

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 88  
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Short Title: Electoral Fairness Act.

(Public)

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Sponsors:

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Referred to:

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February 7, 2005

A BILL TO BE ENTITLED

1 AN ACT TO REDUCE THE NUMBER OF SIGNATURES REQUIRED OF A NEW  
2 POLITICAL PARTY AND OF A STATEWIDE UNAFFILIATED CANDIDATE  
3 TO ACHIEVE BALLOT ELIGIBILITY; TO REDUCE THE NUMBER OF  
4 VOTES A NEW POLITICAL PARTY MUST GAIN FOR A NOMINEE IN  
5 ORDER TO MAINTAIN BALLOT ELIGIBILITY; TO MOVE TO A DATE  
6 BEFORE THE POLITICAL PARTY PRIMARIES THE DEADLINES FOR  
7 FILING NEW POLITICAL PARTY PETITIONS AND NOMINATING NEW  
8 POLITICAL PARTY CANDIDATES; TO EXTEND FILING FEE PROVISIONS  
9 TO NEW PARTY AND UNAFFILIATED CANDIDATES; AND TO PROVIDE  
10 THAT A CANDIDATE WHO RAN IN A PARTY PRIMARY FOR AN OFFICE IS  
11 NOT ELIGIBLE FOR NOMINATION BY ANOTHER PARTY TO FILL A  
12 VACANCY IN ITS NOMINATION FOR THE SAME OFFICE IN THE SAME  
13 YEAR.  
14

15 The General Assembly of North Carolina enacts:

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

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

- 19 (1) Any group of voters which, at the last preceding general State election,  
20 polled for its candidate for Governor, or for presidential electors, at  
21 least ~~ten-seven~~ percent (~~40%~~) (7%) of the entire vote cast in the State  
22 for Governor or for presidential electors; or  
23 (2) Any group of voters which shall have filed with the State Board of  
24 Elections petitions for the formulation of a new political party which  
25 are signed by registered and qualified voters in this State equal in  
26 number to two percent (2%) of the total number of voters who voted in  
27 the most recent general election for Governor. Also the petition must

1 be signed by at least 200 registered voters from each of four  
2 congressional districts in North Carolina. To be effective, the  
3 petitioners must file their petitions with the State Board of Elections  
4 before 12:00 noon on the first day of ~~June~~April preceding the day on  
5 which is to be held the first general State election in which the new  
6 political party desires to participate. The State Board of Elections shall  
7 forthwith determine the sufficiency of petitions filed with it and shall  
8 immediately communicate its determination to the State chairman of  
9 the proposed new political party."

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

11 **"§ 163-97. Termination of status as political party.**

12 When any political party fails to poll for its candidate for governor, or for  
13 presidential electors, at least ~~ten~~seven percent (10%)-(7%) of the entire vote cast in the  
14 State for governor or for presidential electors at a general election, it shall cease to be a  
15 political party within the meaning of the primary and general election laws and all other  
16 provisions of this Chapter."

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

18 **"§ 163-98. General election participation by new political party.**

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

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

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

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

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

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

22                   ...."

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

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

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

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

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

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

1		
2	A district office, including:	Appropriate district executive committee of
3	Member of the United States House	political party in which vacancy occurs
4	of Representatives	
5	District Attorney	
6	State Senator in a multi-county	
7	senatorial district	
8	Member of State House of	
9	Representatives in a multi-county	
10	representative district	
11		
12	State Senator in a single-county	County executive committee of political
13	senatorial district	party in which vacancy occurs,
14	Member of State House of	provided, in the case of the State
15	Representatives in a single-county	Senator or State Representative in a
16	representative district	single-county district where not all the
17	Any elective county office	county is located in that district, then in
18		voting, only those members of the
19		county executive committee who reside
20		within the district shall vote
21		

22 The party executive making a nomination in accordance with the provisions of this  
23 section shall certify the name of its nominee to the chairman of the board of elections,  
24 State or county, that has jurisdiction over the ballot item under G.S. 163-182.4. If at the  
25 time a nomination is made under this section the general election ballots have already  
26 been printed, the provisions of G.S.163-165.3(c) shall apply. If a vacancy occurs in a  
27 nomination of a political party and that vacancy arises from a cause other than death and  
28 the vacancy in nomination occurs more than 120 days before the general election, the  
29 vacancy in nomination may be filled under this section only if the appropriate executive  
30 committee certifies the name of the nominee in accordance with this paragraph at least  
31 75 days before the general election.

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

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

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

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