

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SENATE BILL 486
RATIFIED BILL

AN ACT TO MAKE VARIOUS CHANGES RELATED TO ELECTION LAWS.

The General Assembly of North Carolina enacts:

PART I. CRIMINAL RECORD CHECKS FOR STATE BOARD OF ELECTIONS AND ETHICS ENFORCEMENT

SECTION 1.(a) Subpart D of Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-968. Criminal record checks for employees and contractors of the State Board of Elections and Ethics Enforcement and county directors of elections.

(a) As used in this section, the term:

(1) "Current or prospective employee" means any of the following:

- a. A current or prospective permanent or temporary employee of the State Board or a current or prospective county director of elections.
- b. A current or prospective contractor with the State Board.
- c. An employee or agent of a current or prospective contractor with the State Board.
- d. Any other individual otherwise engaged by the State Board who has or will have the capability to update, modify, or change elections systems or confidential elections or ethics data.

(2) "State Board" means the State Board of Elections and Ethics Enforcement.

(b) The Department of Public Safety may provide to the Executive Director of the State Board a current or prospective employee's criminal history from the State and National Repositories of Criminal Histories. The Executive Director shall provide to the Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, a form signed by the current or prospective employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(d) The criminal history report shall be provided to the Executive Director of the State Board, who shall keep all information obtained pursuant to this section confidential to the State Board. A criminal history report obtained as provided in this section is not a public record under Chapter 132 of the General Statutes."

SECTION 1.(b) Subpart D of Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-969. Criminal record checks for employees of county boards of elections.



(a) As used in this section, the term:

(1) "Current or prospective employee" means a current or prospective permanent or temporary employee of a county board of elections.

(2) "State Board" means the State Board of Elections and Ethics Enforcement.

(b) The Department of Public Safety may provide to a county board of elections a current or prospective employee's criminal history from the State and National Repositories of Criminal Histories. The county board of elections shall provide to the Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, a form signed by the current or prospective employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

(d) The criminal history report shall be provided to the county board of elections, who shall keep all information obtained pursuant to this section confidential to the county board of elections, the county director of elections, the State Board, and the Executive Director of the State Board. A criminal history report obtained as provided in this section is not a public record under Chapter 132 of the General Statutes."

SECTION 1.(c) Article 1 of Chapter 163A of the General Statutes is amended by adding a new section to read:

"§ 163A-7. Criminal history record checks of current and prospective employees of the State Board and county directors of elections.

(a) As used in this section, the term "current or prospective employee" means any of the following:

(1) A current or prospective permanent or temporary employee of the State Board or a current or prospective county director of elections.

(2) An employee or agent of a current or prospective contractor with the State Board.

(3) Any other individual otherwise engaged by the State Board who has or will have the capability to update, modify, or change elections systems or confidential elections or ethics data.

(b) A criminal history record check shall be required of all current or prospective permanent or temporary employees of the State Board and all current or prospective county directors of elections, which shall be conducted by the Department of Public Safety as provided in G.S. 143B-968. The criminal history report shall be provided to the Executive Director, who shall keep all information obtained pursuant to this section confidential to the State Board, as provided in G.S. 143B-968(d). A criminal history report provided under this subsection is not a public record under Chapter 132 of the General Statutes.

(c) If the current or prospective employee's verified criminal history record check reveals one or more convictions, the conviction shall constitute just cause for not selecting the person for employment or for dismissing the person from current employment. The conviction shall not automatically prohibit employment.

(d) A prospective employee may be denied employment or a current employee may be dismissed from employment for refusal to consent to a criminal history record check or to submit fingerprints or to provide other identifying information required by the State or National

Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(e) A conditional offer of employment or appointment may be extended pending the results of a criminal history record check authorized by this section.

(f) A county board of elections shall require a criminal history record check of all current or prospective employees of the county board of elections, as defined in G.S. 163A-778(a)(1), who have or will have access to the statewide computerized voter registration system maintained under G.S. 163A-874 and for any additional position or function as the State Board may designate. The county director of elections shall provide the criminal history record of all current or prospective employees of the county board of elections required by this subsection or in designated positions to the Executive Director and State Board.

