

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 17

Short Title: Election Rewrite-1.

(Public)

Sponsors: Senator Gulley.

Referred to: Judiciary I.

January 29, 2001

A BILL TO BE ENTITLED

AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF
THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS
REVISION COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Articles 13 and 14 of Chapter 163 of the General Statutes are repealed.

SECTION 2. G.S. 163-2 is repealed.

SECTION 3. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 13A.

"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) 'Ballot' means an instrument on which a voter indicates a choice 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.

(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

1 the same county vote for commissioner in different districts. The
2 different versions of the county's official ballot containing only those
3 district ballot items one individual voter may vote are the county's
4 different ballot styles.

5 (4) 'Election' means the event in which voters cast votes in ballot items
6 concerning proposals or candidates for office in this State or the
7 United States. The term includes primaries, general elections,
8 referenda, and special elections.

9 (5) 'Official ballot' means a ballot that has been certified by the State
10 Board of Elections and produced by or with the approval of the county
11 board of elections. The term does not include a sample ballot or a
12 specimen ballot.

13 (6) 'Provisional official ballot' means an official ballot that is voted and
14 then placed in an envelope that contains an affidavit signed by the
15 voter certifying identity and eligibility to vote.

16 (7) 'Referendum' means the event in which voters cast votes for or against
17 ballot questions other than the election of candidates to office.

18 (8) 'Voting booth' means the private space in which a voter is to mark an
19 official ballot.

20 (9) 'Voting enclosure' means the room or connected rooms within the
21 voting place that is used for voting.

22 (10) 'Voting place' means the building that contains the voting enclosure.

23 (11) Voting system' means a system of casting and tabulating ballots. The
24 term includes systems of paper ballots counted by hand as well as
25 systems utilizing mechanical and electronic voting equipment.

26 "Part 2. Ballots and Voting Systems.

27 **"§ 163-165.1. General rules.**

28 (a) Requirements of Official Ballots in Voting. – In any election conducted under
29 this Article:

30 (1) All voting shall be by official ballot.

31 (2) Only votes cast on an official ballot shall be counted.

32 (b) Compliance With This Article. – All ballots shall comply with the provisions
33 of this Article.

34 (c) Other Uses Prohibited. – An official ballot shall not be used for any purpose
35 not authorized by this Article.

36 **"§ 163-165.2. Sample ballots.**

37 (a) County Board to Produce and Distribute Sample Ballots. – The county board
38 of elections shall produce sample ballots, in all the necessary ballot styles of the official
39 ballot, for every election to be held in the county. The sample ballots shall be given an
40 appearance that clearly distinguishes them from official ballots. The county board shall
41 distribute sample ballots to the chief judge of every precinct in which the election is to
42 be conducted. The chief judge shall post a sample ballot in the voting place, and may
43 use it for instructional purposes. The county board of elections may use the sample
44 ballot for other informational purposes.

1 (b) Document Resembling an Official Ballot to Contain Disclaimer. — No person
2 other than a board of elections shall produce or disseminate a document substantially
3 resembling an official ballot unless the document contains on its face a prominent
4 statement that the document was not produced by a board of elections and is not an
5 official ballot.

6 **"§ 163-165.3. Responsibilities for preparing official ballots.**

7 (a) State Board to Certify Official Ballots and Instructions to Voters. — The State
8 Board of Elections shall certify the official ballots and voter instructions to be used in
9 every election that is subject to this Article. In conducting its certification, the State
10 Board shall adhere to the following:

11 (1) No later than January 31 of every calendar year, the State Board shall
12 establish a schedule for the certification of all official ballots and
13 instructions during that year. The schedule shall include a time for
14 county boards of elections to submit their official ballots and
15 instructions to the State Board for certification, and times for the State
16 Board to complete the certification.

17 (2) The State Board of Elections shall compose model ballot instructions,
18 which county boards of elections may amend subject to approval by
19 the State Board as part of the certification process. The State Board of
20 Elections may permit a county board of elections to place instructions
21 elsewhere than on the official ballot itself, where placing them on the
22 official ballot would be impractical.

23 (3) With regard only to multicounty ballot items on the official ballot, the
24 State Board shall certify the accuracy of the content on the official
25 ballot.

