

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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SENATE BILL 656  
Select Committee on Elections Committee Substitute Adopted 4/25/17  
House Committee Substitute Favorable 6/21/17  
House Committee Substitute #2 Favorable 6/28/17  
Proposed Conference Committee Substitute S656-PCCS15254-TC-3

Short Title: Electoral Freedom Act of 2017.

(Public)

Sponsors:

Referred to:

April 5, 2017

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE DEFINITION OF A "POLITICAL PARTY" BY REDUCING THE NUMBER OF SIGNATURES REQUIRED FOR THE FORMATION OF A NEW POLITICAL PARTY AND FOR UNAFFILIATED CANDIDATES TO OBTAIN BALLOT ACCESS ELIGIBILITY; TO AUTHORIZE ESTABLISHMENT OF POLITICAL PARTIES RECOGNIZED IN A SUBSTANTIAL NUMBER OF STATES IN THE PRIOR PRESIDENTIAL ELECTION; TO CHANGE TIMING OF FILING OF PETITIONS; TO REDUCE THE THRESHOLD FOR A SUBSTANTIAL PLURALITY TO THIRTY PERCENT; AND TO ELIMINATE CERTAIN PRIMARIES FOR THE 2018 GENERAL ELECTION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 163-96(a) reads as rewritten:

"(a) Definition. – A political party within the meaning of the election laws of this State shall be ~~either:~~ one of the following:

- (1) Any group of voters which, at the last preceding general State election, polled for its candidate for Governor, or for presidential electors, at least two percent (2%) of the entire vote cast in the State for Governor or for presidential ~~electors; orelectors.~~
- (2) Any group of voters which shall have filed with the State Board of Elections petitions for the formulation of a new political party which are signed by registered and qualified voters in this State equal in number to ~~two percent (2%)~~ one-quarter of one percent (0.25%) of the total number of voters who voted in the most recent general election for Governor. Also the petition must be signed by at least 200 registered voters from ~~each of four~~ at least three congressional districts in North Carolina. To be effective, the petitioners must file their petitions with the State Board of Elections before 12:00 noon on the first day of June preceding the day on which is to be held the first general State election in which the new political party desires to participate. The State Board of Elections shall forthwith determine the sufficiency of petitions filed with it and shall immediately communicate its determination to the State ~~chairman~~ chair of the proposed new political party.
- (3) Any group of voters which shall have filed with the State Board of Elections documentation that the group of voters had a candidate nominated by that



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1 group on the general election ballot of at least seventy percent (70%) of the  
2 states in the prior Presidential election. To be effective, the group must file  
3 their documentation with the State Board of Elections before 12:00 noon on  
4 the first day of June preceding the day on which is to be held the first general  
5 State election in which the new political party desires to participate. The State  
6 Board of Elections shall forthwith verify the documentation filed with it and  
7 shall immediately communicate its determination to the State chair of the  
8 proposed new political party."

9 **SECTION 2.(a)** G.S. 163-122(a), as amended by Section 10 of S.L. 2017-3, reads  
10 as rewritten:

11 "(a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. – Any  
12 qualified voter who seeks to have the voter's name printed on the general election ballot as an  
13 unaffiliated candidate shall:

14 (1) If the office is a statewide office, file written petitions with the State Board of  
15 Elections supporting the voter's candidacy for a specified office. These  
16 petitions must be filed with the State Board of Elections on or before 12:00  
17 noon on the ~~second Wednesday prior to day~~ of the primary election and must  
18 be signed by qualified voters of the State equal in number to ~~two percent (2%)~~  
19 one and a half percent (1.5%) of the total number of voters who voted in the  
20 most recent general election for Governor. Also, the petition must be signed  
21 by at least 200 registered voters from ~~each of four~~ at least three congressional  
22 districts in North Carolina. The petitions shall be divided into sections based  
23 on the county in which the signatures were obtained. Provided the petitions  
24 are timely filed, the State Board of Elections shall require the filed petition be  
25 verified no later than 15 business days after canvass of the primary in one of  
26 the following ways:

27 a. The Executive Director shall examine the names on the petition and  
28 place a check mark on the petition by the name of each signer who is  
29 qualified and registered to vote in the designated county and shall  
30 attach to the petition a signed certificate. Said certificates shall state  
31 that the signatures on the petition have been checked against the  
32 registration records and shall indicate the number of signers to be  
33 qualified and registered to vote in each county.

