

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 614

Short Title: Absentee Voting Improvements. (Public)

Sponsors: Representatives Martin, Glazier, McLawhorn, Rapp (Primary Sponsors);
M. Alexander, Current, Dickson, Faison, Fisher, E. Floyd, Goodwin, Harrison,
Insko, Killian, Lucas, Pierce, Ross, Tarleton, Underhill, Wainwright, E. Warren,
Weiss, and Womble.

Referred to: Election Law and Campaign Finance Reform, if favorable, Homeland Security,
Military, and Veterans Affairs.

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE IMPROVEMENTS TO THE ABSENTEE VOTING LAWS,
ESPECIALLY TO IMPROVE THE ABILITY OF MILITARY AND OVERSEAS
VOTERS TO CAST TIMELY BALLOTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-248 reads as rewritten:

"§ 163-248. **Register, ballots, container-return envelopes, and instruction sheets.**

(a) Register of Military Absentee Ballot Applications and Ballots Issued. – The State Board of Elections shall ~~furnish the chairman of the board of elections in each county of the State with a book to be called the~~ approve an official register of military absentee ballot applications and ballots issued in which shall be recorded whatever information and official action may be required by this Article. In lieu of furnishing this register, the State Board of Elections may provide for a separate military section in the register furnished under the provisions of G.S. 163-228 which shall be used for the same purpose. The State Board of Elections may provide for the register to be kept by electronic data processing equipment, and a copy or a supplement of new information shall be printed out each business day.

The register of military absentee ballot applications and ballots ~~issued, whether contained in a separate book or maintained as a separate part of the register furnished under the provisions of G.S. 163-228,~~ issued shall constitute a public record and shall be opened to the inspection of any registered voter of the county at any time.

(b) Absentee Ballot Form. – Persons entitled to vote by absentee ballot under the terms of this Article shall be furnished with regular official ballots; separate or distinctly marked absentee ballots shall not be used. The State Board of Elections and the county boards of elections shall have all necessary absentee ballots printed and in the hands of the proper election officials not later than 60 days before the statewide general election in even-numbered years and not later than 50 days before the primary or any other election.

(c) Container-Return Envelope. – The county board of elections shall print a sufficient number of envelopes in which persons casting military absentee ballots may transmit their marked ballots to the chairman of the county board of elections. The container-return envelopes shall be printed and available for use not later than 60 days before the statewide general election in even-numbered years and not later than 50 days before the primary or any other election. Each container-return envelope shall be printed in accordance with the following instructions:



- (1) On one side shall be arranged identified spaces in which the chairman of the county board of elections may insert the name of the applicant, the number assigned his application, and the designation of the precinct in which ~~his ballots are to be voted~~, the applicant is registered.
- (2) On the other side shall be printed the return address of the chairman of the county board of elections and the following certificate:

"CERTIFICATE OF ABSENTEE VOTER

I, _____, do hereby certify that I am a resident and qualified voter in _____ precinct, _____ County, North Carolina, and that I am [check whichever of the following statements is correct]

- Serving in the armed forces of the United States
- The spouse of a member of the armed forces of the United States residing outside the county of my spouse's residence
- A disabled war veteran in a United States government hospital
- A civilian attached to and serving outside the United States with the armed forces of the United States
- A member of the Peace Corps
- A United States citizen currently outside the United States

I further certify that I am affiliated with the _____ Party. [To be completed only if applicant seeks to vote in the primary of the political party to which he belongs.]

I further certify that the following is my official address:

 [Unit (Co., Sq., Trp., Bn., etc.), Governmental Agency, or Office]

 [Military Base, Station, Camp, Fort, Ship, Airfield, etc.]

 [Street number, APO, or FPO number]

 [City, postal zone, State, and zip code]

I further certify that I made application for absentee ballots and that I marked the ballots enclosed herein, or that they were marked for me in my presence and according to my instruction. I understand it is a felony to falsely sign this certificate.

Witness my hand in the presence of _____ [Insert ~~names~~ name and ~~addresses~~ address of witnesses witness] this _____ day of _____, _____.

(Signature of voter)

Signature of witness #1 _____

Address of witness #1 _____

Signature of witness #2 _____

Address of witness #2 _____

Note: This certificate must be witnessed by ~~any two persons who are a person who is 18 years of age or older, and must contain their signatures and addresses.~~ the signature and address of the witness."

(d) Instruction Sheets. – The county board of elections shall prepare and print a sufficient number of sheets of instructions on how voters covered by the provisions of this Article are to prepare absentee ballots and return them to the chairman of the county board of elections. The instruction sheets shall be printed and available for use not later than ~~60 days before the primary or election~~ the date of ballot availability."