(g) Neither appointment as a precinct official or assistant under Part 4 of Article 16 of this Chapter nor employment at a one-stop early voting location shall require a criminal history record check unless the official, assistant, or employee performs a function designated by the State Board pursuant to subsection (f) of this section."

SECTION 1.(d) Part 2 of Article 16 of Chapter 163A of the General Statutes is amended by adding a new section to read:

"§ 163A-778. Criminal history record checks of current and prospective employees of county boards of elections.

(a) As used in this section, the term "current or prospective employee" means a current or prospective permanent or temporary employee of a county board of elections who has or will have access to the statewide computerized voter registration system maintained under G.S. 163A-874 or has a position or function designated by the State Board as provided in G.S. 163A-7(f).

(b) The county board of elections shall require a criminal history record check of all current or prospective employees, which shall be conducted by the Department of Public Safety as provided in G.S. 143B-969. The criminal history report shall be provided to the county board of elections. A county board of elections shall provide the criminal history record of all current or prospective employees required by G.S. 163A-7 to the Executive Director and the State Board. The criminal history report shall be kept confidential as provided in G.S. 143B-969(d) and is not a public record under Chapter 132 of the General Statutes.

(c) If the current or prospective employee's verified criminal history record check reveals one or more convictions, the conviction shall constitute just cause for not selecting the person for employment, or for dismissing the person from current employment. The conviction shall not automatically prohibit employment.

(d) The county board of elections may deny employment to or dismiss from employment a current or prospective employee who refuses to consent to a criminal history record check or to submit fingerprints or to provide other identifying information required by the State or National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the employment denial or the dismissal from employment.

(e) The county board of elections may extend a conditional offer of employment or appointment pending the results of a criminal history record check authorized by this section.

(f) Neither appointment as a precinct official or assistant under Part 4 of Article 16 of this Chapter nor employment at a one-stop early voting location shall require a criminal history record check unless the official, assistant, or employee performs a function designated by the State Board pursuant to G.S. 163A-7(f)."

SECTION 1.(e) G.S. 163A-774(b) reads as rewritten:

"(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10

days after receipt of the nomination. Thereafter, nomination, unless good cause exists to decline the appointment. The Executive Director may delay the issuance of appointment for a reasonable time if necessary to obtain a criminal history records check sought under G.S. 143B-968. The Executive Director shall apply the standards provided in G.S. 163A-7 in determining whether a nominee with a criminal history shall be selected. If the Executive Director determines a nominee shall not be selected and does not issue a letter of appointment, the decision of the Executive Director of the State Board shall be final unless the decision is, within 10 days from the official date on which it was made, deferred by the State Board. If the State Board defers the decision, then the State Board shall make a final decision on appointment of the director of elections and may direct the Executive Director to issue a letter of appointment. If an Executive Director issues a letter of appointment, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county board of elections. The specified duties and responsibilities shall include adherence to the duties delegated to the county board of elections pursuant to G.S. 163A-769. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board. In the event the Executive Director is recused due to an actual or apparent conflict of interest from rendering a decision under this section, the chair and vice-chair of the State Board shall designate a member of staff to fulfill those duties."

SECTION 1.(f) This section becomes effective August 1, 2018.

PART II. 2018 JUDICIAL ELECTIONS BALLOT INFORMATION

SECTION 2.(a) The General Assembly finds that both chambers of the General Assembly have carefully examined judicial redistricting and the forms of judicial selection with multiple committees considering various proposals of selection and new judicial district maps. The General Assembly finds that, to allow for more time to thoughtfully consider these changes, the General Assembly enacted S.L. 2017-214, the Electoral Freedom Act of 2017, which, among other items, provided for a one-time cancellation of partisan primaries for the offices of district court judge, superior court judge, judges of the Court of Appeals, and Supreme Court justices for the 2018 election cycle. The General Assembly finds that all elections for judges in 2018 were to be treated uniformly under S.L. 2017-214, the Electoral Freedom Act of 2017, while those changes were considered.

The General Assembly notes that election to these offices will be held under a plurality election system, with candidates running under a political party label on the ballot, without having gone through a party primary. The General Assembly finds that ballot language above the sections of election ballots regarding these impacted offices setting forth that the listed party affiliation is only the self-identified party of a candidate at the time of filing will aid voters' understanding of the 2018 judicial races.

