

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 843
Committee Substitute Favorable 4/26/17
PROPOSED COMMITTEE SUBSTITUTE H843-PCS10360-ST-24

Short Title: Municipal Election Schedule & Other Changes.

(Public)

Sponsors:

Referred to:

April 13, 2017

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE MUNICIPAL ELECTION SCHEDULE IN ODD-NUMBERED YEARS SO AS TO NOT HAVE OVERLAPPING REQUIREMENTS OF THE COUNTY BOARDS OF ELECTIONS; TO CLARIFY THE TIME OF APPOINTMENT OF COUNTY BOARDS OF ELECTIONS; AND TO APPROPRIATE FUNDS FOR PERSONNEL.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 163-294.5(c) reads as rewritten:

"(c) Candidates seeking municipal office shall file their notices of candidacy with the board of elections no earlier than 12:00 noon on the first Friday in July and no later than 12:00 noon on the ~~third Friday~~ second Tuesday following the first Friday in July preceding the election, except:

- (1) In the year following a federal decennial census, candidates seeking municipal office in any city which elects members of its governing board on a district basis, or requires that candidates reside in a district in order to run, shall file their notices of candidacy with the board of elections no earlier than 12:00 noon on the fourth Monday in July and no later than 12:00 noon on the second Friday in August preceding the election; and
- (2) In the second year following a federal decennial census, if the election is held then under G.S. 160A-23.1, candidates seeking municipal office shall file their notices of candidacy with the board of elections at the same time as notices of candidacy for county officers are required to be filed under G.S. 163-106.

Notices of candidacy which are mailed must be received by the board of elections before the filing deadline regardless of the time they were deposited in the mails."

SECTION 1.(b) G.S. 163-291 reads as rewritten:

"§ 163-291. Partisan primaries and elections.

The nomination of candidates for office in cities, towns, villages, and special districts whose elections are conducted on a partisan basis shall be governed by the provisions of this Chapter applicable to the nomination of county officers, and the terms "county board of elections," "chairman of the county board of elections," "county officers," and similar terms shall be construed with respect to municipal elections to mean the appropriate municipal officers and candidates, except that:

- (1) The dates of primary and election shall be as provided in G.S. 163-279.



* H 8 4 3 - P C S 1 0 3 6 0 - S T - 2 4 *

1 (2) A candidate seeking party nomination for municipal or district office shall
 2 file notice of candidacy with the board of elections no earlier than 12:00
 3 noon on the first Friday in July and no later than 12:00 noon on the ~~third~~
 4 ~~Friday~~ second Tuesday following the first Friday in July preceding the
 5 election, except:

6 a. In the year following a federal decennial census, a candidate seeking
 7 party nomination for municipal or district office in any city which
 8 elects members of its governing board on a district basis, or requires
 9 that candidates reside in a district in order to run, shall file his notice
 10 of candidacy with the board of elections no earlier than 12:00 noon
 11 on the fourth Monday in July and no later than 12:00 noon on the
 12 second Friday in August preceding the election; and

13 b. In the second year following a federal decennial census, if the
 14 election is held then under G.S. 160A-23.1, a candidate seeking party
 15 nomination for municipal or district office shall file his notice of
 16 candidacy with the board of elections at the same time as notices of
 17 candidacy for county officers are required to be filed under
 18 G.S. 163-106.

19 No person may file a notice of candidacy for more than one municipal
 20 office at the same election. If a person has filed a notice of candidacy for one
 21 office with the county board of elections under this section, then a notice of
 22 candidacy may not later be filed for any other municipal office for that
 23 election unless the notice of candidacy for the first office is withdrawn first.

24 (3) The filing fee for municipal and district primaries shall be fixed by the
 25 governing board not later than the day before candidates are permitted to
 26 begin filing notices of candidacy. There shall be a minimum filing fee of five
 27 dollars (\$5.00). The governing board shall have the authority to set the filing
 28 fee at not less than five dollars (\$5.00) nor more than one percent (1%) of
 29 the annual salary of the office sought unless one percent (1%) of the annual
 30 salary of the office sought is less than five dollars (\$5.00), in which case the
 31 minimum filing fee of five dollars (\$5.00) will be charged. The fee shall be
 32 paid to the board of elections at the time notice of candidacy is filed.

