

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 782
PROPOSED COMMITTEE SUBSTITUTE H782-PCS30396-ST-9

Short Title: Elections Certainty Act.

(Public)

Sponsors:

Referred to:

May 4, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE DATE AND TIME THAT MAIL-IN ABSENTEE BALLOTS
3 MUST BE RETURNED TO THE COUNTY BOARD IN ORDER TO BE COUNTED.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 163-231(b) reads as rewritten:

6 "(b) Transmitting Executed Absentee Ballots to County Board of Elections. – The sealed
7 container-return envelope in which executed absentee ballots have been placed shall be
8 transmitted to the county board of elections who issued those ballots as follows:

9 (1) All ballots issued under the provisions of this Article and Article 21A of this
10 Chapter shall be transmitted by mail or by commercial courier service, at the
11 voter's expense, or delivered in person, or by the voter's near relative or
12 verifiable legal guardian and received by the county board not later than 5:00
13 p.m. on the day of the statewide primary or general election or county bond
14 election. Ballots issued under the provisions of Article 21A of this Chapter
15 may also be electronically transmitted.

16 (2) If ballots are received later than the hour stated in subdivision (1) of this
17 subsection, those ballots shall not be accepted unless ~~one of the following~~
18 ~~applies: federal law so requires or the ballots are received in accordance with~~
19 Article 21A of this Chapter.

20 a. ~~Federal law so requires.~~

21 b. ~~The ballots issued under this Article are postmarked and that postmark~~
22 ~~is dated on or before the day of the statewide primary or general~~
23 ~~election or county bond election and are received by the county board~~
24 ~~of elections not later than three days after the election by 5:00 p.m.~~

25 e. ~~The ballots issued under Article 21A of this Chapter are received by~~
26 ~~the county board of elections not later than the end of business on the~~
27 ~~business day before the canvass conducted by the county board of~~
28 ~~elections held pursuant to G.S. 163-182.5."~~

29 **SECTION 2.(a)** G.S. 163-234 reads as rewritten:

30 **"§ 163-234. Counting absentee ballots by county board of elections.**

31 All absentee ballots returned to the county board of elections in the container-return
32 envelopes shall be retained by the board to be counted by the county board of elections as follows:

33 (1) Only those absentee ballots returned to the county board of elections no later
34 than 5:00 p.m. on ~~the day before~~ election day in a properly executed
35 container-return envelope or absentee ballots received pursuant to



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~~G.S. 163-231(b)(2)b. or c. G.S. 163-231(b)(2) shall be counted, except to the extent federal law requires otherwise counted.~~

- (2) The county board of elections shall meet at 5:00 p.m. on election day in the board office or other public location in the county courthouse for the purpose of counting all absentee ballots except those which have been challenged before 5:00 p.m. on election day and those received pursuant to ~~G.S. 163-231(b)(2)b. or c. G.S. 163-231(b)(2)~~. In addition, the county board of elections shall meet at 5:00 p.m. the day after election day in the board office or other public location in the county courthouse for the purpose of counting any remaining uncounted eligible mail-in absentee ballots that have not yet been counted. Any elector of the county shall be permitted to attend the ~~meeting~~ meetings and allowed to observe the counting process, so long as the elector does not in any manner interfere with the election officials in the discharge of their duties.

The county board of elections may begin counting absentee ballots issued under Article 21A of this Chapter between the hours of 9:00 a.m. and 5:00 p.m. and may begin counting all absentee ballots between the hours of 2:00 p.m. and 5:00 p.m. upon the adoption of a resolution at least two weeks prior to the election in which the hour and place of counting absentee ballots shall be stated. The resolution also may provide for an additional meeting following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to ~~G.S. 163-231(b)(2)b. or c. G.S. 163-231(b)(2)~~ as provided in subdivision (11) of this section. A copy of the resolution shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. Notice may additionally be made on a radio or television station or both, but the notice shall be in addition to the newspaper and other required notice. The count shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable necessity, except that if the count has been completed prior to the time the polls close, it shall be suspended until that time pending receipt of any additional ballots. Nothing in this section prohibits a county board of elections from taking preparatory steps for the count earlier than the times specified in this section, as long as the preparatory steps do not reveal to any individual not engaged in the actual count election results before the times specified in this subdivision for the count to begin. By way of illustration and not limitation, a preparatory step for the count would be the entry of tally cards from direct record electronic voting units into a computer for processing. The board shall not announce the result of the count before 7:30 p.m.

- ...
- (9) In the event a political party does not have a member of the county board of elections present at the meeting to count absentee ballots due to illness or other cause of the member, the counting shall not commence until the county party ~~chairman~~ chair of the absent member, or a member of the party's county executive committee, is in attendance. The person shall act as an official witness to the counting and shall sign the absentee ballot abstract as an "observer".