SECTION 2. G.S. 163-227.3(a) reads as rewritten:

1 "(a) A board of elections shall provide absentee ballots of the kinds needed 60 days prior
2 to the statewide general election in even-numbered years and 50 days prior to the date on which
3 ~~the any other election shall be conducted~~ conducted, unless 45 days is authorized by the State
4 Board of Elections under G.S. 163-22(k) or there shall exist an appeal before the State Board or
5 the courts not concluded, in which case the board shall provide the ballots as quickly as
6 possible upon the conclusion of such an appeal. However, in the case of municipal elections,
7 absentee ballots shall be made available no later than 30 days before an election. In every
8 instance the board of elections shall exert every effort to provide absentee ballots, of the kinds
9 needed by the date on which absentee voting is authorized to commence."

10 **SECTION 3.** G.S. 163-228 reads as rewritten:

11 "**§ 163-228. Register of absentee requests, applications, and ballots issued; a public**
12 **record.**

13 The State Board of Elections shall approve an official register in which the county board of
14 elections in each county of the State shall record the following information:

- 15 (1) Name of voter for whom application and ballots are being requested, and, if
16 applicable, the name and address of the voter's near relative or verifiable
17 legal guardian who requested the application and ballots for the voter.
- 18 (2) Number of assigned voter's application when issued.
- 19 (3) Precinct in which applicant is registered.
- 20 (4) Address to which ballots are to be mailed, or, if the voter voted pursuant to
21 G.S. 163-227.2, a notation of that fact.
- 22 ~~(5) Reason assigned for requesting absentee ballots.~~
- 23 (6) Date request for application for ballots is received by the county board of
24 elections.
- 25 (7) The voter's party affiliation.
- 26 (8) The date the ballots were mailed or delivered to the voter.
- 27 (9) Whatever additional information and official action may be required by this
28 Article.

29 The State Board of Elections may provide for the register to be kept by electronic data
30 processing equipment, and a copy shall be printed out each business day or a supplement
31 printed out each business day of new information.

32 The register of absentee requests, applications and ballots issued shall constitute a public
33 record and shall be opened to the inspection of any registered voter of the county at any time
34 within ~~50-60~~ 60 days before and 30 days after an election in which absentee ballots were
35 authorized, or at any other time when good and sufficient reason may be assigned for its
36 inspection."

37 **SECTION 4.** G.S. 163-229 reads as rewritten:

38 "**§ 163-229. Absentee ballots, applications on container-return envelopes, and instruction**
39 **sheets.**

40 (a) Absentee Ballot Form. – In accordance with the provisions of G.S. 163-230.1,
41 persons entitled to vote by absentee ballot shall be furnished with official ballots.

42 (b) Application on Container-Return Envelope. – In time for use not later than 60 days
43 before a statewide general election in an even-numbered year, and not later than 50 days before
44 a statewide primary, other general election or county bond election, the county board of
45 elections shall print a sufficient number of envelopes in which persons casting absentee ballots
46 may transmit their marked ballots to the county board of elections. Each container-return
47 envelope shall have printed on it an application which shall be designed and prescribed by the
48 State Board of Elections, the voter's certification of eligibility to vote the enclosed ballot and of
49 having voted the enclosed ballot in accordance with this Article, a space for identification of
50 the envelope with the voter, and a space for approval by the county board of elections. The
51 envelope shall allow reporting of a change of name as provided by G.S. 163-82.16. The

1 container-return envelope shall be printed in accordance with the instructions of the State
2 Board of Elections.

3 (c) Instruction Sheets. – In time for use not later than 60 days before a statewide general
4 election in an even-numbered year, and not later than 50 days before a statewide primary, other
5 general or county bond election, the county board of elections shall prepare and print a
6 sufficient number of sheets of instructions on how voters are to prepare absentee ballots and
7 return them to the county board of elections."

8 **SECTION 5.** G.S. 163-230.1(a2) reads as rewritten:

9 "(a2) Delivery of Absentee Ballots and Container-Return Envelope to Applicant. – When
10 the county board of elections receives a request for applications and absentee ballots, the board
11 shall promptly issue and transmit them to the voter in accordance with the following
12 instructions:

- 13 (1) On the top margin of each ballot the applicant is entitled to vote, the chair, a
14 member, officer, or employee of the board of elections shall write or type the
15 words "Absentee Ballot No. ____" or an abbreviation approved by the State
16 Board of Elections and insert in the blank space the number assigned the
17 applicant's application in the register of absentee requests, applications, and
18 ballots issued. That person shall not write, type, or print any other matter
19 upon the ballots transmitted to the absentee voter. Alternatively, the board of
20 elections may cause to be barcoded on the ballot the voter's application
21 number, if that barcoding system is approved by the State Board of
22 Elections.
- 23 (2) The chair, member, officer, or employee of the board of elections shall fold
24 and place the ballots (identified in accordance with the preceding
25 instruction) in a container-return envelope and write or type in the
26 appropriate blanks thereon, in accordance with the terms of G.S. 163-229(b),
27 the absentee voter's name, the absentee voter's application number, and the
28 designation of the precinct in which the voter is registered. If the ballot is
29 barcoded under this section, the envelope may be barcoded rather than
30 having the actual number appear. The person placing the ballots in the
31 envelopes shall leave the container-return envelope holding the ballots
32 unsealed.
- 33 (3) The chair, member, officer, or employee of the board of elections shall then
34 place the unsealed container-return envelope holding the ballots together
35 with printed instructions for voting and returning the ballots, in an envelope
36 addressed to the voter at the post office address stated in the request, seal the
37 envelope, and mail it at the expense of the county board of elections:
38 Provided, that in case of a request received after 5:00 p.m. on the Tuesday
39 before the election under the provisions of subsection (a1) of this section, in
40 lieu of transmitting the ballots to the voter in person or by mail, the chair,
41 member, officer, or employee of the board of elections may deliver the
42 sealed envelope containing the instruction sheet and the container-return
43 envelope holding the ballots to a near relative or verifiable legal guardian of
44 the voter.