33 (4) The municipal ballot may not be combined with any other ballot.

34 (5) The canvass of the ~~primary and second~~ primary shall be held on the seventh
 35 day following the ~~primary or second~~ primary. In accepting the filing of
 36 complaints concerning the conduct of an election, a board of elections shall
 37 be subject to the rules concerning Sundays and holidays set forth in
 38 G.S. 103-5.

39 (6) ~~Candidates having the right to demand a second primary shall do so not later~~
 40 ~~than 12:00 noon on the Thursday following the canvass of the first primary."~~

41 **SECTION 2.** G.S. 163-279 reads as rewritten:

42 **"§ 163-279. Time of municipal primaries and elections.**

43 (a) Primaries and elections for offices filled by election of the people in cities, towns,
 44 incorporated villages, and special districts shall be held in 1973 and every two or four years
 45 thereafter as provided by municipal charter on the following days:

46 (1) If the election is nonpartisan and decided by simple plurality, the election
 47 shall be held on Tuesday after the first Monday in November.

48 (2) If the election is partisan, the election shall be held on Tuesday after the first
 49 Monday in November, the first primary shall be held on the second Tuesday
 50 after Labor Day, ~~and the second primary, if required, shall be held on the~~
 51 ~~fourth Tuesday before the election.~~ Day. G.S. 163-111 shall not apply, and no

1 candidate may request a second primary, and the State Board shall break any
2 tie vote by a method of random selection to be determined by the State
3 Board.

4 (3) If the election is nonpartisan and the nonpartisan primary method of election
5 is used, the election shall be held on Tuesday after the first Monday in
6 November and the nonpartisan primary shall be held on the ~~fourth Tuesday~~
7 ~~before the election.~~ second Tuesday after Labor Day.

8 (4) If the election is nonpartisan and the election and runoff election method of
9 election is used, the election shall be held on the ~~fourth Tuesday before the~~
10 ~~Tuesday after the first Monday in November,~~ second Tuesday after Labor
11 Day, and the runoff election, if required, shall be held on Tuesday after the
12 first Monday in November.

13 (b) Repealed by Session Laws 2011-141, s. 1(a), effective July 1, 2011.

14 (c) Officers of sanitary districts elected in 1970 shall hold office until the first Monday
15 in December, 1973, notwithstanding G.S. 130-126. Beginning in 1973, sanitary district
16 elections shall be held at the times provided in this section or in G.S. 130A-50(b1)."

17 **SECTION 3.(a)** Section 22 of S.L. 2017-6 reads as rewritten:

18 **"SECTION 22.** Notwithstanding the recodification in Section 3 of this act, the Bipartisan
19 State Board of Elections and Ethics Enforcement shall not administer or enforce Part 1, Part 3,
20 or Part 6 of Article 8 of Chapter 163A of the General Statutes, and the Secretary of State shall
21 maintain the authority to administer and enforce Articles 2, 4, and 8 of Chapter 120C of the
22 General Statutes, as those Articles existed on May 1, 2017, until October 1, 2017. Section 20 of
23 this act becomes effective October 1, 2017. Sections 9 and 10 of this act become effective when
24 it becomes law. G.S. 163-30, as amended by Section 7(h) of this act, and G.S. 163-31, as
25 amended by Section 7(i) of this act, become effective ~~July~~ May 1, 2017. G.S. 163-278.22(7), as
26 amended by Section 7(k) of this act, becomes effective May 1, 2017, and applies to
27 investigations initiated on or after that date. Except as otherwise provided, this act becomes
28 effective May 1, 2017."

29 **SECTION 3.(b)** G.S. 163-30, as amended by S.L. 2017-6 and Section 3(a) of this
30 act, reads as rewritten:

31 **"§ 163-30. County boards of elections; appointments; terms of office; qualifications;**
32 **vacancies; oath of office; instructional meetings.**

33 In every county of the State there shall be a county board of elections, to consist of four
34 persons of good moral character who are registered voters in the county in which they are to
35 act. Two of the members of the county board of elections shall be of the political party with the
36 highest number of registered affiliates, and two shall be of the political party with the second
37 highest number of registered affiliates, as reflected by the latest registration statistics published
38 by the State Board. In 2017, and every two years thereafter, members of county boards of
39 elections shall be appointed by the State Board on the second Tuesday in ~~July.~~ June. ~~In 2019,~~
40 ~~members of county boards of elections shall be appointed by the State Board on the last~~
41 ~~Tuesday in June and every two years thereafter,~~ June and their terms of office shall continue for
42 two years from the specified date of appointment and until their successors are appointed and
43 qualified.

