

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 752

Short Title: Independent Candidates. (Public)

Sponsors: Representative Brody (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Elections.

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE STATUS OF INDEPENDENT CANDIDATES ON THE
3 BALLOT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 163-122 reads as rewritten:

6 "**§ 163-122. ~~Unaffiliated-Independent~~ candidates nominated by petition.**

7 (a) Procedure for Having Name Printed on Ballot as ~~Unaffiliated-Independent~~
8 Candidate. – Any qualified voter who is not affiliated with a political party as defined in
9 G.S. 163-96 and who seeks to have his name printed on the general election ballot as an
10 ~~unaffiliated-independent~~ candidate shall:

11 (1) If the office is a statewide office, file written petitions with the State Board
12 of Elections supporting his candidacy for a specified office. These petitions
13 must be filed with the State Board of Elections on or before 12:00 noon on
14 the last Friday in June preceding the general election and must be signed by
15 qualified voters of the State equal in number to two percent (2%) of the total
16 number of voters who voted in the most recent general election for
17 Governor. Also, the petition must be signed by at least 200 registered voters
18 from each of four congressional districts in North Carolina. No later than
19 5:00 p.m. on the fifteenth day preceding the date the petitions are due to be
20 filed with the State Board of Elections, each petition shall be presented to the
21 chairman of the board of elections of the county in which the signatures
22 were obtained. Provided the petitions are timely submitted, the chairman
23 shall examine the names on the petition and place a check mark on the
24 petition by the name of each signer who is qualified and registered to vote in
25 his county and shall attach to the petition his signed certificate. Said
26 certificates shall state that the signatures on the petition have been checked
27 against the registration records and shall indicate the number of signers to be
28 qualified and registered to vote in his county. The chairman shall return each
29 petition, together with the certificate required in this section, to the person
30 who presented it to him for checking. Verification by the chairman of the
31 county board of elections shall be completed within two weeks from the date
32 such petitions are presented.

33 (2) If the office is a district office under the jurisdiction of the State Board of
34 Elections under G.S. 163-182.4(b), file written petitions with the State Board
35 of Elections supporting that voter's candidacy for a specified office. These



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1 petitions must be filed with the State Board of Elections on or before 12:00
2 noon on the last Friday in June preceding the general election and must be
3 signed by qualified voters of the district equal in number to four percent
4 (4%) of the total number of registered voters in the district as reflected by
5 the voter registration records of the State Board of Elections as of January 1
6 of the year in which the general election is to be held. Each petition shall be
7 presented to the chairman of the board of elections of the county in which
8 the signatures were obtained. The chairman shall examine the names on the
9 petition and the procedure for certification and deadline for submission to
10 the county board shall be the same as specified in (1) above.

11 (3) If the office is a county office or a single county legislative district, file
12 written petitions with the chairman or director of the county board of
13 elections supporting his candidacy for a specified county office. These
14 petitions must be filed with the county board of elections on or before 12:00
15 noon on the last Friday in June preceding the general election and must be
16 signed by qualified voters of the county equal in number to four percent
17 (4%) of the total number of registered voters in the county as reflected by the
18 voter registration records of the State Board of Elections as of January 1 of
19 the year in which the general election is to be held, except if the office is for
20 a district consisting of less than the entire county and only the voters in that
21 district vote for that office, the petitions must be signed by qualified voters
22 of the district equal in number to four percent (4%) of the total number of
23 voters in the district according to the voter registration records of the State
24 Board of Elections as of January 1 of the year in which the general election
25 is to be held. Each petition shall be presented to the chairman or director of
26 the county board of elections. The chairman shall examine, or cause to be
27 examined, the names on the petition and the procedure for certification shall
28 be the same as specified in (1) above.

29 (4) If the office is a partisan municipal office, file written petitions with the
30 chairman or director of the county board of elections in the county wherein
31 the municipality is located supporting his candidacy for a specified
32 municipal office. These petitions must be filed with the county board of
33 elections on or before the time and date specified in G.S. 163-296 and must
34 be signed by the number of qualified voters specified in G.S. 163-296. The
35 procedure for certification shall be the same as specified in (1) above.