34 b. The chair shall examine the names on the petition and place a check  
35 mark on the petition by the name of each signer who is qualified and  
36 registered to vote in the chair's county and shall attach to the petition  
37 the chair's signed certificate. Said certificates shall state that the  
38 signatures on the petition have been checked against the registration  
39 records and shall indicate the number of signers to be qualified and  
40 registered to vote in the chair's county. The chair shall return the  
41 petition and certificate to the State Board.

42 The State Board shall return a copy of each petition, together with a copy of  
43 the certificate required in this section, to the person who presented it to the  
44 State Board.

45 (2) Except as provided in this subsection, if the office is a district office under the  
46 jurisdiction of the State Board of Elections under G.S. 163-182.4(b), file  
47 written petitions with the State Board of Elections supporting that voter's  
48 candidacy for a specified office. ~~These~~ For district offices other than General  
49 Assembly seats, petitions must be filed with the State Board of Elections on  
50 or before 12:00 noon on the ~~second Wednesday prior to day~~ of the primary  
51 election and must be signed by qualified voters of the district equal in number

1 to ~~four one~~ and a half percent (~~4%~~)(1.5%) of the total number of registered  
2 voters in the district as reflected by the voter registration records of the State  
3 Board of Elections as of January 1 of the year in which the general election is  
4 to be held. For General Assembly seats in which the district lies in more than  
5 one county, petitions must be filed with the State Board of Elections on or  
6 before 12:00 noon on the day of the primary election and must be signed by  
7 qualified voters of the district equal in number to four percent (4%) of the total  
8 number of registered voters in the district as reflected by the voter registration  
9 records of the State Board of Elections as of January 1 of the year in which  
10 the general election is to be held. The petitions shall be divided into sections  
11 based on the county in which the signatures were obtained. The petitions shall  
12 be verified as specified in subdivision (1) of this subsection.

13 (3) If the office is a county office or a single county legislative district, file written  
14 petitions with the chair or director of the county board of elections supporting  
15 the voter's candidacy for a specified county office. These petitions must be  
16 filed with the county board of elections on or before 12:00 noon on the ~~second~~  
17 ~~Wednesday prior to~~ day of the primary election and must be signed by  
18 qualified voters of the county equal in number to four percent (4%) of the total  
19 number of registered voters in the county as reflected by the voter registration  
20 records of the State Board of Elections as of January 1 of the year in which  
21 the general election is to be held, except if the office is for a district consisting  
22 of less than the entire county and only the voters in that district vote for that  
23 office, the petitions must be signed by qualified voters of the district equal in  
24 number to four percent (4%) of the total number of voters in the district  
25 according to the voter registration records of the State Board of Elections as  
26 of January 1 of the year in which the general election is to be held. Each  
27 petition shall be presented to the ~~chairman~~ chair or director of the county board  
28 of elections. The chair or director of the county board of elections shall verify  
29 the filed petition no later than 15 business days after canvass as provided in  
30 sub-subdivision b. of subdivision (1) of this subsection, and shall return a copy  
31 of each petition, together with a copy of the certificate required in this section,  
32 to the person who presented it to the county board of elections.

33 (4) If the office is a partisan municipal office, file written petitions with the chair  
34 or director of the county board of elections in the county wherein the  
35 municipality is located supporting the voter's candidacy for a specified  
36 municipal office. These petitions must be filed with the county board of  
37 elections on or before the time and date specified in G.S. 163-296 and must  
38 be signed by the number of qualified voters specified in G.S. 163-296. The  
39 chair or director of the county board of elections shall verify the filed petition  
40 no later than 15 business days after canvass as provided in sub-subdivision b.  
41 of subdivision (1) of this subsection, and shall return a copy of each petition,  
42 together with a copy of the certificate required in this section, to the person  
43 who presented it to the county board of elections.

44 (5) If the office is a superior court judge or a district court judge, regardless of  
45 whether the district lies entirely in one county or in more than one county, file  
46 written petitions with the State Board of Elections supporting that voter's  
47 candidacy for a specified office. These petitions must be filed with the State  
48 Board of Elections on or before 12:00 noon on the ~~second Wednesday prior~~  
49 ~~to~~ day of the primary election and must be signed by qualified voters of the  
50 district equal in number to two percent (2%) of the total number of registered  
51 voters in the district as reflected by the voter registration records of the State

1 Board of Elections as of January 1 of the year in which the general election is  
2 to be held. The petitions shall be divided into sections based on the county in  
3 which the signatures were obtained. The petitions shall be verified as specified  
4 in subdivision (1) of this subsection.