44 No person shall be eligible to serve as a member of a county board of elections who holds
45 any elective office under the government of the United States, or of the State of North Carolina
46 or any political subdivision thereof.

47 No person who holds any office in a state, congressional district, county or precinct
48 political party or organization, or who is a campaign manager or treasurer of any candidate or
49 political party in a primary or election, shall be eligible to serve as a member of a county board
50 of elections, provided however that the position of delegate to a political party convention shall
51 not be considered an office for the purpose of this section.

1 No person shall be eligible to serve as a member of a county board of elections who is a
2 candidate for nomination or election.

3 No person shall be eligible to serve as a member of a county board of elections who is the
4 wife, husband, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father,
5 father-in-law, sister, sister-in-law, brother, brother-in-law, aunt, uncle, niece, or nephew of any
6 candidate for nomination or election. Upon any member of the board of elections becoming
7 ineligible, that member's seat shall be declared vacant. This paragraph only applies if the
8 county board of elections is conducting the election for which the relative is a candidate.

9 The State chair of each political party shall have the right to recommend to the State Board
10 three registered voters in each county for appointment to the board of elections for that county.
11 If such recommendations are received by the Board 15 or more days before the ~~last~~second
12 Tuesday in June 2017, and each two years thereafter, it shall be the duty of the State Board to
13 appoint the county boards from the names thus recommended.

14 Whenever a vacancy occurs in the membership of a county board of elections for any cause
15 the State chair of the political party of the vacating member shall have the right to recommend
16 two registered voters of the affected county for such office, and it shall be the duty of the State
17 Board to fill the vacancy from the names thus recommended.

18 At the meeting of the county board of elections required by G.S. 163-31 to be held on
19 Tuesday following the third Monday in July in the year of their appointment the members shall
20 take the following oath of office:

21 "I, _____, do solemnly swear (or affirm) that I will support the
22 Constitution of the United States; that I will be faithful and bear true allegiance
23 to the State of North Carolina and to the constitutional powers and authorities
24 which are or may be established for the government thereof; that I will endeavor
25 to support, maintain and defend the Constitution of said State, not inconsistent
26 with the Constitution of the United States; and that I will well and truly execute
27 the duties of the office of member of the _____ County Board of Elections
28 to the best of my knowledge and ability, according to law; so help me God."

29 At the first meeting in July annually, the county boards shall organize by electing one of its
30 members chair and one of its members vice-chair, each to serve a one-year term as such. In the
31 odd-numbered year, the chair shall be a member of the political party with the highest number
32 of registered affiliates, as reflected by the latest registration statistics published by the State
33 Board, and the vice-chair a member of the political party with the second highest number of
34 registered affiliates. In the even-numbered year, the chair shall be a member of the political
35 party with the second highest number of registered affiliates, as reflected by the latest
36 registration statistics published by the State Board, and the vice-chair a member of the political
37 party with the highest number of registered affiliates.

38 Each member of the county board of elections shall attend each instructional meeting held
39 pursuant to G.S. 163-46, unless excused for good cause by the chair of the board, and shall be
40 paid the sum of twenty-five dollars (\$25.00) per day for attending each of those meetings."

41 **SECTION 3.(c)** G.S. 163-31, as amended by S.L. 2017-6 and Section 3(a) of this
42 act, reads as rewritten:

43 **"§ 163-31. Meetings of county boards of elections; quorum; majority; minutes.**

44 In each county of the State the members of the county board of elections shall meet at the
45 courthouse or board office at noon on the Tuesday following the ~~third~~last Monday in ~~July~~June
46 in the year of their appointment by the State Board and, after taking the oath of office provided
47 in G.S. 163-30, they shall organize by electing one member chair and another member
48 secretary of the county board of elections. On the Tuesday following the third Monday in
49 ~~August~~July of the year in which they are appointed the county board of elections shall meet
50 and appoint precinct chief judges and judges of elections. The board may hold other meetings
51 at such times as the chair of the board, or any three members thereof, may direct, for the

1 performance of duties prescribed by law. Three members shall constitute a quorum for the
2 transaction of board business. Except where required by law to act unanimously, a majority
3 vote for action of the board shall require three of the four members. The chair shall notify, or
4 cause to be notified, all members regarding every meeting to be held by the board.