36 Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the board of
37 elections with which the petitions have been timely filed shall cause the
38 ~~unaffiliated~~independent candidate's name to be printed on the general election ballots in
39 accordance with Article 14A of this Chapter.

40 An individual whose name appeared on the ballot in a primary election preliminary to the
41 general election shall not be eligible to have his name placed on the general election ballot as
42 ~~an unaffiliated~~independent candidate for the same office in that year.

43 (b) Form of Petition. – Petitions requesting an ~~unaffiliated~~independent candidate to be
44 placed on the general election ballot shall contain on the heading of each page of the petition in
45 bold print or in all capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS
46 IN _____ COUNTY HEREBY PETITION ON BEHALF OF _____ AS AN
47 ~~UNAFFILIATED~~INDEPENDENT CANDIDATE FOR THE OFFICE OF _____ IN
48 THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT
49 SUBJECT CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT UPON
50 COMPLIANCE WITH THE PROVISIONS CONTAINED IN G.S. 163-122."

51 (c) This section does not apply to elections under Article 25 of this Chapter.

1 (d) When any person files a petition with a board of elections under this section, the
2 board of elections shall, immediately upon receipt of the petition, inspect the registration
3 records of the county and cancel the petition of any person who does not meet the constitutional
4 or statutory qualifications for the office, including ~~residency~~-residency, or who is affiliated with
5 a political party as defined in G.S. 163-96.

6 The board shall give notice of cancellation to any person whose petition has been cancelled
7 under this subsection by mail or by having the notice served on that person by the sheriff and to
8 any other candidate filing for the same office. A person whose petition has been cancelled or
9 another candidate for the same office affected by a substantiation under this subsection may
10 request a hearing on the issue of constitutional or statutory qualifications for the office. If the
11 person requests a hearing, the hearing shall be conducted in accordance with Article 11B of
12 Chapter 163 of the General Statutes.

13 (e) A person who qualifies as an independent candidate and receives not less than twice
14 the number of votes as the number of signatures required for placement on the ballot for that
15 election may again qualify for the ballot as an independent candidate for the next election for
16 that office by filing a petition for that status under the same deadlines as provided by this
17 section, but the only signature required shall be that of the candidate. The State Board of
18 Elections shall prescribe the form for such request.

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

23 **SECTION 2.** G.S. 163-165.5 reads as rewritten:

24 **"§ 163-165.5. Contents of official ballots.**

25 Each official ballot shall contain all the following elements:

- 26 (1) The heading prescribed by the State Board of Elections. The heading shall
27 include the term "Official Ballot".
- 28 (2) The title of each office to be voted on and the number of seats to be filled in
29 each ballot item.
- 30 (3) The names of the candidates as they appear on their notice of candidacy filed
31 pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in
32 accordance with G.S. 163-122. Under the name of any candidate who has
33 achieved ballot status under G.S. 163-122 shall appear the word
34 "Independent". No title, appendage, or appellation indicating rank, status, or
35 position shall be printed on the official ballot in connection with the
36 candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or
37 Ms. Nicknames shall be permitted on an official ballot if used in the notice
38 of candidacy or qualifying petition, but the nickname shall appear according
39 to standards adopted by the State Board of Elections. Those standards shall
40 allow the presentation of legitimate nicknames in ways that do not mislead
41 the voter or unduly advertise the candidacy. In the case of candidates for
42 presidential elector, the official ballot shall not contain the names of the
43 candidates for elector but instead shall contain the nominees for President
44 and Vice President which the candidates for elector represent. The State
45 Board of Elections shall establish a review procedure that local boards of
46 elections shall follow to ensure that candidates' names appear on the official
47 ballot in accordance with this subdivision.
- 48 (4) Party designations in partisan ballot items. The name of the party shall be
49 followed on the ballot by the word "Party" if that word does not already
50 appear as the last word of the name of the party.

