

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1240\*

Short Title: Precinct Change Amendments.

(Public)

Sponsors: Representatives Fitch; Bowen, Bowman, and Sam Hunt.

Referred to: Legislative and Local Redistricting.

May 10, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE NECESSARY STATUTORY CHANGES TO KEEP CURRENT  
3 THE LEGISLATIVE REDISTRICTING SYSTEM AND TO MAKE AN  
4 APPROPRIATION THEREFOR.

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 12A of Chapter 163 of the General Statutes reads as  
7 rewritten:

8 "ARTICLE 12A.  
9 "PRECINCT BOUNDARIES.

10 "§ 163-132.1: Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1074, s. 2.

11 "§ 163-132.2. Establishment of precinct boundaries for 1990 Census.

12 (a) The Legislative Services Office as soon as it receives the U.S. Census  
13 Bureau's official census block maps to be used in the 1990 U.S. Census shall send the  
14 relevant copies of those maps to county boards of elections. After receiving copies of  
15 those maps, the county boards of election shall:

16 (1) Alter, where necessary, precinct boundaries to be coterminous with  
17 township boundaries, municipal boundaries, census block boundaries,  
18 or a combination of those boundaries provided that if, as a result of the  
19 alteration, the polling place is no longer in the precinct, it may  
20 continue to be the polling place as long as the lot or tract on which the  
21 polling place is situated adjoins the precinct;

22 (1a) Alter, where necessary, precinct boundaries so that each precinct is  
23 composed solely of contiguous territory, except where the operation of

- 1 G.S. 163-132.5A has caused a precinct to be divided into two or more  
2 non-contiguous areas.
- 3 (2) Mark all precinct boundaries on the maps sent by the Legislative  
4 Services Office, showing the precinct boundaries in effect as of the  
5 time of marking, but with any changes effective at a later time as  
6 provided by subsection (d) of this section; and
- 7 (3) File at a time deemed necessary by the Executive Secretary-Director of  
8 the State Board of Elections with the State Board and the Legislative  
9 Services Office the maps identifying the precinct boundaries. The  
10 Executive Secretary-Director may require a county board of elections  
11 to file a written description of the boundaries of any precinct or part  
12 thereof.

13 Provided, where a precinct boundary has been or is to be altered because of the  
14 operation of G.S. 163-132.5A, the boundary on the map shall be shown as in effect on  
15 the date reported through the U.S. Census Bureau's 1988 Boundary and Annexation  
16 Survey of the underlying municipal boundary on the map, but the fact that the boundary  
17 has been or is to be moved because of an intervening annexation shall be reported to the  
18 Executive Secretary-Director of the State Board of Elections and Legislative Services  
19 Office.

20 (b) The Executive Secretary-Director of the State Board of Elections and the  
21 Legislative Services Office shall examine the returned maps and their written  
22 descriptions. After its examination of the maps and their written descriptions, the  
23 Legislative Services Office shall submit to the Executive Secretary-Director of the State  
24 Board of Elections its opinion as to whether all precinct boundaries are coterminous  
25 with current township boundaries, current municipal boundaries, census block  
26 boundaries, or a combination of those boundaries, with notations as to where those  
27 boundaries do not comply with these standards. If the Executive Secretary-Director of  
28 the State Board determines that all precinct boundaries are coterminous with current  
29 township boundaries, current municipal boundaries, census block boundaries, or a  
30 combination of those boundaries, the Executive Secretary-Director of the State Board  
31 shall approve the maps and written descriptions as filed and these precincts shall be the  
32 official precincts. Additionally, the Legislative Services Office shall submit to the  
33 Executive Secretary-Director of the State Board of Elections its opinion as to whether  
34 each precinct is composed solely of contiguous territory.