26 (4) With regard to the entire official ballot, the State Board shall certify
27 that the content and arrangement of the official ballot are in substantial
28 compliance with the provisions of this Article and standards adopted
29 by the State Board.

30 (5) The State Board shall proofread the official ballot of every county, if
31 practical, prior to final production.

32 (6) The State Board is not required to certify or review every official
33 ballot style in the county, but may require county boards to submit and
34 may review a composite official ballot showing races that will appear
35 in every district in the county.

36 (b) County Board to Prepare and Produce Official Ballots and Instructions. —
37 Each county board of elections shall prepare and produce official ballots for all
38 elections in that county. The county board of elections shall submit the format of each
39 official ballot and set of instructions to the State Board of Elections for review and
40 certification in accordance with the schedule established by the State Board. The county
41 board of elections shall follow the directions of the State Board in placing candidates,
42 referenda, and other material on official ballots and in placing instructions.

43 (c) Special Ballots. — The State Board of Elections, with the approval of a county
44 board of elections, may produce special official ballots, such as those for disabled

1 voters, where production by the State Board would be more practical than production by
2 the county board.

3 **"§ 163-165.4. Standards for official ballots.**

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

- 6 (1) Are readily understandable by voters.
- 7 (2) Present all candidates and questions in a fair and nondiscriminatory
8 manner.
- 9 (3) Allow every voter to cast a vote in every ballot item without difficulty.
- 10 (4) Facilitate an accurate vote count.
- 11 (5) Are uniform in content and format, subject to varied presentations
12 required or made desirable by different voting systems.

13 **"§ 163-165.5. Contents of official ballots.**

14 Each official ballot shall contain all the following elements:

- 15 (1) The heading prescribed by the State Board of Elections. The heading
16 shall include the term 'Official Ballot.'
- 17 (2) The title of each office to be voted on and the number of seats to be
18 filled in each ballot item.
- 19 (3) The names of the candidates as they appear on their notice of
20 candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on
21 petition forms filed in accordance with G.S. 163-122. No title,
22 appendage, or appellation indicating rank, status, or position shall be
23 printed on the official ballot in connection with the candidate's name.
24 Nicknames shall be permitted on an official ballot if used in the notice
25 of candidacy or qualifying petition, but the nickname shall appear
26 according to standards adopted by the State Board of Elections. Those
27 standards shall allow the presentation of legitimate nicknames in ways
28 that do not mislead the voter or unduly advertise the candidacy. In the
29 case of candidates for presidential elector, the official ballot shall not
30 contain the names of the candidates for elector but instead shall
31 contain the nominees for President and Vice President which the
32 candidates for elector represent.
- 33 (4) Party designations in partisan ballot items.
- 34 (5) A means by which the voter may cast write-in votes, as provided in
35 G.S. 163-123.
- 36 (6) Instructions to voters, unless the State Board of Elections allows
37 instructions to be placed elsewhere than on the official ballot.
- 38 (7) The printed title and facsimile signature of the chair of the county
39 board of elections.

40 **"§ 163-165.6. Arrangement of official ballots.**

41 (a) Order of Precedence Generally. — Candidate ballot items shall be arranged on
42 the official ballot before referenda.

1 **(b) Order of Precedence for Candidate Ballot Items.** — The State Board of
2 Elections shall promulgate rules prescribing the order of offices to be voted on the
3 official ballot. Those rules shall adhere to the following guidelines:

4 **(1)** Federal offices shall be listed before State and local offices. Federal
5 offices shall be listed according to the size of the electorate.

6 **(2)** State and local offices shall be listed according to the size of the
7 electorate.

8 **(3)** Partisan offices shall be listed before nonpartisan offices.

9 **(4)** When offices are in the same class, they shall be listed in alphabetical
10 order by office name, or in numerical or alphabetical order by district
11 name. Governor and Lieutenant Governor, in that order, shall be listed
12 before other Council of State offices. Mayor shall be listed before
13 other citywide offices. Chair of a board, where elected separately, shall
14 be listed before other board seats having the same electorate. Chief
15 Justice shall be listed before Associate Justices.

16 **(5)** Ballot items for full terms of an office shall be listed before ballot
17 items from partial terms of the same office.

18 **(c) Order of Candidates on Primary Official Ballots.** — The order in which
19 candidates shall appear on a county's official ballots in any primary ballot item shall be
20 determined by the county board of elections using a process designed by the State Board
21 of Elections for random selection.