5 Upon compliance with the provisions of subdivisions (1), (2), (3), (4), or (5) of this  
6 subsection, the board of elections with which the petitions have been timely filed shall cause the  
7 unaffiliated candidate's name to be printed on the general election ballots in accordance with  
8 Article 14A of this Chapter."

9 **SECTION 2.(b)** G.S. 163-296 reads as rewritten:

10 **"§ 163-296. Nomination by petition.**

11 In cities conducting partisan elections, any qualified voter who seeks to have his name printed  
12 on the regular municipal election ballot as an unaffiliated candidate may do so in the manner  
13 provided in G.S. 163-122, except that the petitions and affidavits shall be filed not later than  
14 12:00 noon on the Friday preceding the seventh Saturday before the election, and the petitions  
15 shall be signed by a number of qualified voters of the municipality equal to at least ~~four percent~~  
16 ~~(4%)~~one and a half percent (1.5%) of the whole number of voters qualified to vote in the  
17 municipal election according to the voter registration records of the State Board of Elections as  
18 of January 1 of the year in which the general municipal election is held. A person whose name  
19 appeared on the ballot in a primary election is not eligible to have his name placed on the regular  
20 municipal election ballot as an unaffiliated candidate for the same office in that year. The Board  
21 of Elections shall examine and verify the signatures on the petition, and shall certify only the  
22 names of signers who are found to be qualified registered voters in the municipality. Provided  
23 that in the case where a qualified voter seeks to have his name printed on the regular municipal  
24 election ballot as an unaffiliated candidate for election from an election district within the  
25 municipality, the petition shall be signed by ~~four percent (4%)~~one and a half percent (1.5%)  
26 of the voters qualified to vote for that office."

27 **SECTION 3.** G.S. 163-111(a) reads as rewritten:

28 "(a) Nomination Determined by Substantial Plurality; Definition of Substantial Plurality.  
29 – Except as otherwise provided in this section, nominations in primary elections shall be  
30 determined by a substantial plurality of the votes cast. A substantial plurality within the meaning  
31 of this section shall be determined as follows:

- 32 (1) If a nominee for a single office is to be selected, and there is more than one  
33 person seeking nomination, the substantial plurality shall be ascertained by  
34 multiplying the total vote cast for all aspirants by ~~forty percent (40%)~~thirty  
35 percent (30%). Any excess of the sum so ascertained shall be a substantial  
36 plurality, and the aspirant who obtains a substantial plurality shall be declared  
37 the nominee. If two candidates receive a substantial plurality, the candidate  
38 receiving the highest vote shall be declared the nominee.
- 39 (2) If nominees for two or more offices (constituting a group) are to be selected,  
40 and there are more persons seeking nomination than there are offices, the  
41 substantial plurality shall be ascertained by dividing the total vote cast for all  
42 aspirants by the number of positions to be filled, and by multiplying the result  
43 by ~~forty percent (40%)~~thirty percent (30%). Any excess of the sum so  
44 ascertained shall be a substantial plurality, and the aspirants who obtain a  
45 substantial plurality shall be declared the nominees. If more candidates obtain  
46 a substantial plurality than there are positions to be filled, those having the  
47 highest vote (equal to the number of positions to be filled) shall be declared  
48 the nominees."

49 **SECTION 4.(a)** No 2018 Primary for Judicial Offices and District Attorneys. –  
50 Notwithstanding G.S. 163-106, no party primaries shall be held for candidates seeking the  
51 following offices in the general election held on November 6, 2018:

1 Justices of the Supreme Court.  
2 Judges of the Court of Appeals.  
3 Judges of the superior courts.  
4 Judges of the district courts.  
5 District attorneys.

6 Candidates seeking the office of Justice of the Supreme Court, judge of the Court of  
7 Appeals, judge of the superior court, judge of the district court, or district attorney shall file their  
8 notice of candidacy with the State Board of Elections and Ethics Enforcement no earlier than  
9 12:00 noon on June 18, 2018, and no later than 12:00 noon on June 29, 2018.

