

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 326
PROPOSED COMMITTEE SUBSTITUTE S326-PCS45434-BK-9

Short Title: Election Day Integrity Act.

(Public)

Sponsors:

Referred to:

March 22, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE DATE BY WHICH MAIL-IN ABSENTEE BALLOTS MUST BE
3 RECEIVED BY THE COUNTY BOARD OF ELECTIONS IN ORDER TO BE COUNTED,
4 TO REQUIRE PUBLISHING OF THE DATE ABSENTEE BALLOTS ARE AVAILABLE
5 AND THE DEADLINE FOR REQUESTING AN ABSENTEE BALLOT, AND TO
6 PROVIDE FOR THE REPORTING OF BALLOTS BY THE COUNTY BOARDS OF
7 ELECTIONS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1.(a) G.S. 163-231(b) reads as rewritten:

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

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

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

24 a. ~~Federal law so requires.~~

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

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

33 SECTION 1.(b) G.S. 163-232.1(a) reads as rewritten:

34 "(a) The county board of elections shall prepare, or cause to be prepared, a list in at least
35 triplicate, of all absentee ballots issued under ~~Article 20 of this Chapter~~ this Article returned to
36 the county board of elections to be counted, which have been approved by the county board of



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1 elections, have not been included on the certified list prepared pursuant to G.S. 163-232, and
 2 ~~which have been postmarked by the day of the statewide primary or general election or county~~
 3 ~~bond election and have been~~ received by the county board of elections not later than ~~three days~~
 4 ~~after the election by 5:00 p.m. on the day of the statewide primary or general election or county~~
 5 ~~bond election.~~ The list shall be supplemented with new information each business day following
 6 the day of the election until the deadline for receipt of such absentee ballots. At the end of the
 7 list, the ~~chairman-chair~~ shall execute the following certificate under oath:

8 "State of North Carolina

9 County of _____

10 I, _____, ~~chairman-chair~~ of the _____ County Board of Elections, do hereby certify that the
 11 foregoing is a list of all executed absentee ballots to be voted in the election to be conducted on
 12 the _____ day of _____, which have been approved by the county board of elections and ~~which~~
 13 ~~have been postmarked by the day of the statewide primary or general election or county bond~~
 14 ~~election and have been~~ received by the county board of elections not later than ~~three days after~~
 15 ~~the election by 5:00 p.m. on the day of the statewide primary or general election or county bond~~
 16 ~~election.~~ I certify that the ~~chairman, chair,~~ member, officer, or employee of the board of elections
 17 has not delivered ballots for absentee voting to any person other than the voter, by mail or by
 18 commercial courier service or in person, except as provided by law, and have not mailed or
 19 delivered ballots when the request for the ballot was received after the deadline provided by law.

20 This the _____ day of _____, _____

21 _____
 22 (Signature of ~~chairman-chair~~
 23 county board of elections)

24 Sworn to and subscribed before me this _____ day of _____, _____.

25 Witness my hand and official seal.

26 _____
 27 (Signature of officer
 28 administering oath)

29 _____
 30 (Title of officer)""

31 **SECTION 1.(c)** G.S. 163-234 reads as rewritten:

32 **"§ 163-234. Counting absentee ballots by county board of elections.**

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

- 35 (1) Only those absentee ballots returned to the county board of elections no later than 5:00 p.m. on the day before election day in a properly executed
 36 container-return envelope or absentee ballots received pursuant to
 37 ~~G.S. 163-231(b)(2)b. or c. G.S. 163-231(b)(2)~~ shall be counted, ~~except to the~~
 38 ~~extent federal law requires otherwise counted.~~
- 39 (2) The county board of elections shall meet at 5:00 p.m. on election day in the
 40 board office or other public location in the county courthouse for the purpose
 41 of counting all absentee ballots except those which have been challenged
 42 before 5:00 p.m. on election day and those received pursuant to
 43 ~~G.S. 163-231(b)(2)b. or c. G.S. 163-231(b)(2).~~ Any elector of the county shall
 44 be permitted to attend the meeting and allowed to observe the counting
 45 process, so long as the elector does not in any manner interfere with the
 46 election officials in the discharge of their duties.
 47

48 The county board of elections may begin counting absentee ballots issued
 49 under Article 21A of this Chapter between the hours of 9:00 a.m. and 5:00
 50 p.m. and may begin counting all absentee ballots between the hours of 2:00
 51 p.m. and 5:00 p.m. upon the adoption of a resolution at least two weeks prior

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

22 ...