5 The county board of elections shall keep minutes recording all proceedings and findings at
6 each of its meetings. The minutes shall be recorded in a book which shall be kept in the board
7 office and it shall be the responsibility of the secretary, elected by the board, to keep the
8 required minute book current and accurate. The secretary of the board may designate the
9 director of elections to record and maintain the minutes under his or her supervision."

10 **SECTION 3.(d)** G.S. 163-41(a), as amended by S.L. 2017-6, reads as rewritten:

11 **"§ 163-41. Precinct chief judges and judges of election; appointment; terms of office;**
12 **qualifications; vacancies; oaths of office.**

13 (a) Appointment of Chief Judge and Judges. – At the meeting required by G.S. 163-31
14 to be held on the Tuesday following the third Monday in ~~August~~ July of the year in which they
15 are appointed, the county board of elections shall appoint one person to act as chief judge and
16 two other persons to act as judges of election for each precinct in the county. Their terms of
17 office shall continue for two years from the specified date of appointment and until their
18 successors are appointed and qualified, except that if a nonresident of the precinct is appointed
19 as chief judge or judge for a precinct, that person's term of office shall end if the board of
20 elections appoints a qualified resident of the precinct of the same party to replace the
21 nonresident chief judge or judge. It shall be their duty to conduct the primaries and elections
22 within their respective precincts. Persons appointed to these offices must be registered voters
23 and residents of the county in which the precinct is located, of good repute, and able to read and
24 write. Not more than one judge in each precinct shall belong to the same political party as the
25 chief judge.

26 The term "precinct official" shall mean chief judges and judges appointed pursuant to this
27 section, and all assistants appointed pursuant to G.S. 163-42, unless the context of a statute
28 clearly indicates a more restrictive meaning.

29 No person shall be eligible to serve as a precinct official, as that term is defined above, who
30 holds any elective office under the government of the United States, or of the State of North
31 Carolina or any political subdivision thereof.

32 No person shall be eligible to serve as a precinct official who is a candidate for nomination
33 or election.

34 No person shall be eligible to serve as a precinct official who holds any office in a state,
35 congressional district, county, or precinct political party or political organization, or who is a
36 manager or treasurer for any candidate or political party, provided however that the position of
37 delegate to a political party convention shall not be considered an office for the purpose of this
38 subsection.

39 The chairman of each political party in the county where possible shall recommend two
40 registered voters in each precinct who are otherwise qualified, are residents of the precinct,
41 have good moral character, and are able to read and write, for appointment as chief judge in the
42 precinct, and he shall also recommend where possible the same number of similarly qualified
43 voters for appointment as judges of election in that precinct. If such recommendations are
44 received by the county board of elections no later than the fifth day preceding the date on
45 which appointments are to be made, it must make precinct appointments from the names of
46 those recommended. Provided that if only one name is submitted by the fifth day preceding the
47 date on which appointments are to be made, by a party for judge of election by the chairman of
48 one of the two political parties in the county having the greatest numbers of registered voters in
49 the State, the county board of elections must appoint that person.

50 If the recommendations of the party chairs for chief judge or judge in a precinct are
51 insufficient, the county board of elections by unanimous vote of all of its members may name

1 to serve as chief judge or judge in that precinct registered voters in that precinct who were not
2 recommended by the party chairs. If, after diligently seeking to fill the positions with registered
3 voters of the precinct, the county board still has an insufficient number of officials for the
4 precinct, the county board by unanimous vote of all of its members may appoint to the
5 positions registered voters in other precincts in the same county who meet the qualifications
6 other than residence to be precinct officials in the precinct, provided that where possible the
7 county board shall seek and adopt the recommendation of the county chairman of the political
8 party affected. In making its appointments, the county board shall assure, wherever possible,
9 that no precinct has a chief judge and judges all of whom are registered with the same party. In
10 no instance shall the county board appoint nonresidents of the precinct to a majority of the three
11 positions of chief judge and judge in a precinct.