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

25 **(1)** Nominees of political parties that reflect at least five percent (5%) of
26 statewide voter registration, according to the most recent statistical
27 report published by the State Board of Elections, in alphabetical order
28 of the name of the party.

29 **(2)** Nominees of other political parties, in random order of the name of the
30 party.

31 **(3)** Unaffiliated candidates, in random order.

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

40 **(f) Order of Precedence for Referenda.** — The referendum questions to be voted
41 on shall be arranged on the official ballot in the following order:

42 **(1)** Proposed amendments to the State Constitution, in the chronological
43 order in which the proposals were approved by the General Assembly.

1 (2) Other referenda to be voted on by all voters in the State, in the
2 chronological order in which the proposals were approved by the
3 General Assembly.

4 (3) Referenda to be voted on by fewer than all the voters in the State, in
5 the chronological order of the acts by which the referenda were
6 properly authorized.

7 **"§ 163-165.7. Voting systems: powers and duties of State Board of Elections.**

8 The State Board of Elections shall have authority to approve types, makes, and
9 models of voting systems for use in elections and referenda held in this State. The use of
10 voting systems that have been approved by the State Board of Elections shall be valid in
11 any election or referendum held in any county or municipality. The State Board may
12 also, upon notice and hearing, disapprove types, makes, and models of voting systems.
13 Upon disapproving a type, make, or model of voting system, the State Board shall
14 determine the process by which the disapproved system is discontinued in any county.

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 **"§ 163-165.8. Voting systems: powers and duties of county boards of**
28 **commissioners.**

29 The board of county commissioners, with the approval of the county board of
30 elections, may adopt and purchase or lease a voting system of a type, make, and model
31 approved by the State Board of Elections for use in some or all voting places in the
32 county at some or all elections.

33 The board of county commissioners may decline to adopt and purchase or lease any
34 voting system recommended by the county board of elections, but may not adopt and
35 purchase or lease any voting system that has not been approved by the county board of
36 elections.

37 **"§ 163-165.9. Voting systems: powers and duties of county board of elections.**

38 Before approving the adoption and purchase or lease of any voting system by the
39 board of county commissioners, the county board of elections shall do all of the
40 following:

41 (1) Obtain a current financial statement from the proposed vendor or
42 lessor of the voting system, and send copies of the statement to the
43 county attorney and the chief county financial officer.

1 (3) A telephone or some facility for communication with the county board
2 of elections.

3 The equipment and furniture in the voting enclosure shall be arranged so that
4 it can be generally seen from the public space of the enclosure.

5 **"§ 163-166.3. Limited access to the voting enclosure.**

6 During the time allowed for voting in the voting place, only the following persons
7 may enter the voting enclosure:

8 (1) An election official.

9 (2) An observer appointed pursuant to G.S. 163-45.

10 (3) A person seeking to vote in that voting place on that day, but only
11 while in the process of voting or seeking to vote.

12 (4) A voter in that precinct while entering or explaining a challenge
13 pursuant to G.S. 163-87 or G.S.163-88.

14 (5) A person authorized under G.S. 163-166.9 to assist voters, but only
15 while assisting that voter.

16 (6) Persons conducting or participating in a simulated election within the
17 voting place or voting enclosure, if that simulated election is approved
18 by the county board of elections.

19 (7) Any other person determined by election officials to have an urgent
20 need to enter the voting enclosure, but only to the extent necessary to
21 address that need.

22 **"§ 163-166.4. Limitation on activity in the voting place and in a buffer zone around**
23 **it.**

24 No person or group of persons shall hinder access, harass others, distribute campaign
25 literature, place political advertising, solicit votes, or otherwise engage in election-
26 related activity in the voting place or in a buffer zone which shall be prescribed by the
27 county board of elections around the voting place. In determining the dimensions of that
28 buffer zone for each voting place, the county board of elections shall, where practical,
29 set the limit at 50 feet from the entrance to the voting place.

30 **"§ 163-166.5. Procedures at voting place before voting begins.**

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

33 (1) Continual participation or monitoring by officials of more than one
34 party.

35 (2) Security of official ballots, records, and equipment.

36 (3) The appearance as well as the reality of care, efficiency, impartiality,
37 and honest election administration.

