

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

S

1

SENATE BILL 749

Short Title: No Partisan Advantage in Elections. (Public)

Sponsors: Senators Daniel, P. Newton, and Hise (Primary Sponsors).

Referred to: Redistricting and Elections

June 13, 2023

A BILL TO BE ENTITLED

AN ACT TO REVISE THE STRUCTURES OF THE NORTH CAROLINA STATE BOARD OF ELECTIONS AND COUNTY BOARDS OF ELECTIONS, TO REVISE THE EMERGENCY POWERS OF THE EXECUTIVE DIRECTOR OF THE STATE BOARD OF ELECTIONS, AND TO MAKE VARIOUS CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

PART I. STATE BOARD OF ELECTIONS

SECTION 1.1. Effective January 1, 2025, the North Carolina State Board of Elections is transferred administratively to the Department of the Secretary of State. The transfer shall have all the elements of a Type II transfer, as described in G.S. 143A-6.

SECTION 1.2. G.S. 163-19 reads as rewritten:

"§ 163-19. State Board of Elections; appointment; term of office; vacancies; oath of office.

(a) There is established the State Board of Elections, which may be referred to as the "State Board" in this Chapter.

(b) ~~The State Board of Elections shall consist of five registered voters whose terms of office shall begin on May 1, 2019, and shall continue for four years, and until their successors are appointed and qualified. The Governor shall appoint the members of the State Board and likewise shall appoint their successors every four years at the expiration of each four-year term. Not more than three members of the State Board shall be members of the same political party. The Governor shall appoint the members from a list of nominees submitted to the Governor by the State party chair of each of the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board. Each party chair shall submit a list of four nominees who are affiliated with that political party-eight individuals registered to vote in North Carolina who are appointed by an act of the General Assembly as follows:~~

(1) Two members appointed by the President Pro Tempore of the Senate.

(2) Two members appointed by the Speaker of the House of Representatives.

(3) Two members appointed by the minority leader of the Senate.

(4) Two members appointed by the minority leader of the House of Representatives.

(b1) The State party chair of each of the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board shall submit to the General Assembly a list of four nominees who are affiliated with that political party. The General Assembly shall give due consideration to the nominations provided by the party chairs. However, the General Assembly is not required to appoint members from those lists



1 and may appoint any registered voter in the State. Members shall serve four-year terms, and until
2 their successors are appointed and qualified, beginning May 1 immediately following the
3 elections of the members of the Council of State. No person may serve more than two consecutive
4 four-year terms.

5 (c) Any vacancy occurring in the State Board shall be filled by the ~~Governor~~, initial
6 appointing authority, and the person so appointed shall fill the unexpired term. The ~~Governor~~
7 General Assembly shall fill the vacancy from a list of three nominees submitted ~~to the Governor~~
8 by the State party chair of the political party that nominated the vacating member as provided in
9 subsection ~~(b)~~ (b1) of this section. The three nominees must be affiliated with that political party.
10 However, the General Assembly is not required to appoint members from the lists of nominees
11 submitted.

12 ...

13 (e) After taking the prescribed oath, the State Board shall organize by electing one of its
14 members chair and another secretary. If for any reason a chair is not elected within 30 days from
15 the date new members are appointed to the State Board, the office may be filled by legislative
16 appointment in the same manner as vacancies arising under G.S. 96-15.3(e).

17"

18 **SECTION 1.3.** G.S. 163-20(d) reads as rewritten:

19 "(d) Quorum. – A majority of the members constitutes a quorum for the transaction of
20 business by the State Board of Elections. If any member of the Board fails to attend a meeting,
21 and by reason thereof there is no quorum, the members present shall adjourn from day to day for
22 not more than three days, by the end of which time, if there is no quorum, the ~~Governor~~ initial
23 appointing authority may summarily remove ~~any~~ the respective member failing to attend and
24 appoint ~~his~~ a successor."

25 **SECTION 1.4.** G.S. 163-25 reads as rewritten:

26 "**§ 163-25. Authority of State Board to assist in litigation.**

27 The State Board of Elections shall possess authority to assist any county board of elections
28 in any matter in which litigation is contemplated or has been initiated, provided, the county board
29 of elections in such county petitions, by majority resolution, for such assistance from the State
30 Board of Elections and, provided further, that the State Board of Elections determines, in its sole
31 discretion by majority vote, to assist in any such matter. It is further stipulated that the State
32 Board of Elections shall not be authorized under this provision to enter into any litigation in
33 assistance to counties, except in those instances where the uniform administration of this Chapter
34 has been, or would be threatened.

35 The Attorney General shall provide the State Board of Elections with legal assistance in
36 execution of its authority under this section or, in the Attorney General's discretion, recommend
37 that private counsel be employed.