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

9 **SECTION 3.** G.S. 163-33 reads as rewritten

10 **"§ 163-33.3. County board of elections littering notification.**

11 At the time an individual files with a county board of elections a notice of candidacy
12 pursuant to G.S. 163-106, 163-112, 163-291, or 163-294.2, is certified to a county board of
13 elections by a political party executive committee to fill a nomination vacancy pursuant to
14 G.S. 163-114, qualifies with a county board of elections as an ~~unaffiliated~~ independent or
15 write-in candidate pursuant to Article 11 of this Chapter, or formally initiates with a county
16 board of elections a candidacy pursuant to any statute or local act, the county board of elections
17 shall notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and
18 G.S. 14-156 and the rules adopted by the Department of Transportation pursuant to
19 G.S. 136-18."

20 **SECTION 4.** G.S. 163-45 reads as rewritten:

21 **"§ 163-45. Observers; appointment.**

22 The chair of each political party in the county shall have the right to designate two
23 observers to attend each voting place at each primary and election and such observers may, at
24 the option of the designating party chair, be relieved during the day of the primary or election
25 after serving no less than four hours and provided the list required by this section to be filed by
26 each chair contains the names of all persons authorized to represent such chair's political party.
27 Not more than two observers from the same political party shall be permitted in the voting
28 enclosure at any time. This right shall not extend to the chair of a political party during a
29 primary unless that party is participating in the primary. In any election in which an ~~unaffiliated~~
30 independent candidate is named on the ballot, the candidate or the candidate's campaign
31 manager shall have the right to appoint two observers for each voting place consistent with the
32 provisions specified herein. Persons appointed as observers must be registered voters of the
33 county for which appointed and must have good moral character. No person who is a candidate
34 on the ballot in a primary or election may serve as an observer or runner in that primary or
35 election. Observers shall take no oath of office.

36 Individuals authorized to appoint observers must submit in writing to the chief judge of
37 each precinct a signed list of the observers appointed for that precinct. Individuals authorized to
38 appoint observers must, prior to 10:00 A.M. on the fifth day prior to any primary or general
39 election, submit in writing to the chair of the county board of elections two signed copies of a
40 list of observers appointed by them, designating the precinct for which each observer is
41 appointed. Before the opening of the voting place on the day of a primary or general election,
42 the chair shall deliver one copy of the list to the chief judge for each affected precinct. The
43 chair shall retain the other copy. The chair, or the chief judge and judges for each affected
44 precinct, may for good cause reject any appointee and require that another be appointed. The
45 names of any persons appointed in place of those persons rejected shall be furnished in writing
46 to the chief judge of each affected precinct no later than the time for opening the voting place
47 on the day of any primary or general election, either by the chair of the county board of
48 elections or the person making the substitute appointment.

49 If party chairs appoint observers at one-stop sites under G.S. 163-227.2, those party chairs
50 shall provide a list of the observers appointed before 10:00 A.M. on the fifth day before the
51 observer is to observe.

1 An observer shall do no electioneering at the voting place, and shall in no manner impede
2 the voting process or interfere or communicate with or observe any voter in casting a ballot,
3 but, subject to these restrictions, the chief judge and judges of elections shall permit the
4 observer to make such observation and take such notes as the observer may desire.

5 Whether or not the observer attends to the polls for the requisite time provided by this
6 section, each observer shall be entitled to obtain at times specified by the State Board of
7 Elections, but not less than three times during election day with the spacing not less than one
8 hour apart, a list of the persons who have voted in the precinct so far in that election day.
9 Counties that use an "authorization to vote document" instead of poll books may comply with
10 the requirement in the previous sentence by permitting each observer to inspect election records
11 so that the observer may create a list of persons who have voted in the precinct so far that
12 election day; each observer shall be entitled to make the inspection at times specified by the
13 State Board of Elections, but not less than three times during election day with the spacing not
14 less than one hour apart.