35 (c) If the Executive Secretary-Director of the State Board does not find that the  
36 filed precinct boundaries are coterminous with the current township boundaries, current  
37 municipal boundaries, census block boundaries, or a combination of those boundaries,  
38 he shall not approve those precinct boundaries but shall alter the precinct boundaries to  
39 be coterminous with the census block boundaries, municipal boundaries or township  
40 boundaries nearest to those existing precinct boundaries and these altered precincts shall  
41 then be the official precincts. If the Executive Secretary-Director of the State Board  
42 finds that a precinct does not consist solely of contiguous territory, he shall alter the  
43 precinct boundary so that it consists solely of contiguous territory, except where the  
44 non-contiguity is caused by the operation of G.S. 163-132.5A.

1 (d) The changes in precinct boundaries under subsections (b) and (c) of this  
2 section shall be made effective not later than January 1, 1992.

3 (e) After the Executive Secretary-Director of the State Board approves or alters  
4 the precincts filed by the county boards and before January 2, 1990, no county board of  
5 elections may establish, alter, discontinue, or create any precinct except for the  
6 following:

7 (1) Changes resulting from G.S. 163-132.5A;

8 (2) Division of one precinct into two or more precincts; or

9 (3) With the consent of the Executive Secretary-Director of the State  
10 Board of Elections, changes of boundaries that the U.S. Census Bureau  
11 has identified for the Legislative Services Office as not being  
12 coterminous with census block boundaries, township boundaries,  
13 municipal boundaries, or a combination of these boundaries, provided  
14 that the boundaries are made so coterminous. The Executive  
15 Secretary-Director shall consult with the Legislative Services Office  
16 prior to consenting to precinct changes under this subdivision.

17 (f) The State shall request that the U.S. Census Bureau provide summaries of  
18 census data by precinct, and shall participate in the 1990 Census Redistricting Data  
19 Program. When the State files with the Census Bureau precinct maps, ~~those the precinct~~  
20 boundaries shall be those effective at the date of submission, ~~but with any change with a~~  
21 ~~postponed effective date made under subsection (d) of this section or made under G.S. 163-~~  
22 ~~132.5A, except for the following:~~

23 (1) Boundaries with an effective date postponed pursuant to subsection  
24 (d);

25 (2) Boundaries changed by the operation of G.S. 163-132.5A; and

26 (3) Boundaries changed in Mecklenburg, Guilford, and Wake counties by  
27 the boards of elections of those counties to correct boundaries reported  
28 by the Census Bureau as precinct boundaries; provided, however, that  
29 this subdivision shall apply only to those boundaries submitted to the  
30 Legislative Services Office and recorded in the Legislative Services  
31 Office's automated redistricting system as of May 1, 1991.

32 In any case where the precinct includes non-contiguous portions because of the  
33 operation of G.S. 163-132.5A, the Executive Secretary-Director of the State Board of  
34 Elections shall designate those areas for census data purposes as separate precincts.

35 **"§ 163-132.3. Alterations to precinct boundaries after January 1, 1990.**

36 (a) No county board of elections, after January 1, 1990, may change any precinct  
37 boundary unless the new boundaries are coterminous with those of:

38 (1) Townships, municipalities, as certified by the county manager on the  
39 official map of the county; the

40 (2) The census blocks established under the latest U.S. Census, or Census;

41 (3) Named roads and streets and drainage features of 40 feet or more in  
42 width as certified by the North Carolina Department of Transportation  
43 on its highway maps or the planning department of the relevant  
44 county;

1           (4) Municipalities, as certified by the city clerk on the official map of the  
2           city; or

3           (5) A combination of these boundaries.

4           The county boards of elections shall report precinct boundary changes by filing with  
5 the Executive Secretary-Director of the State Board on current official census maps or  
6 maps certified by the North Carolina Department of Transportation or the county's  
7 planning department the new boundaries of these precincts. The Executive Secretary-  
8 Director may require a county board of elections to file a written description of the  
9 boundaries of any precinct or part thereof. No newly created or altered precinct  
10 boundary occurring after January 1, 1990, is effective until approved by the Executive  
11 Secretary-Director of the State Board as being ~~coterminous with the boundaries of~~  
12 ~~townships, municipalities, census blocks established by the then latest U.S. Census, or a~~  
13 ~~combination of those boundaries.~~ in compliance with this subsection.