SECTION 2.(b) For the 2018 general election, the State Board of Elections and Ethics Enforcement shall, notwithstanding G.S. 163A-1114(b)(2), list the following judicial offices at the end of all partisan offices listed on the general election ballot:

- (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.

SECTION 2.(c) Notwithstanding G.S. 163A-1112, immediately prior to the placement of the judicial offices listed in subsection (b) of this section on the ballot, the following information shall be printed:

"No primaries for judicial office were held in 2018. The information listed by each of the following candidates' names indicates only the candidates' party affiliation or unaffiliated status on their voter registration at the time they filed to run for office."

SECTION 2.(d) Except as provided in this section, ballot order for the judicial offices listed in subsection (b) of this section shall be as provided in Section 4(j) of S.L. 2017-214.

SECTION 2.(e) This section is effective when it becomes law and applies to the 2018 general election.

PART III. OTHER ELECTION CHANGES

SECTION 3.1. G.S. 150B-45 reads as rewritten:

"§ 150B-45. Procedure for seeking review; waiver.

(a) Procedure. – To obtain judicial review of a final decision under this Article, the person seeking review must file a petition within 30 days after the person is served with a written copy of the decision. The petition must be filed as follows:

- (1) Contested tax cases. – A petition for review of a final decision in a contested tax case arising under G.S. 105-241.15 must be filed in the Superior Court of Wake County.
- (2) Other final decisions. – A petition for review of any other final decision under this Article must be filed in the superior court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, in the county where the contested case which resulted in the final decision was filed.

(b) Waiver. – A person who fails to file a petition within the required time waives the right to judicial review under this Article. For good cause shown, however, the superior court may accept an untimely petition.

(c) Judicial Review for State Board of Elections and Ethics Enforcement. – For a stay entered pursuant to G.S. 150B-33(b)(6), the State Board of Elections and Ethics Enforcement may obtain judicial review of the temporary restraining order or preliminary injunction in the superior court of the county designated in subsection (a) of this section."

SECTION 3.2.(a) G.S. 163A-741 is amended by adding a new subsection to read:

"(j1) Notwithstanding G.S. 153A-98 or any other provision of law, all officers, employees, and agents of a county board of elections are required to give to the State Board, upon request, all information, documents, and data within their possession, or ascertainable from their records, including any internal investigation or personnel documentation and are required to make available, upon request pursuant to an investigation under subsection (d) of this section, any county board employee for interview and to produce any equipment, hardware, or software for inspection. These requirements are mandatory and shall be timely complied with as specified in a request made by any four members of the State Board."

SECTION 3.2.(b) G.S. 153A-98 is amended by adding a new subsection to read:

"(c5) Notwithstanding the requirements of this section, information shall be provided to the State Board of Elections and Ethics Enforcement from employee personnel records as provided in G.S. 163A-741."

SECTION 3.3. G.S. 163A-775 is amended by adding a new subsection to read:

"(e) In the event the Executive Director is recused due to an actual or apparent conflict of interest from rendering a decision under this section, the chair and vice-chair of the State Board shall designate a member of staff to fulfill those duties."

SECTION 3.4. G.S. 163A-953 reads as rewritten:

"§ 163A-953. General election participation by new political party.

In the first general election following the date on which a new political party qualifies under the provisions of G.S. 163A-950, it shall be entitled to have the names of its candidates for national, State, congressional, and local offices printed on the official ballots upon paying a filing fee equal to that provided for candidates for the office in G.S. 163A-979 or upon complying with the alternative available to candidates for the office in G.S. 163A-980.

For the first general election following the date on which it qualifies under G.S. 163A-950, a new political party shall select its candidates by party convention. An individual whose name appeared on the ballot in a primary election preliminary to the general election shall not be eligible to have that individual's name placed on the general election ballot as a candidate for the new political party for the same office in that year. Following adjournment of the nominating convention, but not later than the first day of July prior to the general election, the president of the convention shall certify to the State Board the names of persons chosen in the convention as the new party's candidates in the ensuing general election. Any candidate nominated by a new party shall be affiliated with the party at the time of certification to the State Board. The requirement of affiliation with the party will be met if the candidate submits at or before the time of certification as a candidate an application to change party affiliation to that party. The State Board shall print names thus certified on the appropriate ballots as the nominees of the new party. The State Board shall send to each county board of elections the list of any new party candidates so that the county board can add those names to the appropriate ballot."