38 If the Attorney General recommends employment of private counsel, the State Board may
39 employ counsel with the approval of the ~~Governor~~ General Assembly."

40 **SECTION 1.5.** G.S. 163-28 is repealed.

41 **SECTION 1.6.** G.S. 163-27(b) reads as rewritten:

42 "(b) The Executive Director shall serve beginning May 15 after the first meeting held after
43 new appointments to the State Board are made, unless removed for cause, until a successor is
44 appointed. If for any reason the position of Executive Director is not filled within 30 days from
45 the date new members are appointed to the State Board, the position may be filled by legislative
46 appointment in the same manner as vacancies arising under G.S. 96-15.3(e). Any vacancy
47 occurring in the position of Executive Director that is not filled by the State Board within 30 days
48 from the date the vacancy occurs shall be filled in the same manner as vacancies arising under
49 G.S. 96-15.3(e)."

50 **SECTION 1.7.** G.S. 163-27.1 reads as rewritten:

51 "**§ 163-27.1. Emergency powers.**

1 (a) The ~~Executive Director, as chief State elections official,~~ State Board, by affirmative
2 vote, may exercise emergency powers to conduct an election in a district where the normal
3 schedule for the election is disrupted by any of the following:

4 (1) A natural disaster.

5 (2) Extremely inclement weather.

6 (3) An armed conflict involving Armed Forces of the United States, or
7 mobilization of those forces, including North Carolina National Guard and
8 reserve components of the Armed Forces of the United States.

9 In exercising those emergency powers, the ~~Executive Director~~ State Board shall avoid
10 unnecessary conflict with the provisions of this Chapter. The ~~Executive Director~~ State Board
11 shall adopt rules describing the emergency powers and the situations in which the emergency
12 powers will be exercised.

13 (b) Nothing in this Chapter shall grant authority to the State Board ~~of Elections~~ to alter,
14 amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or
15 congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted
16 by the General Assembly.

17 (c) Nothing in this Chapter shall grant authority to the State Board ~~of Elections~~ to alter,
18 amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of
19 local government other than a plan imposed by a court, a plan enacted by the General Assembly,
20 or a plan adopted by the appropriate unit of local government under statutory or local act
21 authority.

22 (d) Under no circumstances shall the ~~Executive Director or the State Board of Elections~~
23 have the authority to do any of the following:

24 (1) Deliver absentee ballots to an eligible voter who did not submit a valid written
25 request form for absentee ballots as provided in G.S. 163-230.1 and
26 G.S. 163-230.2.

27 (2) Order an election to be conducted using all mail-in absentee ballots."
28

29 PART II. COUNTY BOARDS OF ELECTIONS

30 SECTION 2.1. G.S. 163-30 reads as rewritten:

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

33 (a) In every county of the State there shall be a county board of elections, to consist of
34 ~~five~~ four persons of good moral character who are registered voters in the county in which they
35 are to act. Members of county boards of elections shall be appointed by the ~~State Board of~~
36 ~~Elections~~ General Assembly on the last Tuesday in June, and every two years thereafter, and their
37 terms of office shall continue for two years from the specified date of appointment and until their
38 successors are appointed and qualified. ~~Four members of county boards of elections shall be~~
39 ~~appointed by the State Board on the last Tuesday in June and every two years thereafter, and their~~
40 ~~terms of office shall continue for two years from the specified date of appointment and until their~~
41 ~~successors are appointed and qualified. One member of the county boards of elections shall be~~
42 ~~appointed by the Governor to be the chair of the county board on the last Tuesday in June and~~
43 ~~every two years thereafter, and that member's term of office shall continue for two years from~~
44 ~~the specified date of appointment and until a successor is appointed and qualified. Of the~~
45 ~~appointments to each county board of elections by the State Board, two members each shall~~
46 ~~belong to the two political parties having the highest number of registered affiliates as reflected~~
47 ~~by the latest registration statistics published by the State Board, qualified, as follows:~~

48 (1) One member appointed by the President Pro Tempore of the Senate.

49 (2) One member appointed by the Speaker of the House of Representatives.

50 (3) One member appointed by the minority leader of the Senate.

1 (4) One member appointed by the minority leader of the House of
2 Representatives.

3 ...

4 (c) The State chair of the two political parties having the highest number of registered
5 affiliates as reflected by the latest registration statistics published by the State Board shall have
6 the right to recommend to the ~~State Board~~ respective appointing authority three registered voters
7 in each county for appointment to the board of elections for that county. If such recommendations
8 are received by the ~~State Board~~ appointing authority 15 or more days before the last Tuesday in
9 June 2019, and each two years thereafter, ~~it shall be the duty of the State Board to appoint the~~
10 ~~county boards from the names thus recommended.~~ the appointing authority shall give due
11 consideration to the recommendations provided but is not required to appoint members from
12 those recommendations and may appoint any registered voter who is otherwise ineligible under
13 this section.