38 The county boards of elections and precinct officials shall adhere to those
39 procedures.

40 **"§ 163-166.6. Designation of tasks.**

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

43 (1) The need to place primary managerial responsibility upon the chief
44 judge.

1 (2) The need to have maximum multiparty participation in all duties where
2 questions of partisan partiality might be raised.

3 (3) The need to provide flexibility of management to the county board of
4 elections and to the chief judge, in consideration of different abilities
5 of officials, the different availability of officials, and the different
6 needs of voters precinct by precinct.

7 **"§ 163-166.7. Voting procedures.**

8 (a) Checking Registration. – A person seeking to vote shall enter the voting
9 enclosure through the appropriate entrance. A precinct official assigned to check
10 registration shall at once ask the voter to state current name and residence address. The
11 voter shall answer by stating current name and residence address. In a primary election,
12 that voter shall also be asked to state, and shall state, the political party with which the
13 voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to
14 vote. After examination, that official shall state whether that voter is duly registered to
15 vote in that precinct and shall direct that voter to the voting equipment or to the official
16 assigned to distribute official ballots.

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

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

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

30 (2) Only properly voted official ballots are introduced into the voting
31 system.

32 (3) No official ballots leave the voting enclosure during the time voting is
33 being conducted there.

34 (4) All improperly voted official ballots are returned to the precinct
35 officials and marked as spoiled.

36 (5) Voters leave the voting place promptly after voting.

37 (6) Voters not clearly eligible to vote in the precinct but who seek to vote
38 there are given proper assistance in voting a provisional official ballot
39 or guidance to another voting place where they are eligible to vote.

40 (7) Information gleaned through the voting process that would be helpful
41 to the accurate maintenance of the voter registration records is
42 recorded and delivered to the county board of elections.

43 (8) The registration records are kept secure.

1 (9) Party observers are given access as provided by G.S. 163-45 to current
2 information about which voters have voted.

3 **"§ 163-166.8. Assistance to voters.**

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

7 (1) Any voter is entitled to assistance from the voter's spouse, brother,
8 sister, parent, grandparent, child, grandchild, mother-in-law, father-in-
9 law, daughter-in-law, son-in-law, stepparent, or stepchild, as chosen by
10 the voter.

11 (2) A voter in any of the following four categories is entitled to assistance
12 from a person of the voter's choice, other than the voter's employer or
13 agent of that employer or an officer or agent of the voter's union:

14 a. A voter who, on account of physical disability, is unable to
15 enter the voting booth without assistance.

16 b. A voter who, on account of physical disability, is unable to
17 mark a ballot without assistance.

18 c. A voter who, on account of illiteracy, is unable to mark a ballot
19 without assistance.

20 d. A voter who, on account of blindness, is unable to enter the
21 voting booth or mark a ballot without assistance.

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

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

36 (1) The person rendering assistance shall not in any manner seek to
37 persuade or induce any voter to cast any vote in any particular way.

38 (2) The person rendering assistance shall not make or keep any
39 memorandum of anything which occurs within the voting booth.

40 (3) The person rendering assistance shall not, directly or indirectly, reveal
41 to any person how the assisted voter marked ballots, unless the person
42 rendering assistance is called upon to testify in a judicial proceeding
43 for a violation of the election laws.

44 **"§ 163-166.9. Curbside voting.**

1 In any election or referendum, if any qualified voter is able to travel to the voting
2 place, but because of age or physical disability and physical barriers encountered at the
3 voting place is unable to enter the voting enclosure to vote in person without physical
4 assistance, that voter shall be allowed to vote either in the vehicle conveying that voter
5 or in the immediate proximity of the voting place. The State Board of Elections shall
6 promulgate rules for the administration of this section.

7 **"§ 163-166.10. Procedures after the close of voting.**

8 The State Board of Elections shall promulgate rules for closing the voting place and
9 delivering voting information to the county board of elections for counting, canvassing,
10 and record maintenance. Those rules shall emphasize the need for the appearance as
11 well as the reality of security, accuracy, participation by representatives of more than
12 one political party, openness of the process to public inspection, and honesty. The rules,
13 at a minimum, shall include procedures to ensure all of the following:

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

25 **SECTION 4.** This act becomes effective January 1, 2002.