SECTION 3.6. G.S. 163A-1114(b)(4) reads as rewritten:

"(4) When offices are in the same class, they shall be listed in alphabetical order by office name, or in numerical or alphabetical order by district name. Governor and Lieutenant Governor, in that order, shall be listed before other Council of State offices. The Supreme Court shall be listed before the Court of Appeals. Judicial offices and district attorney shall be listed, in that order, after other offices in the same class. Mayor shall be listed before other citywide offices. Chair of a board, where elected separately, shall be listed before other board seats having the same electorate. Chief Justice shall be listed before Associate Justices."

SECTION 3.6A. G.S. 163A-1115(a)(1) reads as rewritten:

"(1) That the vendor post a performance bond or letter of credit to cover damages resulting from defects in the voting system, expenses associated with State or federal decertification of the voting system, and to protect against the vendor's insolvency or financial inability to make State or federally mandated modifications or updates to the voting system. Damages may include, among other items, any costs of conducting a new county or statewide election attributable to those defects. The bond or letter of credit shall be maintained in the amount determined by the State Board as sufficient for the cost of a new statewide election or in the amount of ten million dollars (\$10,000,000), whichever is greater."

SECTION 3.7.(a) G.S. 163A-1115(c) reads as rewritten:

"(c) Only electronic poll books or ballot duplication systems that have been certified by the State Board in accordance with procedures and subject to standards adopted by the State Board, or which have been developed or maintained by the State Board, shall be permitted for use in elections in this State. Among other requirements as set by the State Board, the certification requirements shall require that a vendor meet at least all of the following elements:

- (1) That the vendor post a bond or letter of credit to cover damages resulting from defects in the electronic poll book or ballot duplication system. Damages may include, among other items, any costs of conducting a new election attributable to those defects.
- (2) That the vendor provide access to all of any information required to be placed in escrow by a vendor pursuant to G.S. 163A-1118 for review and examination by the State Board, the Department of Information Technology, the State chairs of each political party recognized under G.S. 163A-950, the purchasing county, and designees as provided in subdivision (9) of subsection (f) of this section.

- (3) That the vendor must quote a statewide uniform price for each unit of the equipment.
- (4) That the vendor must separately agree with the purchasing county that if it is granted a contract to provide software for an electronic poll books or ballot duplication system but fails to debug, modify, repair, or update the software as agreed or, in the event of the vendor having bankruptcy filed for or against it, the source code described in G.S. 163A-1118(a) shall be turned over to the purchasing county by the escrow agent chosen under G.S. 163A-1118(a)(1) for the purposes of continuing use of the software for the period of the contract and for permitting access to the persons described in subdivision (2) of this subsection for the purpose of reviewing the source code."

SECTION 3.7.(b) G.S. 163A-1118 is amended by adding a new subsection to read:

"(c) Definitions. – For the purposes of this section, the term "voting system" shall include an electronic poll book or a ballot duplication system."

SECTION 3.8.(a) G.S. 163A-1115 is amended by adding the following new subsections to read:

"(h) Neither certification of electronic poll books, ballot duplication systems, or voting systems under this section shall constitute a license under Chapter 150B of the General Statutes.

(i) The State Board in writing may decertify or otherwise halt the use of electronic poll books in North Carolina. Any such action is appealable only to the Superior Court of Wake County.

(j) No voting system used in any election in this State shall be connected to a network, and any feature allowing connection to a network shall be disabled. Prohibited network connections include the Internet, intranet, fax, telephone line, networks established via modem, or any other wired or wireless connection."

SECTION 3.8.(b) G.S. 150B-2(3) reads as rewritten:

"(3) "License" means any certificate, permit or other evidence, by whatever name called, of a right or privilege to engage in any activity, except licenses issued under Chapter 20 and Subchapter I of Chapter 105 of the General Statutes ~~and Statutes~~, occupational licenses, ~~licenses~~, and certifications of electronic poll books, ballot duplication systems, or voting systems under G.S. 163A-1115."