14 (c1) At the first meeting in July, annually, the county boards shall organize by electing one
15 of its members chair to serve a one-year term. If for any reason a chair is not elected within 15
16 days from the date new members are appointed to the county board, the office may be filled by
17 legislative appointment.

18 (d) Whenever a vacancy occurs in the membership of a county board of elections for any
19 cause the State chair of the political party of the vacating member shall have the right to
20 recommend two registered voters of the affected county for such office, and it shall be the duty
21 of the ~~State Board~~ appointing authority to fill the vacancy from the names thus recommended.

22 "

23

24 PART III. CONFORMING STATUTORY CHANGES

25 **SECTION 3.1.** G.S. 163-182.6 reads as rewritten:

26 "**§ 163-182.6. Abstracts.**

27 (a) Abstracts to Be Prepared by County Board of Elections. – As soon as the county
28 canvass has been completed, the county board of elections shall prepare abstracts of all the ballot
29 items in a form prescribed by the State Board of Elections. The county board shall prepare those
30 abstracts in triplicate originals. The county board shall retain one of the triplicate originals, and
31 shall distribute one each to the clerk of superior court for the county and the State Board of
32 Elections. The State Highway Patrol may, upon request of the State Board of Elections, be
33 responsible for the delivery of the abstracts from each county to the State Board of Elections.
34 The State Board of Elections shall ~~forward~~ provide the original abstract it receives to the
35 Secretary of State.

36 (b) Composite Abstracts to Be Prepared by the State Board of Elections. – As soon as the
37 State canvass has been completed, the State Board shall prepare composite abstracts of all those
38 ballot items. It shall prepare those composite abstracts in duplicate originals. It shall retain one
39 of the originals and ~~shall send~~ the other original ~~to~~ shall be kept by the Secretary of State.

40 "

41 **SECTION 3.2.** G.S. 163-182.13(a) reads as rewritten:

42 "(a) When State Board May Order New Election. – The State Board of Elections may
43 order a new election, upon agreement of ~~at least four~~ a majority of its members, in the case of
44 any one or more of the following:

45 (1) Ineligible voters sufficient in number to change the outcome of the election
46 were allowed to vote in the election, and it is not possible from examination
47 of the official ballots to determine how those ineligible voters voted and to
48 correct the totals.

49 (2) Eligible voters sufficient in number to change the outcome of the election
50 were improperly prevented from voting.

1 (3) Other irregularities affected a sufficient number of votes to change the
2 outcome of the election.

3 (4) Irregularities or improprieties occurred to such an extent that they taint the
4 results of the entire election and cast doubt on its fairness."

5 **SECTION 3.3.** G.S. 163-182.15(c) reads as rewritten:

6 "(c) Copy to for Secretary of State. – ~~The State Board of Elections shall provide to the~~
7 ~~Secretary of State a copy of each certificate of nomination or election, or certificate of the results~~
8 ~~of a referendum, issued by it.~~ The Secretary of State shall keep a copy of each certificate of
9 nomination or election, or certificate of results of a referendum, issued by the State Board of
10 Elections. The Secretary shall keep the certificates in a form readily accessible and useful to the
11 public."

12 **SECTION 3.4.** G.S. 163-182.17(d)(8) reads as rewritten:

13 "(8) Retain one original of the composite abstract and ~~deliver to~~ provide the
14 Secretary of State with the other original composite abstract of the results of
15 ballot items within the jurisdiction of the State Board of Elections.
16 G.S. 163-182.6."

17 **SECTION 3.5.** Notwithstanding G.S. 163-19, as amended by Section 1.2 of this act,
18 the chairs of the two political parties shall submit a list of names to the General Assembly on or
19 before April 20, 2025, and the General Assembly shall make appointments to the State Board of
20 Elections from those lists no later than May 1, 2025. After members of the State Board of
21 Elections are appointed, a chair of the State Board of Elections and an Executive Director shall
22 be appointed in accordance with this act.

23 **SECTION 3.6.** Notwithstanding G.S. 163-30, as amended by Section 2.1 of this act,
24 the chairs of the two political parties shall submit a list of names to the General Assembly on or
25 before June 9, 2025, and the General Assembly shall make appointments to the county boards of
26 elections from those lists no later than June 24, 2025.

27 **PART IV. SEVERABILITY CLAUSE**

28 **SECTION 4.1.** If any provision of this act or its application to any person, group of
29 persons, or circumstances is held invalid, the invalidity does not affect other provisions or
30 applications of this act that can be given effect without the invalid provisions or application and,
31 to this end, the provisions of this act are severable.
32

33 **PART V. EFFECTIVE DATE**

34 **SECTION 5.1.** Except as otherwise provided, this act is effective when it becomes
35 law.
36