45 The county board of elections may receive written requests for applications ~~earlier than 50~~
46 ~~days~~ at any time prior to the election but shall not mail applications and ballots to the voter or
47 issue applications and ballots in person earlier than 60 days prior to the statewide general
48 election in an even-numbered year, or earlier than 50 days prior to the ~~the~~ any other election,
49 except as provided in G.S. 163-227.2. No election official shall issue applications for absentee
50 ballots except in compliance with this Article."

51 **SECTION 6.** G.S. 163-231(a) reads as rewritten:

1 "(a) Procedure for Voting Absentee Ballots. – In the presence of ~~two other persons who~~
2 ~~are a person who is~~ at least 18 years of age, and who ~~are~~ is not disqualified by
3 G.S. 163-226.3(a)(4) or G.S. 163-237(b1), the voter shall:

- 4 (1) Mark the voter's ballots, or cause them to be marked by ~~one of such persons~~
5 that person in the voter's presence according to the voter's instruction;
- 6 (2) Fold each ballot separately, or cause each of them to be folded in the voter's
7 presence;
- 8 (3) Place the folded ballots in the container-return envelope and securely seal it,
9 or have this done in the voter's presence;
- 10 (4) Make the application printed on the container-return envelope according to
11 the provisions of G.S. 163-229(b) and make the certificate printed on the
12 container-return envelope according to the provisions of G.S. 163-229(b).

13 The ~~persons~~ person in whose presence the ballot is marked shall at all times respect the
14 secrecy of the ballot and the privacy of the absentee voter, unless the voter requests their
15 assistance and ~~they are the person is~~ otherwise authorized by law to give assistance. The
16 ~~persons~~ person in whose presence the ballot was marked shall sign the application and
17 certificate as ~~witnesses, a witness~~ and shall indicate ~~their~~ that person's address. When thus
18 executed, the sealed container-return envelope, with the ballots enclosed, shall be transmitted in
19 accordance with the provisions of subsection (b) of this section to the county board of elections
20 which issued the ballots."

21 **SECTION 7.** G.S. 163-250 reads as rewritten:

22 "**§ 163-250. Voting absentee ballots and transmitting them to chairman of county board**
23 **of elections.**

24 (a) Procedure for Voting Absentee Ballots. – In the presence of ~~two persons who are at~~
25 a person who is least 18 years of age, the voter shall:

- 26 (1) Mark his ballots, or cause them to be marked by ~~one of such persons~~ that
27 person in his presence according to his instructions.
- 28 (2) Fold each ballot separately, or cause each of them to be folded in his
29 presence.
- 30 (3) Place the folded ballots in the container-return envelope and securely seal it,
31 or have this done in his presence.
- 32 (4) Make and subscribe the certificate printed on the container-return envelope
33 according to the provisions of G.S. 163-248(c).

34 The ~~persons~~ person in whose presence the ballots were marked shall sign the certificate as
35 ~~witnesses, a witness~~ and shall give ~~their addresses~~ that person's address.

36 (b) Transmitting Executed Absentee Ballots to Chairman of County Board of Elections.
37 – When executed and witnessed in accordance with the provisions of subsection (a) of this
38 section, the sealed container-return envelope in which executed absentee ballots have been
39 placed shall be mailed by the voter to the chairman of the county board of elections who issued
40 them.

41 **SECTION 8.** Article 21 of Chapter 163 of the General Statutes is amended by
42 adding a new section to read:

43 "**§ 163-258. Emergency powers.**

44 If an international, national, or local emergency or other situation arises that makes
45 substantial compliance with this Article or the Uniformed and Overseas Citizens Absentee
46 Voting Act impossible or unreasonable, as confirmed by an official declaration by the United
47 States Department of State that a state of emergency, civil unrest, war, or other exigency exists
48 in a foreign country such that a travel warning is issued, or by an official declaration by the
49 Governor that a state of emergency exists in this State, or by the existence of an armed conflict
50 involving United States armed forces, or mobilization of those forces, including state national
51 guard and reserve component members residing in this State, the State Board of Elections may

1 prescribe, by emergency rule, such special procedures or requirements as may be necessary to
2 facilitate absentee voting by those absent uniformed services voters or overseas voters directly
3 affected who are eligible to vote in this State. The rule shall become effective when filed with
4 the Codifier of Rules."

5 **SECTION 9.** This act is effective with respect to elections held on or after January
6 1, 2010.