10 **SECTION 4.(b)** Form of Notice. – Each person offering to be a candidate for  
11 election shall do so by filing a notice of candidacy with the State Board of Elections and Ethics  
12 Enforcement in the following form, inserting the words in parentheses when appropriate:

13 Date \_\_\_\_\_  
14 I hereby file notice that I am a candidate for election to the office of \_\_\_\_\_ in the  
15 regular election to be held \_\_\_\_\_, \_\_\_\_\_.  
16 Signed \_\_\_\_\_  
17 (Name of Candidate)

18 Witness: \_\_\_\_\_

19 The notice of candidacy shall be either signed in the presence of the chair or secretary  
20 of the State Board of Elections and Ethics Enforcement or signed and acknowledged before an  
21 officer authorized to take acknowledgments who shall certify the notice under seal. An  
22 acknowledged and certified notice may be mailed to the State Board of Elections and Ethics  
23 Enforcement. In signing a notice of candidacy, the candidate shall use only the candidate's legal  
24 name and, in the candidate's discretion, any nickname by which commonly known. A candidate  
25 may also, in lieu of that candidate's first name and legal middle initial or middle name, if any,  
26 sign that candidate's nickname, provided the candidate appends to the notice of candidacy an  
27 affidavit that the candidate has been commonly known by that nickname for at least five years  
28 prior to the date of making the affidavit. The candidate shall also include with the affidavit the  
29 way the candidate's name (as permitted by law) should be listed on the ballot if another candidate  
30 with the same last name files a notice of candidacy for that office.

31 A notice of candidacy signed by an agent or any person other than the candidate shall  
32 be invalid.

33 A candidate, at the time of filing the notice of candidacy under this section, shall  
34 indicate on the notice of candidacy the political party recognized under Article 9 of this Chapter  
35 with which that candidate is affiliated or any unaffiliated status. The certificate required by  
36 subsection (d) of this section shall verify the party designation or unaffiliated status, and the  
37 verified party designation or unaffiliated status shall be included on the ballot.

38 **SECTION 4.(c)** Withdrawal of Notice of Candidacy. – Any person who has filed a  
39 notice of candidacy for an office under this section shall have the right to withdraw it at any time  
40 prior to the close of business on the third business day prior to the date on which the right to file  
41 for that office expires under the terms of subsection (b) of this section.

42 **SECTION 4.(d)** Certificate That Candidate Is Registered Voter. – Candidates shall  
43 file along with their notice a certificate signed by the chair of the board of elections or the director  
44 of elections of the county in which they are registered to vote, stating that the person is registered  
45 to vote in that county, and if the candidacy is for superior court judge or district court judge, and  
46 the county contains more than one superior court district or district court district, stating the  
47 judicial district of which the person is a resident. In issuing such certificate, the chairman or  
48 director shall check the registration records of the county to verify such information. During the  
49 period commencing 36 hours immediately preceding the filing deadline, the State Board of  
50 Elections and Ethics Enforcement shall accept, on a conditional basis, the notice of candidacy of  
51 a candidate who has failed to secure the verification ordered herein subject to receipt of

1 verification no later than three days following the filing deadline. The State Board of Elections  
2 and Ethics Enforcement shall prescribe the form for such certificate and distribute it to each  
3 county board of elections no later than the last Monday in December of 2017.

4 **SECTION 4.(e)** Candidacy for More Than One Office Prohibited. – No person may  
5 file a notice of candidacy for more than one office or group of offices described in subsection (a)  
6 of this section, or for an office or group of offices described in subsection (a) of this section and  
7 an office described in G.S. 163-106(c), for any one election. If a person has filed a notice of  
8 candidacy with a board of elections under this section or under G.S. 163-106(c) for one office or  
9 group of offices, then a notice of candidacy may not later be filed for any other office or group  
10 of offices under this section when the election is on the same date unless the notice of candidacy  
11 for the first office is withdrawn under subsection (c) of this section.

12 **SECTION 4.(f)** Notice of Candidacy for Certain Offices to Indicate Vacancy. – In  
13 any election in which there are two or more vacancies for the office of justice of the Supreme  
14 Court, judge of the Court of Appeals, superior court judge, or district court judge to be filled by  
15 nominations, each candidate shall, at the time of filing notice of candidacy, file with the State  
16 Board of Elections and Ethics Enforcement a written statement designating the vacancy to which  
17 the candidate seeks election. Votes cast for a candidate shall be effective only for election to the  
18 vacancy for which the candidate has given notice of candidacy as provided in this subsection.

19 A person seeking election for a specialized district judgeship established under  
20 G.S. 7A-147 shall, at the time of filing notice of candidacy, file with the State Board of Elections  
21 and Ethics Enforcement a written statement designating the specialized judgeship to which the  
22 person seeks nomination.