SECTION 3.9.(a) G.S. 163A-1388(a) reads as rewritten:

"(a) Class 2 Misdemeanors. — Any person who shall, in connection with any primary or election in this State, do any of the acts and things declared in this subsection to be unlawful, shall be guilty of a Class 2 misdemeanor. It shall be ~~unlawful~~ unlawful to do any of the following:

- (1) For any person to fail, as an officer or as a judge or chief judge of a primary or election, or as a member of any board of elections, to prepare the books, ballots, and return blanks which it is ~~his~~ the person's duty under the law to prepare, or to distribute the same as required by law, or to perform any other duty imposed upon ~~him~~ that person within the time and in the manner required by ~~law~~ law.
- (2) For any member, director, or employee of a board of elections to alter a voter registration application or other voter registration record without either the written authorization of the applicant or voter or the written authorization of the State ~~Board~~ Board.
- (3) For any person to continue or attempt to act as a judge or chief judge of a primary or election, or as a member of any board of elections, after having been legally removed from such position and after having been given notice of such ~~removal~~ removal.
- (4) For any person to break up or by force or violence to stay or interfere with the holding of any primary or election, to interfere with the possession of any

ballot box, election book, ballot, or return sheet by those entitled to possession of the same under the law, or to interfere in any manner with the performance of any duty imposed by law upon any election officer or member of any board of ~~elections~~;elections.

- (5) For any person to be guilty of any boisterous conduct so as to disturb any member of any election board or any chief judge or judge of election in the performance of ~~his-that person's~~ duties as imposed by ~~law~~;law.
- (6) For any person to bet or wager any money or other thing of value on any ~~election~~;election.
- (7) For any person, directly or indirectly, to discharge or threaten to discharge from employment, or otherwise intimidate or oppose any legally qualified voter on account of any vote such voter may cast or consider or intend to cast, or not to cast, or which ~~he-that voter~~ may have failed to ~~cast~~;cast.
- (8) For any person to publish in a newspaper or pamphlet or otherwise, any charge derogatory to any candidate or calculated to affect the candidate's chances of nomination or election, unless such publication be signed by the party giving publicity to and being responsible for such ~~charge~~;charge.
- (9) For any person to publish or cause to be circulated derogatory reports with reference to any candidate in any primary or election, knowing such report to be false or in reckless disregard of its truth or falsity, when such report is calculated or intended to affect the chances of such candidate for nomination or ~~election~~;election.
- (10) For any person to give or promise, in return for political support or influence, any political appointment or support for political ~~office~~;office.
- (11) For any ~~chairman~~-chair of a county board of elections or other returning officer to fail or neglect, willfully or of malice, to perform any duty, act, matter or thing required or directed in the time, manner and form in which said duty, matter or thing is required to be performed in relation to any primary, general or special election and the returns ~~thereof~~;thereof.
- (12) For any clerk of the superior court to refuse to make and give to any person applying in writing for the same a duly certified copy of the returns of any primary or election or of a tabulated statement to a primary or election, the returns of which are by law deposited in his office, upon the tender of the fees ~~therefor~~;therefor.
- (13) For any person willfully and knowingly to impose upon any blind or illiterate voter a ballot in any primary or election contrary to the wish or desire of such voter, by falsely representing to such voter that the ballot proposed to ~~him~~-the voter is such as ~~he desires~~;or the voter desires.
- (14) Except as authorized by G.S. 163A-878, for any person to provide false information, or sign the name of any other person, to a written report under ~~G.S. 163A-878~~; [or]G.S. 163A-878.
- (15) For any person to be compensated based on the number of forms submitted for assisting persons in registering to vote.
- (16) For any person who is not an elections official or who is not otherwise authorized by law to retain a registrant's signature, full or partial Social Security number, date of birth, or the identity of the public agency at which the registrant registered under G.S. 163A-884, any electronic mail address submitted under Part 2 of Article 17 of this Chapter, or drivers license number from any form described in G.S. 163-862 after submission of the form to the county board of elections or elections official."

