

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

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HOUSE BILL 100

Short Title: Restore Partisan Elections/Sup. & Dist. Court. (Public)

Sponsors: Representatives Burr, Saine, Bumgardner, and Henson (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Elections and Ethics Law

February 15, 2017

A BILL TO BE ENTITLED

AN ACT TO RESTORE PARTISAN JUDICIAL ELECTIONS FOR NORTH CAROLINA SUPERIOR AND DISTRICT COURTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18C-112(e)(1) reads as rewritten:

"(e) If any member takes any of the following actions, the member vacates office as a member of the Commission and the vacancy shall be filled as provided by G.S. 18C-111(c):

- (1) Files a notice of candidacy under G.S. 163-106 or G.S. 163-323 or a petition under G.S. 163-107.1 or G.S. 163-325. G.S. 163-107.1."

SECTION 2. G.S. 163-1(b) reads as rewritten:

"(b) On Tuesday next after the first Monday in May preceding each general election to be held in November for the officers referred to in subsection (a) of this section, there shall be held in all election precincts within the territory for which the officers are to be elected a primary election for the purpose of nominating candidates for each political party in the State for those offices, and nonpartisan candidates as to offices elected under the provisions of Article 25 of this Chapter offices."

SECTION 3. G.S. 163-22.3 reads as rewritten:

"§ 163-22.3. State Board of Elections littering notification.

At the time an individual files with the State Board of Elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, 163-294.2, or 163-323, or 163-294.2, is certified to the State Board of Elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, is certified to the State Board of Elections by a new political party as that party's nominee pursuant to G.S. 163-98, qualifies with the State Board of Elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates a candidacy with the State Board of Elections pursuant to any statute or local act, the State Board of Elections shall notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department of Transportation pursuant to G.S. 136-18."

SECTION 4. G.S. 163-82.10B reads as rewritten:

"§ 163-82.10B. Confidentiality of date of birth.

Boards of elections shall keep confidential the date of birth of every voter-registration applicant and registered voter, except in the following situations:

- (1) When a voter has filed notice of candidacy for elective office under G.S. 163-106, 163-122, 163-123, or 163-294.2, or 163-323, has been nominated as a candidate under G.S. 163-98 or G.S. 163-114, or has otherwise formally become a candidate for elective office. The exception of this subdivision does



1 not extend to an individual who meets the definition of "candidate" only by
 2 beginning a tentative candidacy by receiving funds or making payments or
 3 giving consent to someone else to receive funds or transfer something of value
 4 for the purpose of exploring a candidacy.

5 (2) When a voter is serving in an elective office.

6 (3) When a voter has been challenged pursuant to Article 8 of this Chapter.

7 (4) When a voter-registration applicant or registered voter expressly authorizes in
 8 writing the disclosure of that individual's date of birth.

9 (5) When requested by a county jury commission established pursuant to G.S. 9-1
 10 for purposes of preparing the master jury list in that county pursuant to
 11 G.S. 9-2.

12 The disclosure of an individual's age does not constitute disclosure of date of birth in violation
 13 of this section.

14 The county board of elections shall give precinct officials access to a voter's date of birth
 15 where necessary for election administration, consistent with the duty to keep dates of birth
 16 confidential.

17 Disclosure of a date of birth in violation of this section shall not give rise to a civil cause of
 18 action. This limitation of liability does not apply to the disclosure of a date of birth in violation of
 19 this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that
 20 would otherwise be actionable."

21 **SECTION 5.** G.S. 163-106, as amended by Section 21(a) of S.L. 2016-125, reads as
 22 rewritten:

23 **"§ 163-106. Notices of candidacy; pledge; with whom filed; date for filing; withdrawal.**

24 ...

25 (c) Time for Filing Notice of Candidacy. – Candidates seeking party primary nominations
 26 for the following offices shall file their notice of candidacy with the State Board of Elections no
 27 earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the
 28 last business day in February preceding the primary:

29 Governor

30 Lieutenant Governor

31 All State executive officers

32 Justices of the Supreme Court

33 Judges of the Court of Appeals

34 Judges of the superior court

35 Judges of the district court

36 United States Senators

37 Members of the House of Representatives of the United States

38 District attorneys

39 Candidates seeking party primary nominations for the following offices shall file their notice
 40 of candidacy with the county board of elections no earlier than 12:00 noon on the second Monday
 41 in February and no later than 12:00 noon on the last business day in February preceding the
 42 primary:

43 State Senators

44 Members of the State House of Representatives

45 All county offices.

46 (d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any primary in
 47 which there are two or more vacancies for associate justices for the Supreme Court, two or more
 48 vacancies for the Court of Appeals, ~~or two or more vacancies for district court judge,~~ or two
 49 vacancies for United States Senator from North Carolina, each candidate shall, at the time of filing
 50 notice of candidacy, file with the State Board of Elections a written statement designating the
 51 vacancy to which the candidate seeks nomination. A person seeking election for a specialized

1 district judgeship established under G.S. 7A-147 shall, at the time of filing notice of candidacy,
 2 file with the State Board of Elections a written statement designating the specialized judgeship to
 3 which the person seeks nomination. Votes cast for a candidate shall be effective only for
 4 nomination to the vacancy for which the candidate has given notice of candidacy as provided in
 5 this subsection.