- ...
- (11) ~~The county board of elections shall meet after election day and prior to the date of canvass to determine whether the container return envelopes for absentee ballots received pursuant to G.S. 163-231(b)(2)b. or c. have been~~

1 properly executed. The county board of elections shall comply with the
2 requirements of G.S. 163-230.1 for approval of applications. Any absentee
3 ballots received pursuant to ~~G.S. 163-231(b)(2)b. or c.~~ G.S. 163-231(b)(2)
4 shall be counted by the county board of elections on the day of canvass. ~~The~~
5 ~~county board of elections may also meet following the day of the election and~~
6 ~~prior to the day of canvass to count absentee ballots received pursuant to~~
7 ~~G.S. 163-231(b)(2)b. or c. upon the adoption of a resolution pursuant to~~
8 ~~subdivision (2) of this section.~~ The county board of elections shall comply
9 with all other requirements of this section and G.S. 163-230.1 for the counting
10 of ~~these absentee ballots.~~ ballots received pursuant to G.S. 163-231(b)(2)."

11 **SECTION 2.(b)** G.S. 163-89(a) reads as rewritten:

12 "(a) Time for Challenge. – The absentee ballot of any voter received by the county board
13 of elections pursuant to G.S. 163-231(b)(1) may be challenged on the day of any statewide
14 primary or general election or county bond election beginning no earlier than noon and ending
15 no later than 5:00 P.M., or by the chief judge at the time of closing of the polls as provided in
16 G.S. 163-232 and G.S. 163-258.26(b). The absentee ballot of any voter received by the county
17 board of elections pursuant to ~~G.S. 163-231(b)(ii) or (iii)~~ G.S. 163-231(b)(2) may be challenged
18 ~~no earlier than noon on the day following the election and~~ no later than 5:00 p.m. on the next
19 business day following the deadline for receipt of such absentee ballots."

20 **SECTION 3.(a)** G.S. 163-227.10 reads as rewritten:

21 "**§ 163-227.10. Date by which absentee ballots must be available for voting.**

22 (a) A board of elections shall provide absentee ballots of the kinds needed ~~60-63~~ 63 days
23 prior to the statewide general election in even-numbered years and ~~50-53~~ 53 days prior to the date
24 on which any other election shall be conducted, unless 45 days is authorized by the State Board
25 under G.S. 163-22(k) or there shall exist an appeal before the State Board or the courts not
26 concluded, in which case the board shall provide the ballots as quickly as possible upon the
27 conclusion of such an appeal. Provided, in a presidential election year, the board of elections
28 shall provide general election ballots no later than three days after nomination of the presidential
29 and vice presidential candidates if that nomination occurs later than ~~63-66~~ 63 days prior to the
30 statewide general election and makes compliance with the ~~60-day-63-day~~ 63-day deadline impossible.
31 However, in the case of municipal elections, absentee ballots shall be made available no later
32 than 30 days before an election. In every instance the board of elections shall exert every effort
33 to provide absentee ballots, of the kinds needed by the date on which absentee voting is
34 authorized to commence.

35 (b) Second Primary. – The board of elections shall provide absentee ballots, of the kinds
36 needed, as quickly as possible after the ballot information for a second primary has been
37 determined."

38 **SECTION 3.(b)** G.S. 163-229 reads as rewritten:

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

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

43 (b) Application on Container-Return Envelope. – In time for use not later than ~~60-63~~ 63 days
44 before a statewide general election in an even-numbered year, and not later than ~~50-53~~ 53 days
45 before a statewide primary, other general election or county bond election, the county board of
46 elections shall print a sufficient number of envelopes in which persons casting absentee ballots
47 may transmit their marked ballots to the county board of elections. However, in the case of
48 municipal elections, sufficient container-return envelopes shall be made available no later than
49 30 days before an election. Each container-return envelope shall have printed on it an application
50 which shall be designed and prescribed by the State Board, providing for all of the following:

- 1 (1) The voter's certification of eligibility to vote the enclosed ballot and of having
2 voted the enclosed ballot in accordance with this Part.
- 3 (2) A space for identification of the envelope with the voter and the voter's
4 signature.
- 5 (3) A space for the identification of the two persons witnessing the casting of the
6 absentee ballot in accordance with G.S. 163-231, those persons' signatures,
7 and those persons' addresses.
- 8 (4) A space for the name and address of any person who, as permitted under
9 G.S. 163-226.3(a), assisted the voter if the voter is unable to complete and
10 sign the certification and that individual's signature.
- 11 (5) A space for approval by the county board of elections.
- 12 (6) A space to allow reporting of a change of name as provided by
13 G.S. 163-82.16.
- 14 (7) A prominent display of the unlawful acts under G.S. 163-226.3 and
15 G.S. 163-275, except if there is not room on the envelope, the State Board
16 may provide for that disclosure to be made on a separate piece of paper to be
17 included along with the container-return envelope.
- 18 (8) An area to attach additional documentation necessary to comply with the
19 identification requirements in accordance with State Board rules, as provided
20 in G.S. 163-230.1.
- 21 (9) A bar code or other unique identifier to allow both the county board of
22 elections and the voter to track the ballot following return of the voted ballot
23 to the county board of elections by the voter.