23 **SECTION 4.(g)** Residency Requirements. – No person may file a notice of  
24 candidacy for superior court judge or district court judge unless that person is at the time of filing  
25 the notice of candidacy a resident of the judicial district as it will exist at the time the person  
26 would take office if elected. This subsection implements Section 9(1) of Article IV of the North  
27 Carolina Constitution, which requires regular superior court judges to reside in the district for  
28 which elected, Section 10 of Article IV of the North Carolina Constitution, which requires every  
29 district court judge to reside in the district for which elected, and G.S. 7A-60, which requires  
30 district attorneys to reside in the prosecutorial district for which elected.

31 **SECTION 4.(h)** Filing Fees. – Candidates shall pay filing fees as required by  
32 G.S. 163-107 and G.S. 163-107.1.

33 **SECTION 4.(i)** Failure of Candidates to File; Death or Other Disqualification of a  
34 Candidate; No Withdrawal From Candidacy. –

35 (1) Insufficient number of candidates. – If when the filing period expires,  
36 candidates have not filed for an office to be filled under this section, the State  
37 Board of Elections and Ethics Enforcement shall extend the filing period for  
38 five days for any such offices.

39 (2) Vacancies; reopening filing. – If only one or two candidates have filed for a  
40 single office, or the number of candidates filed for a group of offices does not  
41 exceed twice the number of positions to be filled, and thereafter a remaining  
42 candidate dies or otherwise becomes disqualified before the election and  
43 before the ballots are printed, the State Board of Elections and Ethics  
44 Enforcement shall, upon notification of the death or other disqualification,  
45 immediately reopen the filing period for an additional five days during which  
46 time additional candidates shall be permitted to file for election. If the ballots  
47 have been printed at the time the State Board of Elections and Ethics  
48 Enforcement receives notice of the candidate's death or other disqualification,  
49 the Board shall determine whether there will be sufficient time to reprint them  
50 before the election if the filing period is reopened for three days. If the Board  
51 determines that there will be sufficient time to reprint the ballots, it shall

1 reopen the filing period for three days to allow other candidates to file for  
2 election.

3 (3) Later vacancies; ballots not reprinted. – If the ballots have been printed at the  
4 time the State Board of Elections and Ethics Enforcement receives notice of a  
5 candidate's death or other disqualification, and if the Board determines that  
6 there is not enough time to reprint the ballots before the election if the filing  
7 period is reopened for three days, then regardless of the number of candidates  
8 remaining for the office or group of offices, the ballots shall not be reprinted  
9 and the name of the vacated candidate shall remain on the ballots. If a vacated  
10 candidate should poll the highest number of votes in the election for a single  
11 office or enough votes to be elected to one of a group of offices, the State  
12 Board of Elections and Ethics Enforcement shall declare the office vacant and  
13 it shall be filled in the manner provided by law.

14 (4) No withdrawal permitted of living, qualified candidate after close of filing. –  
15 After the close of the candidate filing period, a candidate who has filed a  
16 notice of candidacy for an office under this section, who has not withdrawn  
17 notice before the close of filing as permitted by subsection (c) of this section,  
18 who remains alive, and has not become disqualified for the office may not  
19 withdraw his or her candidacy. That candidate's name shall remain on the  
20 ballot, any votes cast for the candidacy shall be counted in primary or election,  
21 and if the candidate wins, the candidate may fail to qualify by refusing to take  
22 the oath of office.

23 (5) Death, disqualification, or failure to qualify after election. – If a person elected  
24 to the office of justice of the Supreme Court, judge of the Court of Appeals,  
25 superior or district court judge, or district attorney dies or becomes  
26 disqualified on or after election day and before that person has qualified by  
27 taking the oath of office, or fails to qualify by refusing to take the oath of  
28 office, the office shall be deemed vacant and shall be filled as provided by  
29 law.

30 **SECTION 4.(j)** Ballot Order. – For the 2018 general election, the State Board of  
31 Elections and Ethics Enforcement shall place elections for the offices elected as provided in this  
32 section with other partisan offices, as provided in G.S. 163-165.6(b)(3). Order of candidates for  
33 those offices shall be determined as provided in G.S. 163-165.6(c).

34 **SECTION 4.(k)** Determination of Election Winners. – A general election for all  
35 candidates seeking office as provided in this section shall be held on November 6, 2018. In the  
36 general election, the candidate for a single office receiving the highest number of votes shall be  
37 elected. Those candidates for a group of offices receiving the highest number of votes, equal in  
38 number to the number of positions to be filled, shall be elected. If two candidates receiving the  
39 highest number of votes each received the same number of votes, the State Board of Elections  
40 and Ethics Enforcement shall determine the winner by lot.

41 **SECTION 5.** This act becomes effective January 1, 2018, and applies to all primaries  
42 and elections held on or after that date.