

February 15, 2005

S 133. RECONFIRMING PROVISIONAL VOTING. *TO RESTATE AND RECONFIRM THE INTENT OF THE GENERAL ASSEMBLY WITH REGARD TO PROVISIONAL VOTING IN 2004; AND TO SEEK THE RECOMMENDATIONS OF THE STATE BOARD OF ELECTIONS ON FUTURE ADMINISTRATION OF OUT-OF-PRECINCT PROVISIONAL VOTING.* States that in enacting GS 163-166.11, the General Assembly intended that a registered voter in a particular county is eligible to cast a provisional ballot in that county when voter's name did not appear on the voting place's official list of registered voters. Act further states that the General Assembly intended that provisional ballots be counted for those ballot items on which voter was eligible to vote and that the use of provisional ballots is not limited to the narrow circumstance of voters who move to another precinct within county more than thirty days before an election, and that the State Board of Elections and county boards of elections were following the General Assembly's intent when they counted the provisional ballots cast by voters in the July and August 2004 primaries and the November 2004 general election. Finally, states that discounting the provisional ballots cast by eligible voters would be fundamentally unfair and contrary to long-standing law that a voter's ballot should not be disqualified because of errors or omissions by election officials.

Amends GS 163-55 to delete references to voter registration and to provide that individuals who have resided in a precinct, ward, or other election district (was, precinct only) for 30 days preceding an election are qualified to vote in any election held in State (was, in the precinct in which voter resides). Enacts new GS 163-55(b) to provide that when an election district includes more than one precinct, for purposes of those offices to be elected from that election district and for purposes of referenda, a person shall be considered a resident in the election district which encompasses the precinct in which the person resides. Amends GS 163-82.15(e) to allow any voter who has moved to another precinct within the same county more than 30 days before an election to vote a provisional ballot. Amends GS 163-182.2(a)(4) to (1) provide that the voting eligibility of an individual voting a provisional ballot shall be determined by whether the voter is registered to vote in the county and is qualified by residency to vote in the election district and (2) state that if voter is registered and qualified to vote in an election, no mistake of any election official in providing voter a ballot or in failing to comply with GS 163-82.15 or 163-166.11 shall prevent the counting of a vote. Act applicable to all elections since January 1, 2004.

Requires that State Board of Elections make recommendations to General Assembly on the future administration of provisional voting by April 15, 2005. Makes technical changes.

Intro. by Clodfelter.

Ref. to Judiciary I

GS 163

February 17, 2005

S 133. RECONFIRMING PROVISIONAL VOTING. Intro. 2/15/2005. Senate committee substitute makes the following changes to 1st edition. Makes technical and clarifying changes only.

March 2, 2005

SL 2005-2 (S 133). RECONFIRMING PROVISIONAL VOTING. *AN ACT TO RESTATE AND RECONFIRM THE INTENT OF THE GENERAL ASSEMBLY WITH REGARD TO PROVISIONAL VOTING IN 2004; AND TO SEEK THE RECOMMENDATIONS OF THE STATE BOARD OF ELECTIONS ON FUTURE ADMINISTRATION OF OUT-OF-PRECINCT PROVISIONAL VOTING.* Summarized in *Daily Bulletin* 2/15/05 and 2/17/05. Enacted March 2, 2005. Effective March 2, 2005, and applies to all elections held after January 1, 2004.