24 The container-return envelope shall be printed in accordance with the instructions of the State
25 Board, which shall prohibit the display of the voter's party affiliation on the outside of the
26 container-return envelope.

27 (c) Instruction Sheets. – In time for use not later than ~~60~~63 days before a statewide
28 general election in an even-numbered year, and not later than ~~50~~53 days before a statewide
29 primary, other general or county bond election, the county board of elections shall prepare and
30 print a sufficient number of sheets of instructions on how voters are to prepare absentee ballots
31 and return them to the county board of elections. However, in the case of municipal elections,
32 instruction sheets shall be made available no later than 30 days before an election."

33 **SECTION 3.(c)** G.S. 163-230.1(c) reads as rewritten:

34 "(c) Delivery of Absentee Ballots and Container-Return Envelope to Applicant. – When
35 the county board of elections receives a completed request form for applications and absentee
36 ballots from the voter, or the near relative or the verifiable legal guardian of that voter, the county
37 board shall promptly issue and transmit them to the voter in accordance with the following
38 instructions:

- 39 (1) On the top margin of each ballot the applicant is entitled to vote, the chair, a
40 member, officer, or employee of the board of elections shall write or type the
41 words "Absentee Ballot No. ____ " or an abbreviation approved by the State
42 Board and insert in the blank space the number assigned the applicant's
43 application in the register of absentee requests, applications, and ballots
44 issued. That person shall not write, type, or print any other matter upon the
45 ballots transmitted to the absentee voter. Alternatively, the board of elections
46 may cause to be barcoded on the ballot the voter's application number, if that
47 barcoding system is approved by the State Board.
- 48 (2) The chair, member, officer, or employee of the board of elections shall fold
49 and place the ballots (identified in accordance with the preceding instruction)
50 in a container-return envelope and write or type in the appropriate blanks
51 thereon, in accordance with the terms of G.S. 163-229(b), the absentee voter's

1 name, the absentee voter's application number, and the designation of the
2 precinct in which the voter is registered. If the ballot is barcoded under this
3 section, the envelope may be barcoded rather than having the actual number
4 appear. The person placing the ballots in the envelopes shall leave the
5 container-return envelope holding the ballots unsealed.

- 6 (3) The chair, member, officer, or employee of the board of elections shall then
7 place the unsealed container-return envelope holding the ballots together with
8 printed instructions for voting and returning the ballots, in an envelope
9 addressed to the voter at the post office address stated in the request, seal the
10 envelope, and mail it at the expense of the county board of elections: Provided,
11 that in case of a request received after 5:00 p.m. on the Tuesday before the
12 election under the provisions of subsection (b) of this section, in lieu of
13 transmitting the ballots to the voter in person or by mail, the chair, member,
14 officer, or employee of the board of elections may deliver the sealed envelope
15 containing the instruction sheet and the container-return envelope holding the
16 ballots to a near relative or verifiable legal guardian of the voter.

17 The county board of elections may receive completed written request forms for applications
18 at any time prior to the election but shall not mail applications and ballots to the voter or issue
19 applications and ballots in person earlier than ~~60-63~~ days prior to the statewide general election
20 in an even-numbered year, or earlier than ~~50-53~~ days prior to any other election, except as
21 provided in G.S. 163-227.2, 163-227.5, and 163-227.6. No election official shall issue
22 applications for absentee ballots except in compliance with this Article."

23 **SECTION 3.(d)** G.S. 163-22(k) reads as rewritten:

24 "(k) Notwithstanding the provisions contained in Article 20 or Article 21A of Chapter 163
25 the State Board of Elections shall be authorized, by resolution adopted prior to the printing of the
26 primary ballots, to reduce the time by which absentee ballots are required to be printed and
27 distributed for the primary election from ~~50-53~~ days to 45 days. This authority shall not be
28 authorized for absentee ballots to be voted in the general election, except if the law requires
29 ballots to be available for mailing ~~60-63~~ days before the general election, and they are not ready
30 by that date, the State Board of Elections shall allow the counties to mail them out as soon as
31 they are available."

32 **SECTION 4.** This act is effective when it becomes law and applies to elections held
33 on or after that date.