6 ...
 7 (f) Candidates required to file their notice of candidacy with the State Board of Elections
 8 under subsection (c) of this section shall file along with their notice a certificate signed by the
 9 chairman of the board of elections or the director of elections of the county in which they are
 10 registered to vote, stating that the person is registered to vote in that county, if the candidacy is for
 11 superior court judge and the county contains more than one superior court district, stating the
 12 superior court district of which the person is a resident, stating the party with which the person is
 13 affiliated, and that the person has not changed his affiliation from another party or from
 14 unaffiliated within three months prior to the filing deadline under subsection (c) of this section. In
 15 issuing such certificate, the chairman or director shall check the registration records of the county
 16 to verify such information. During the period commencing 36 hours immediately preceding the
 17 filing deadline the State Board of Elections shall accept, on a conditional basis, the notice of
 18 candidacy of a candidate who has failed to secure the verification ordered herein subject to receipt
 19 of verification no later than three days following the filing deadline. The State Board of Elections
 20 shall prescribe the form for such certificate, and distribute it to each county board of elections no
 21 later than the last Monday in December of each odd-numbered year.

22 ...
 23 (j) No person may file a notice of candidacy for superior court judge, unless that person is,
 24 at the time of filing the notice of candidacy, a resident of the judicial district as it will exist at the
 25 time the person would take office if elected. No person may be nominated as a superior court
 26 judge under G.S. 163-114, unless that person is, at the time of nomination, a resident of the
 27 judicial district as it will exist at the time the person would take office if elected. This subsection
 28 implements Section 9(1) of Article IV of the North Carolina Constitution which requires regular
 29 superior court judges to reside in the district for which elected."

30 **SECTION 6.** G.S. 163-107(a), as amended by Section 21(b) of S.L. 2016-125, reads
 31 as rewritten:

32 "(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate shall pay to
 33 the board of elections with which the candidate files under the provisions of G.S. 163-106 a filing
 34 fee for the office sought in the amount specified in the following tabulation:
 35

| Office Sought | Amount of Filing Fee |
|--|--|
| Governor | One percent (1%) of the annual salary of the office sought |
| Lieutenant Governor | One percent (1%) of the annual salary of the office sought |
| All State executive offices | One percent (1%) of the annual salary of the office sought |
| All Justices of the Supreme Court, Judges of the Court of Appeals, and Justices, Judges, and District Attorneys of the General Court of Justice | One percent (1%) of the annual salary of the office sought |
| United States Senator | One percent (1%) of the annual salary of the office sought |
| Members of the United States House of Representatives | One percent (1%) of the annual salary of the office sought |

| | | |
|----|--|--|
| 1 | State Senator | One percent (1%) of the annual salary of the |
| 2 | | office sought |
| 3 | Member of the State House of | One percent (1%) of the annual salary of |
| 4 | Representatives | the office sought |
| 5 | All county offices not compensated by fees | One percent (1%) of the annual salary of the |
| 6 | | office sought |
| 7 | All county offices compensated partly | One percent (1%) of the first annual |
| 8 | by salary and partly by fees | salary to be received (exclusive of fees) |
| 9 | The salary of any office that is the basis for calculating the filing fee is the starting salary for | |
| 10 | the office, rather than the salary received by the incumbent, if different. If no starting salary can be | |
| 11 | determined for the office, then the salary used for calculation is the salary of the incumbent, as of | |
| 12 | January 1 of the election year." | |

SECTION 7. G.S. 163-107.1(c) reads as rewritten:

"(c) County, Municipal and District Primaries. – If the candidate is seeking one of the offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this section, or a municipal or any other office requiring a partisan primary which is not set forth in G.S. 163-106(c) or (d), ~~he~~ the candidate shall file a written petition with the appropriate board of elections no later than 12:00 noon on Monday preceding the filing deadline before the primary. The petition shall be signed by five percent (5%) of the registered voters of the election area in which the office will be voted for, who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 200 registered voters regardless of said voter's political party affiliation, whichever requirement is greater. The board of elections shall verify the names on the petition, and if the petition is found to be sufficient, the candidate's name shall be printed on the appropriate primary ballot. Petitions for candidates for member of the U.S. House of Representatives, District Attorney, judge of the superior court, judge of the district court, and members of the State House of Representatives from multi-county districts or members of the State Senate from multi-county districts must be presented to the county board of elections for verification at least 15 days before the petition is due to be filed with the State Board of Elections, and such petition must be filed with the State Board of Elections no later than 12:00 noon on Monday preceding the filing deadline. The State Board of Elections may adopt rules to implement this section and to provide standard petition forms."