12 If, at any time other than on the day of a primary or election, a chief judge or judge of
13 election shall be removed from office, or shall die or resign, or if for any other cause there be a
14 vacancy in a precinct election office, the chairman of the county board of elections shall
15 appoint another in his place, promptly notifying him of his appointment. If at all possible, the
16 chairman of the county board of elections shall consult with the county chairman of the
17 political party of the vacating official, and if the chairman of the county political party
18 nominates a qualified voter of that precinct to fill the vacancy, the chairman of the county
19 board of elections shall appoint that person. In filling such a vacancy, the chairman shall
20 appoint a person who belongs to the same political party as that to which the vacating member
21 belonged when appointed. If the chairman of the county board of elections did not appoint a
22 person upon recommendation of the chairman of the party to fill such a vacancy, then the term
23 of office of the person appointed to fill the vacancy shall expire upon the conclusion of the next
24 canvass held by the county board of elections under this Chapter, and any successor must be a
25 person nominated by the chairman of the party of the vacating officer.

26 If any person appointed chief judge shall fail to be present at the voting place at the hour of
27 opening the polls on primary or election day, or if a vacancy in that office shall occur on
28 primary or election day for any reason whatever, the precinct judges of election shall appoint
29 another to act as chief judge until such time as the chairman of the county board of elections
30 shall appoint to fill the vacancy. If such appointment by the chairman of the county board of
31 elections is not a person nominated by the county chairman of the political party of the vacating
32 officer, then the term of office of the person appointed to fill the vacancy shall expire upon the
33 conclusion of the next canvass held by the county board of elections under this Chapter. If a
34 judge of election shall fail to be present at the voting place at the hour of opening the polls on
35 primary or election day, or if a vacancy in that office shall occur on primary or election day for
36 any reason whatever, the chief judge shall appoint another to act as judge until such time as the
37 chairman of the county board of elections shall appoint to fill the vacancy. Persons appointed to
38 fill vacancies shall, whenever possible, be chosen from the same political party as the person
39 whose vacancy is being filled, and all such appointees shall be sworn before acting.

40 As soon as practicable, following their training as prescribed in G.S. 163-82.24, each chief
41 judge and judge of election shall take and subscribe the following oath of office to be
42 administered by an officer authorized to administer oaths and file it with the county board of
43 elections:

44 "I, _____, do solemnly swear (or affirm) that I will support the Constitution of the
45 United States; that I will be faithful and bear true allegiance to the State of North Carolina, and
46 to the constitutional powers and authorities which are or may be established for the government
47 thereof; that I will endeavor to support, maintain and defend the Constitution of said State not
48 inconsistent with the Constitution of the United States; that I will administer the duties of my
49 office as chief judge of (judge of election in) _____precinct, _____County, without fear
50 or favor; that I will not in any manner request or seek to persuade or induce any voter to vote
51 for or against any particular candidate or proposition; and that I will not keep or make any

1 memorandum of anything occurring within a voting booth, unless I am called upon to testify in
2 a judicial proceeding for a violation of the election laws of this State; so help me, God."

3 Notwithstanding the previous paragraph, a person appointed chief judge by the judges of
4 election under this section, or appointed judge of election by the chief judge under this section
5 may take the oath of office immediately upon appointment.

6 Before the opening of the polls on the morning of the primary or election, the chief judge
7 shall administer the oath set out in the preceding paragraph to each assistant, and any judge of
8 election not previously sworn, substituting for the words "chief judge of" the words "assistant
9 in" or "judge of election in" whichever is appropriate."

10 **SECTION 4.** There is appropriated from the General Fund to the State Board of
11 Elections the sum of seventy-five thousand dollars (\$75,000) plus benefits for the 2017-2018
12 fiscal year in recurring funds to support costs associated with a new personnel position at the
13 State Board of Elections to advance precinct uniformity and data integrity audits at the State
14 Board.

15 **SECTION 5.** Any reference to the State Board of Elections in this act does not
16 constitute a waiver by the General Assembly regarding the validity and constitutionality of S.L.
17 2017-6.

18 **SECTION 6.** This act is effective when it becomes law and applies to elections
19 held on or after that date.