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

30 ...

31 (11) The county board of elections shall meet after election day and prior to the
 32 date of canvass to determine whether the container-return envelopes for
 33 absentee ballots received pursuant to ~~G.S. 163-231(b)(2)b. or e.~~
 34 G.S. 163-231(b)(2) have been properly executed. The county board of
 35 elections shall comply with the requirements of G.S. 163-230.1 for approval
 36 of applications. Any absentee ballots received pursuant to
 37 ~~G.S. 163-231(b)(2)b. or e.~~ G.S. 163-231(b)(2) shall be counted by the county
 38 board of elections on the day of canvass. The county board of elections may
 39 also meet following the day of the election and prior to the day of canvass to
 40 count absentee ballots received pursuant to ~~G.S. 163-231(b)(2)b. or e.~~
 41 G.S. 163-231(b)(2) upon the adoption of a resolution pursuant to subdivision
 42 (2) of this section. The county board of elections shall comply with all other
 43 requirements of this section and G.S. 163-230.1 for the counting of ~~these~~
 44 absentee ballots-ballots received pursuant to G.S. 163-231(b)(2)."

45 **SECTION 1.(d)** G.S. 163-89(a) reads as rewritten:

46 "(a) Time for Challenge. – The absentee ballot of any voter received by the county board
 47 of elections pursuant to G.S. 163-231(b)(1) may be challenged on the day of any statewide
 48 primary or general election or county bond election beginning no earlier than noon and ending
 49 no later than 5:00 P.M., or by the chief judge at the time of closing of the polls as provided in
 50 G.S. 163-232 and G.S. 163-258.26(b). The absentee ballot of any voter received by the county
 51 board of elections pursuant to ~~G.S. 163-231(b)(ii) or (iii)~~ G.S. 163-231(b)(2) may be challenged

1 no earlier than noon on the day following the election and no later than 5:00 p.m. on the next
2 business day following the deadline for receipt of such absentee ballots."

3 **SECTION 2.(a)** G.S. 163-227.10 is amended by adding a new subsection to read:

4 "(c) Each county board of elections and the State Board shall publish on its website and
5 on any materials sent to voters the date by which absentee ballots are available for voting."

6 **SECTION 2.(b)** G.S. 163-230.1 is amended by adding a new subsection to read:

7 "(a2) Publish Deadline for Written Request. – Each county board of elections and the State
8 Board shall publish on its website and on any materials sent to voters the date by which a
9 completed request form as described in subsection (a) of this section must be received by a county
10 board of elections."

11 **SECTION 3.** Article 20 of Chapter 163 of the General Statutes is amended by adding
12 a new section to read:

13 **§ 163-232.2. Ballot reporting.**

14 (a) Each county board of elections shall report the following to the State Board during
15 each day of the one-stop early voting period:

16 (1) The number of absentee ballots that have been spoiled due to the voter voting
17 in person at a one-stop voting site.

18 (2) The number of outstanding absentee ballots.

19 (b) From the day after the day of the election through the day after the receipt deadline
20 for absentee ballots, each county board of elections shall report the following to the State Board
21 by 5:00 P.M. each day:

22 (1) The number of absentee ballots that have been counted.

23 (2) The number of outstanding absentee ballots.

24 (3) The number of voted provisional ballots.

25 (c) The State Board shall publish each report received by a county board of elections
26 pursuant to this section on its website each day. Each list must be made publicly available and
27 published in a readable and usable format."

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