SECTION 8. G.S. 163-111(c)(1), as amended by Section 21(d) of S.L. 2016-125, reads as rewritten:

"(c) Procedure for Requesting Second Primary.

(1) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing with the Executive Director of the State Board of Elections no later than 12:00 noon on the ninth day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the State Board of Elections. If the vote certification by the State Board of Elections determines that a candidate who was not originally thought to be eligible to call for a second primary is in fact eligible to call for a second primary, the Executive Director of the State Board of Elections shall immediately notify such candidate and permit the candidate to exercise any options available to the candidate within a 48-hour period following the notification:

- Governor,
- Lieutenant Governor,
- All State executive officers,

~~Justices of the Supreme Court, Judges of the Court of Appeals, or
 Justices, Judges, or District Attorneys of the General Court of
 Justice,
 United States Senators,
 Members of the United States House of Representatives,
 State Senators in multi-county senatorial districts, and
 Members of the State House of Representatives in multi-county
 representative districts."~~

SECTION 9. G.S. 163-114 reads as rewritten:

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

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

| | |
|---|---|
| 17 Position 18 President 19 Vice President 20 21 22 Presidential elector or alternate elector 23 Any elective State office 24 United States Senator 25 26 A district office, including: 27 Member of the United States House 28 of Representatives 29 <u>Judge of district court</u> 30 District Attorney 31 State Senator in a multi-county 32 senatorial district 33 Member of State House of 34 Representatives in a multi-county 35 representative district 36 37 State Senator in a single-county 38 senatorial district 39 Member of State House of 40 Representatives in a single-county 41 representative district 42 Any elective county office 43 44 45 46 <u>Judge of superior court in a</u> 47 <u>single-county judicial district</u> 48 <u>where the district is the whole</u> 49 <u>county or part of the county</u> 50 51 | Vacancy is to be filled by appointment of national executive committee of political party in which vacancy occurs Vacancy is to be filled by appointment of State executive committee of political party in which vacancy occurs Appropriate district executive committee of political party in which vacancy occurs County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote <u>County executive committee of political</u> <u>party in which vacancy occurs;</u> <u>provided, in the case of a superior court</u> <u>judge in a single-county district where</u> <u>not all the county is located in that</u> <u>district, then in voting, only those members</u> |
|---|---|

1 of the county executive committee who
 2 reside within the district shall vote
 3 Judge of superior court in a Appropriate district executive committee of
 4 multicounty judicial district political party in which vacancy occurs.

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

14 In a county which is partly in a multicounty judicial district, in choosing that county's member
 15 or members of the judicial district executive committee for the multicounty district, only the
 16 county convention delegates or county executive committee members who reside within the area
 17 of the county which is within that multicounty district may vote.

18 In a county not all of which is located in one congressional district, in choosing the
 19 congressional district executive committee member or members from that area of the county, only
 20 the county convention delegates or county executive committee members who reside within the
 21 area of the county which is within the congressional district may vote.

22 In a county which is partly in a multi-county senatorial district or which is partly in a
 23 multi-county House of Representatives district, in choosing that county's member or members of
 24 the senatorial district executive committee or House of Representatives district executive
 25 committee for the multi-county district, only the county convention delegates or county executive
 26 committee members who reside within the area of the county which is within that multi-county
 27 district may vote.

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

31 **SECTION 10.** G.S. 163-122(c) is repealed.

32 **SECTION 11.** G.S. 163-123(g) is repealed.

33 **SECTION 12.** G.S. 163-165.5(a)(3) reads as rewritten:

34 "**§ 163-165.5. Contents of official ballots.**

35 (a) Except as provided in this section, each official ballot shall contain all the following
 36 elements:

- 37 ...
- 38 (3) The names of the candidates as they appear on their notice of candidacy filed
 39 pursuant to G.S. 163-106 ~~or G.S. 163-323,~~ or on petition forms filed in
 40 accordance with G.S. 163-122. No title, appendage, or appellation indicating
 41 rank, status, or position shall be printed on the official ballot in connection with
 42 the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss,
 43 or Ms. Nicknames shall be permitted on an official ballot if used in the notice
 44 of candidacy or qualifying petition, but the nickname shall appear according to
 45 standards adopted by the State Board of Elections. Those standards shall allow
 46 the presentation of legitimate nicknames in ways that do not mislead the voter
 47 or unduly advertise the candidacy. In the case of candidates for presidential
 48 elector, the official ballot shall not contain the names of the candidates for
 49 elector but instead shall contain the nominees for President and Vice President
 50 which the candidates for elector represent. The State Board of Elections shall
 51 establish a review procedure that local boards of elections shall follow to ensure

1 that candidates' names appear on the official ballot in accordance with this
2 subdivision."
3 **SECTION 13.** Article 25 of Subchapter X of Chapter 163 of the General Statutes is
4 repealed.
5 **SECTION 14.** This act is effective with respect to primaries and elections held on or
6 after January 1, 2018.