SECTION 3.9.(b) This section becomes effective December 1, 2018, and applies to offenses committed on or after that date.

SECTION 3.10. G.S. 163A-1412(a) reads as rewritten:

"(a) Each ~~candidate,~~ candidate who has received funds or made payments or given consent for anyone else to receive funds or transfer anything of value for the purpose of bringing about that individual's nomination or election for office, political committee, and referendum committee shall appoint a treasurer and, under verification, report the name and address of the treasurer to the Board. Only an individual who resides in North Carolina shall be appointed as a treasurer. A candidate may appoint himself or herself or any other individual, including any relative except his or her spouse, as ~~his~~ the candidate's treasurer, and, upon failure to file report designating a treasurer, the candidate shall be concluded to have appointed himself or herself as treasurer and shall be required to personally fulfill the duties and responsibilities imposed upon the appointed treasurer and subject to the penalties and sanctions hereinafter provided."

SECTION 3.11.(a) Section 30.8 of S.L. 2013-281, as amended by Section 6(a) of S.L. 2015-103, reads as rewritten:

"**SECTION 30.8.** Any direct record electronic (DRE) voting systems currently certified by the State Board of Elections and Ethics Enforcement which do not use paper ballots shall be decertified and shall not be used in any election held on or after ~~September 1, 2019, for counties that use direct record electronic voting machines on election day as of January 1, 2015, and January 1, 2018, for all other counties.~~ December 1, 2019. Decertification of a DRE voting system that does not use paper ballots may not be appealed to the Superior Court of Wake County pursuant to ~~G.S. 163-165.7(b).~~ G.S. 163A-1115(d)."

SECTION 3.11.(b) Section 30.9 of S.L. 2013-281, as amended by Section 6(b) of S.L. 2015-103, reads as rewritten:

"**SECTION 30.9.** This Part becomes effective ~~September 1, 2019,~~ December 1, 2019, for counties that use direct record electronic voting machines on election day as of January 1, 2015. ~~This Part becomes effective for all other counties January 1, 2018, machines.~~"

PART IV. DUAL OFFICE HOLDING CHANGES

SECTION 4.(a) G.S. 160A-284 reads as rewritten:

"§ 160A-284. Oath of office; holding other offices.

(a) Each person appointed or employed as chief of police, policeman, or auxiliary policeman shall take and subscribe before some person authorized by law to administer oaths the oath of office required by Article VI, Sec. 7, of the Constitution. The oath shall be filed with the city clerk.

(b) The offices of ~~policeman, policeman and chief of police, and auxiliary policeman~~ police are hereby declared to be offices that may be held concurrently with any other appointive office pursuant to Article VI, Sec. 9, of the Constitution. The offices of policeman and chief of police are hereby declared to be offices that may be held concurrently with any elective office, other than elective office in the municipality employing the policeman or chief of police, pursuant to Section 9 of Article VI of the Constitution.

(c) The office of auxiliary policeman is hereby declared to be an office that may be held concurrently with any elective office or appointive office pursuant to Article VI, Sec. 9, of the Constitution."

SECTION 4.(b) This section is effective when it becomes law. Any policeman or chief of police having taken an oath of office to any elective office in this State prior to the effective date is not deemed to have resigned his or her position as a law enforcement officer due to the elective office.

PART V. TECHNICAL CHANGES TO G.S. 163A-2.

SECTION 5. G.S. 163A-2 is rewritten to read:

"§ 163A-2. Membership.

(a) The State Board shall consist of nine individuals registered to vote in North Carolina, appointed by the Governor, as follows:

- (1) Four individuals registered with the political party with the highest number of registered affiliates in the State, from a list of six nominees submitted by the State party chairs of that party.
- (2) Four individuals registered with the political party with the second highest number of registered affiliates in the State, from a list of six nominees submitted by the State party chairs of that party.
- (3) One individual not registered with either the political party with the largest number of registered affiliates in the State or of the political party with the second-largest number of registered affiliates in the State, from a list of two nominees selected by the other eight members of the State Board.

The number of registered affiliates shall be as reflected by the latest registration statistics published by the State Board. The Governor shall make all appointments promptly upon receipt of the list of nominees from each nominating entity and in no instance shall appoint later than 30 days after receipt of the list.

