

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 88  
Committee Substitute Favorable 3/28/05  
Committee Substitute #2 Favorable 8/23/05

Short Title: Electoral Fairness Act.

(Public)

Sponsors:

Referred to:

February 7, 2005

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE NUMBER OF SIGNATURES REQUIRED OF A NEW POLITICAL PARTY AND OF A STATEWIDE UNAFFILIATED CANDIDATE TO ACHIEVE BALLOT ELIGIBILITY; TO REDUCE THE NUMBER OF VOTES A NEW POLITICAL PARTY MUST GAIN FOR A NOMINEE IN ORDER TO MAINTAIN BALLOT ELIGIBILITY; TO MOVE TO A DATE BEFORE THE POLITICAL PARTY PRIMARIES THE DEADLINES FOR FILING NEW POLITICAL PARTY PETITIONS AND NOMINATING NEW POLITICAL PARTY CANDIDATES; TO EXTEND FILING FEE PROVISIONS TO NEW PARTY AND UNAFFILIATED CANDIDATES; AND TO PROVIDE THAT A CANDIDATE WHO RAN IN A PARTY PRIMARY FOR AN OFFICE IS NOT ELIGIBLE FOR NOMINATION BY ANOTHER PARTY TO FILL A VACANCY IN ITS NOMINATION FOR THE SAME OFFICE IN THE SAME YEAR.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 163-96(a) reads as rewritten:

"(a) Definition. – A political party within the meaning of the election laws of this State shall be either:

- (1) Any group of voters which, at the last preceding general State election, polled for its candidate for Governor, or for presidential electors, at least ~~ten~~ two percent (~~10%~~) (2%) of the entire vote cast in the State for Governor or for presidential electors; or
- (2) Any group of voters which shall have filed with the State Board of Elections petitions for the formulation of a new political party which are signed by registered and qualified voters in this State equal in number to ~~two~~ one-half of one percent (~~2%~~) (0.5%) of the total number of voters who voted in the most recent general election for Governor. Also the petition must be signed by at least 200 registered voters from

1 each of four congressional districts in North Carolina. To be effective,  
2 the petitioners must file their petitions with the State Board of  
3 Elections before 12:00 noon on the first day of ~~June~~ April preceding  
4 the day on which is to be held the first general State election in which  
5 the new political party desires to participate. The State Board of  
6 Elections shall forthwith determine the sufficiency of petitions filed  
7 with it and shall immediately communicate its determination to the  
8 State chairman of the proposed new political party."

9 **SECTION 2.** G.S. 163-97 reads as rewritten:

10 **"§ 163-97. Termination of status as political party.**

11 When any political party fails to poll for its candidate for governor, or for  
12 presidential electors, at least ~~ten-two~~ percent (~~10%~~) (2%) of the entire vote cast in the  
13 State for governor or for presidential electors at a general election, it shall cease to be a  
14 political party within the meaning of the primary and general election laws and all other  
15 provisions of this Chapter."

16 **SECTION 3.** G.S. 163-98 reads as rewritten:

17 **"§ 163-98. General election participation by new political party.**

18 In the first general election following the date on which a new political party  
19 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its  
20 candidates for national, State, congressional, and local offices printed on the official  
21 ~~ballots~~ ballots upon paying a filing fee equal to that provided for candidates for the  
22 office in G.S. 163-107 or upon complying with the alternative available to candidates  
23 for the office in G.S. 163-107.1.

24 For the first general election following the date on which it qualifies under  
25 G.S. 163-96, a new political party shall select its candidates by party convention.  
26 Following adjournment of the nominating convention, but not later than the first day of  
27 ~~July~~ May prior to the general election, the president of the convention shall certify to the  
28 State Board of Elections the names of persons chosen in the convention as the new  
29 party's candidates ~~for State, congressional, and national offices~~ in the ensuing general  
30 election. The State Board of Elections shall print names thus certified on the appropriate  
31 ballots as the nominees of the new party. The State Board of Elections shall send to  
32 each county board of elections the list of any new party candidates so that the county  
33 board can add those names to the appropriate ballot."