15 Instead of having an observer receive the voting list, the county party chair may
16 send a runner to do so, even if an observer has not been appointed for that precinct. The runner
17 may be the precinct party chair or any person named by the county party chair. Each county
18 party chair using runners in an election shall provide to the county board of elections before
19 10:00 A.M. on the fifth day before election day a list of the runners to be used. That party chair
20 must notify the chair of the county board of elections or the board chair's designee of the names
21 of all runners to be used in each precinct before the runner goes to the precinct. The runner may
22 receive a voter list from the precinct on the same schedule as an observer. Whether obtained by
23 observer or runner, each party is entitled to only one voter list at each of the scheduled times.
24 No runner may enter the voting enclosure except when necessary to announce that runner's
25 presence and to receive the list. The runner must leave immediately after being provided with
26 the list."

27 **SECTION 5.** G.S. 163-209(a) reads as rewritten:

28 "(a) The names of candidates for electors of President and Vice-President nominated by
29 any political party recognized in this State under G.S. 163-96, or nominated under
30 G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his or
31 her name printed on the general election ballot as an ~~unaffiliated-independent~~ candidate under
32 G.S. 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot. In
33 the case of the unaffiliated candidate, the names of candidates for electors must be filed with
34 the Secretary of State no later than 12:00 noon on the first Friday in August. In place of their
35 names, there shall be printed on the ballot the names of the candidates for President and
36 Vice-President of each political party recognized in this State, and the name of any candidate
37 for President who has qualified to have his or her name printed on the general election ballot
38 under G.S. 163-122. A candidate for President who has qualified for the general election ballot
39 as an ~~unaffiliated-independent~~ candidate under G.S. 163-122 shall, no later than 12:00 noon on
40 the first Friday in August, file with the State Board of Elections the name of a candidate for
41 Vice-President, whose name shall also be printed on the ballot. A vote for the candidates
42 named on the ballot shall be a vote for the electors of the party or ~~unaffiliated-independent~~
43 candidate by which those candidates were nominated and whose names have been filed with
44 the Secretary of State."

45 **SECTION 6.** G.S. 163-296 reads as rewritten:

46 **"§ 163-296. Nomination by petition.**

47 In cities conducting partisan elections, any qualified voter who seeks to have his name
48 printed on the regular municipal election ballot as an ~~unaffiliated-independent~~ candidate may
49 do so in the manner provided in G.S. 163-122, except that the petitions and affidavits shall be
50 filed not later than 12:00 noon on the Friday preceding the seventh Saturday before the
51 election, and the petitions shall be signed by a number of qualified voters of the municipality

1 equal to at least four percent (4%) of the whole number of voters qualified to vote in the
2 municipal election according to the voter registration records of the State Board of Elections as
3 of January 1 of the year in which the general municipal election is held. A person whose name
4 appeared on the ballot in a primary election is not eligible to have his name placed on the
5 regular municipal election ballot as an ~~unaffiliated~~-independent candidate for the same office in
6 that year. The Board of Elections shall examine and verify the signatures on the petition, and
7 shall certify only the names of signers who are found to be qualified registered voters in the
8 municipality. Provided that in the case where a qualified voter seeks to have his name printed
9 on the regular municipal election ballot as an ~~unaffiliated~~-independent candidate for election
10 from an election district within the municipality, the petition shall be signed by four percent
11 (4%) of the voters qualified to vote for that office."

12 **SECTION 7.** G.S. 163-299(a) reads as rewritten:

13 "(a) The ballots printed for use in general and special elections under the provisions of
14 this Article shall contain:

- 15 (1) The names of all candidates who have been put in nomination in accordance
16 with the provisions of this Chapter by any political party recognized in this
17 State, or, in nonpartisan municipal elections, the names of all candidates who
18 have filed notices of candidacy or who have been nominated in a nonpartisan
19 primary.
20 (2) The names of all persons who have qualified as ~~unaffiliated~~-independent
21 candidates under the provisions of G.S. 163-296.
22 (3) All questions, issues and propositions to be voted on by the people."

23 **SECTION 8.** This act becomes effective with respect to elections conducted on or
24 after January 1, 2014.