(b) Within 14 days of appointment by the Governor of the eight members appointed under subdivisions (1) and (2) of subsection (a) of this section, the eight members shall hold an initial appointment selection meeting for the sole purpose of selecting two nominees who meet the qualifications for appointment under subdivision (3) of subsection (a) of this section and shall promptly submit those names to the Governor. No additional actions, other than the oath of office, shall be taken by the eight members appointed under subdivisions (1) and (2) of subsection (a) of this section at the appointment selection meeting.

(c) Beginning on May 1 of the odd-numbered year, members shall serve for two-year terms.

(d) Members may be removed from the State Board by the Governor, acting in the Governor's discretion. Vacancies created on the State Board by removal from office by the Governor shall be filled in accordance with subsection (e) of this section.

(e) Any vacancy occurring on the State Board shall be filled by an individual meeting the same appointment criteria under subsection (a) of this section as the vacating member. Any vacancy occurring in the State Board shall be filled by the Governor, and the person so appointed shall fill the unexpired term. The Governor shall fill vacancies as follows:

- (1) For a vacancy for an appointment under subdivision (1) or (2) of subsection (a) of this section, the Governor shall fill the vacancy from a list of two names submitted by the State party chair of the political party with which the vacating member was affiliated if that list is submitted within 30 days of the occurrence of the vacancy.
- (2) For a vacancy for an appointment under subdivision (3) of subsection (a) of this section, the Governor shall fill the vacancy from a list of two names submitted by the remaining members of the State Board if that list is submitted within 30 days of the occurrence of the vacancy. The State Board shall hold a meeting within 21 days of the occurrence of the vacancy for the purpose of selecting two nominees for submission to the Governor to fill the vacancy.

(f) At the first meeting held after any new appointments are made, the members of the State Board shall take the following oath:

"I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain, and defend the Constitution of said State; and that I will well and truly execute the duties of the office of member of the Bipartisan State Board of

Elections and Ethics Enforcement according to the best of my knowledge and ability, according to law, so help me God."

(g) At the first meeting held after the appointment of the member under subdivision (3) of subsection (a) of this section, the State Board shall organize by electing one of its members chair and one of its members vice-chair, each to serve a two-year term as such. In 2017 and every four years thereafter, the chair shall be a member of the political party with the highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board, and the vice-chair a member of the political party with the second highest number of registered affiliates. In 2019 and every four years thereafter, the chair shall be a member of the political party with the second highest number of registered affiliates, as reflected by the latest registration statistics published by the State Board, and the vice-chair a member of the political party with the highest number of registered affiliates.

(h) At the first meeting held after the appointment under subdivision (3) of subsection (a) of this section, the State Board shall elect one of its members as secretary, to serve a two-year term as such.

(i) No person shall be eligible to serve as a member of the State Board who meets any of the following criteria:

- (1) Holds any elective or appointive office under the government of the United States, the State of North Carolina, or any political subdivision thereof.
- (2) Holds any office in a political party or organization.
- (3) Is a candidate for nomination or election to any office.
- (4) Is a campaign manager or treasurer of any candidate in a primary or election.
- (5) Has served two full consecutive terms.

(j) No person while serving on the State Board shall do any of the following:

- (1) Make a reportable contribution to a candidate for a public office over which the State Board would have jurisdiction or authority.
- (2) Register as a lobbyist under Article 8 of this Chapter.
- (3) Make written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the nomination or election of one or more clearly identified candidates for public office.
- (4) Make written or oral statements intended for general distribution or dissemination to the public at large supporting or opposing the passage of one or more clearly identified referendum or ballot issue proposals.
- (5) Solicit contributions for a candidate, political committee, or referendum committee.

(k) State Board members shall receive per diem, subsistence, and travel, as provided in G.S. 138-5 and G.S. 138-6."

PART VI. SEVERABILITY CLAUSE

SECTION 6. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

PART VII. EFFECTIVE DATE

SECTION 7. Except as otherwise provided herein, this act is effective when it becomes law and applies to elections held on or after that date.

In the General Assembly read three times and ratified this the 5th day of June, 2018.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Nelson Dollar
Presiding Officer of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2018