34 **SECTION 4.** G.S. 163-122(a)(1) reads as rewritten:

35 "(a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. –  
36 Any qualified voter who seeks to have his name printed on the general election ballot as  
37 an unaffiliated candidate shall:

- 38 (1) If the office is a statewide office, file written petitions with the State  
39 Board of Elections supporting his candidacy for a specified office.  
40 These petitions must be filed with the State Board of Elections on or  
41 before 12:00 noon on the last Friday in June preceding the general  
42 election and must be signed by qualified voters of the State equal in  
43 number to ~~two percent (2%)~~ one-half of one percent (0.5%) of the total  
44 number of ~~registered voters in the State as reflected by the voter~~

1 registration records of the State Board of Elections as of January 1 of  
 2 the year in which the general election is to be held. voters who voted in  
 3 the most recent general election for Governor. Also, the petition must  
 4 be signed by at least 200 registered voters from each of four  
 5 congressional districts in North Carolina. No later than 5:00 p.m. on  
 6 the fifteenth day preceding the date the petitions are due to be filed  
 7 with the State Board of Elections, each petition shall be presented to  
 8 the chairman of the board of elections of the county in which the  
 9 signatures were obtained. Provided the petitions are timely submitted,  
 10 the chairman shall examine the names on the petition and place a  
 11 check mark on the petition by the name of each signer who is qualified  
 12 and registered to vote in his county and shall attach to the petition his  
 13 signed certificate. Said certificates shall state that the signatures on the  
 14 petition have been checked against the registration records and shall  
 15 indicate the number of signers to be qualified and registered to vote in  
 16 his county. The chairman shall return each petition, together with the  
 17 certificate required in this section, to the person who presented it to  
 18 him for checking. Verification by the chairman of the county board of  
 19 elections shall be completed within two weeks from the date such  
 20 petitions are presented.

21 ...."

22 **SECTION 5.** G.S. 163-122 is amended by adding a new subsection to read:

23 "(d) Any candidate seeking to have that candidate's name printed on the general  
 24 election ballot under this section shall pay a filing fee equal to that provided for  
 25 candidates for the office in G.S. 163-107 or comply with the alternative available to  
 26 candidates for the office in G.S. 163-107.1."

27 **SECTION 6.** G.S. 163-114 reads as rewritten:

28 "**§ 163-114. Filling vacancies among party nominees occurring after nomination**  
 29 **and before election.**

30 If any person nominated as a candidate of a political party for one of the offices  
 31 listed below (either in a primary or convention or by virtue of having no opposition in a  
 32 primary) dies, resigns, or for any reason becomes ineligible or disqualified before the  
 33 date of the ensuing general election, the vacancy shall be filled by appointment  
 34 according to the following instructions:

36	Position	
37	President	Vacancy is to be filled by appointment of
38	Vice President	national executive committee of
39		political party in which vacancy occurs
40		
41	Presidential elector or alternate elector	Vacancy is to be filled by appointment of
42	Any elective State office	State executive committee of political
43	United States Senator	party in which vacancy occurs
44		

1 A district office, including: Appropriate district executive committee of  
2 Member of the United States House political party in which vacancy occurs  
3 of Representatives  
4 District Attorney  
5 State Senator in a multi-county  
6 senatorial district  
7 Member of State House of  
8 Representatives in a multi-county  
9 representative district

10  
11 State Senator in a single-county County executive committee of political  
12 senatorial district party in which vacancy occurs,  
13 Member of State House of provided, in the case of the State  
14 Representatives in a single-county Senator or State Representative in a  
15 representative district single-county district where not all the  
16 Any elective county office county is located in that district, then in  
17 voting, only those members of the  
18 county executive committee who reside  
19 within the district shall vote  
20

21 The party executive making a nomination in accordance with the provisions of this  
22 section shall certify the name of its nominee to the chairman of the board of elections,  
23 State or county, that has jurisdiction over the ballot item under G.S. 163-182.4. If at the  
24 time a nomination is made under this section the general election ballots have already  
25 been printed, the provisions of G.S.163-165.3(c) shall apply. If a vacancy occurs in a  
26 nomination of a political party and that vacancy arises from a cause other than death and  
27 the vacancy in nomination occurs more than 120 days before the general election, the  
28 vacancy in nomination may be filled under this section only if the appropriate executive  
29 committee certifies the name of the nominee in accordance with this paragraph at least  
30 75 days before the general election.

31 In a county not all of which is located in one congressional district, in choosing the  
32 congressional district executive committee member or members from that area of the  
33 county, only the county convention delegates or county executive committee members  
34 who reside within the area of the county which is within the congressional district may  
35 vote.

36 In a county which is partly in a multi-county senatorial district or which is partly in a  
37 multi-county House of Representatives district, in choosing that county's member or  
38 members of the senatorial district executive committee or House of Representatives  
39 district executive committee for the multi-county district, only the county convention  
40 delegates or county executive committee members who reside within the area of the  
41 county which is within that multi-county district may vote.

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

1                   **SECTION 7.** This act becomes effective January 1, 2006, and applies to all  
2 primaries and elections held on or after that date.