published by the State Board of Elections, in alphabetical
10 rotating order by party and in alphabetical order within the party.
11 Those parties shall rotate every three years, and if there are more than
12 two parties in that category, then the order among those parties shall be
13 determined by lot, with no party being eligible for the first position for
14 three years after it has had that position.

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

17 (3) Unaffiliated candidates, in alphabetical order."

18 **SECTION 5.** All municipal elections shall be held on the days specified in
19 G.S. 163-279. All local acts in conflict with G.S. 163-279 are repealed to the extent of
20 the conflict.

21 **SECTION 6.** The State Board of Elections shall prepare a feasible plan to
22 implement voting on the Internet or determine that such a plan is not feasible. The State
23 Board shall report on that plan to the 2007 General Assembly by March 1, 2007.

24 **SECTION 7.** Article 17 of Chapter 163 of the General Statutes is amended
25 by adding a new section to read:

26 "**§ 165-203. Dividing counties limited in congressional plans.**

27 An act of the General Assembly that revises districts for the United States House of
28 Representatives shall divide counties only where necessary to achieve single-member
29 districts and to comply with the State Constitution and with federal law in achieving
30 required population equality and avoiding racial discrimination."

31 **SECTION 8.** G.S. 163-165.7 reads as rewritten:

32 **§ 163-165.7. (Effective January 1, 2006) Voting systems: powers and duties of**
33 **State Board of Elections.**

34 The State Board of Elections shall have authority to approve types, makes, and
35 models of voting systems for use in elections and referenda held in this State. Only
36 voting systems that have been approved by the State Board shall be used to conduct
37 elections under this Chapter, and the approved systems shall be valid in any election or
38 referendum held in any county or municipality. The State Board may use guidelines,
39 information, testing reports, certification, decertification, recertification, and any
40 relevant data produced by the Election Assistance Commission, its Standards Board, its
41 Board of Advisors, or the Technical Guidelines Development Committee as established
42 in Title II of the Help America Vote Act of 2002 with regard to any action or
43 investigation the State Board may take concerning a voting system. The State Board
44 may use, for the purposes of voting system certification, laboratories accredited by the

1 Election Assistance Commission under the provisions of section 231(2) of the Help
2 America Vote Act of 2002. The State Board shall approve only voting systems that have
3 been approved by the National Association of State Election Directors. The State Board
4 may, upon request of a local board of elections, authorize the use of a voting system not
5 approved for general use. The State Board may also, upon notice and hearing,
6 disapprove types, makes, and models of voting systems. Upon disapproving a type,
7 make, or model of voting system, the State Board shall determine the process by which
8 the disapproved system is discontinued in any county. If a county makes a showing that
9 discontinuance would impose a financial hardship upon it, the county shall be given up
10 to four years from the time of State Board disapproval to replace the system. A county
11 may appeal a decision by the State Board concerning discontinuance of a voting system
12 to the superior court in that county or to the Superior Court of Wake County. The
13 county has 30 days from the time of the State Board's decision on discontinuance to
14 make that appeal.

15 Subject to the provisions of this Chapter, the State Board of Elections shall prescribe
16 rules for the adoption, handling, operation, and honest use of voting systems, including,
17 but not limited to, the following:

- 18 (1) Types, makes, and models of voting systems approved for use in this
19 State.
- 20 (2) Form of official ballot labels to be used on voting systems.
- 21 (3) Operation and manner of voting on voting systems.
- 22 (4) Instruction of precinct officials in the use of voting systems.
- 23 (5) Instruction of voters in the use of voting systems.
- 24 (6) Assistance to voters using voting systems.
- 25 (7) Duties of custodians of voting systems.
- 26 (8) Examination of voting systems before use in an election.
- 27 (9) Compliance with section 301 of the Help America Vote Act of 2002."

28 **SECTION 9.** This act becomes effective January 1, 2006, and applies to
29 primaries and elections held on or after that date.