14           (b) The Executive Secretary-Director of the State Board of Elections and the  
15 Legislative Services Office shall examine the maps of the proposed new or altered  
16 precincts and any required written descriptions. After its examination of the maps and  
17 their written descriptions, the Legislative Services Office shall submit to the Executive  
18 Secretary-Director of the State Board of Elections its opinion as to whether all of the  
19 proposed precinct boundaries are in compliance with subsection (a) of this section, with  
20 notations as to where those boundaries do not comply with these standards. If the  
21 Executive Secretary-Director of the State Board determines that all precinct boundaries  
22 are coterminous as required, the Executive Secretary-Director of the State Board shall  
23 approve the maps and written descriptions as filed and these precincts shall be the  
24 official precincts. Additionally, the Legislative Services Office shall submit to the  
25 Executive Secretary-Director of the State Board of Elections its opinion as to whether  
26 each precinct is composed solely of contiguous territory.

27           (c) If the Executive Secretary-Director of the State Board does not find that the  
28 proposed precinct boundaries are coterminous as required by this section, he shall not  
29 approve those precinct boundaries. He shall notify the county board of elections of his  
30 disapproval specifying the reasons. The county board of elections may then resubmit  
31 new precinct maps and written descriptions to cure the reasons for their disapproval.

32 **"§ 163-132.4. Directives.**

33           The Executive Secretary-Director of the State Board of Elections may promulgate  
34 directives concerning its duties and those of the county boards of elections under this  
35 Article.

36 **"§ 163-132.5. Cooperation of State and local agencies.**

37           The State Budget Office, the Department of Transportation and county and  
38 municipal planning departments shall cooperate and assist the Legislative Services  
39 Office, the Executive Secretary-Director of the State Board of Elections and the county  
40 boards of elections in the implementation of this Article.

41 **"§ 163-132.5A. Precinct boundaries.**

42           (a) Whenever an annexation ordinance adopted under Parts 1, 2, or 3 of Article  
43 4A of Chapter 160A of the General Statutes, or a local act of the General Assembly  
44 annexing property to a municipality, becomes effective during the period beginning

1 with the date of the annexation as reported through the U.S. Census Bureau's 1988  
2 Boundary and Annexation Survey and ending October 31, 1989, and any part of the  
3 boundary of the area being annexed which is actually contiguous to the city is also a  
4 precinct boundary for elections administered by the county board of elections then the  
5 annexed area is automatically moved into the 'city precinct', provided that if the annexed  
6 area is adjacent to more than one city precinct, the board of elections shall place the area  
7 in any one or more of the adjacent city precincts. The county board of elections may  
8 delay the effective date of any change under this subsection to a date not later than  
9 January 1, 1992.

10 (b) Repealed by Session Laws 1989, c. 770, s. 75.3. (1987, c. 715, s. 4; 1987  
11 (Reg. Sess., 1988), c. 1074, s. 2; 1989, c. 440, s. 3, c. 770, s. 75.3.)

12 **"§ 163-132.5B. Exemption from Administrative Procedure Act.**

13 The State Board of Elections is exempt from the provisions of Chapter 150B of the  
14 General Statutes while acting under the authority of this Article. Appeals from a final  
15 decision of the Executive Secretary-Director of the State Board of Elections under this  
16 Article shall be taken to the State Board of Elections within 30 days of that decision.  
17 The State Board shall approve, disapprove or modify the Executive Secretary's decision  
18 within 30 days of receipt of notice of appeal. Failure of the State Board to act within 30  
19 days of receipt of notice of appeal shall constitute a final decision approving that of the  
20 Executive Secretary. Appeals from a final decision of the State Board under this Article  
21 shall be taken to the Superior Court of Wake County.

22 **"§ 163-132.5C. Local acts.**

23 (a) Notwithstanding the provisions of any local act, a county board of elections  
24 need not have the approval of any other county board or commission to make precinct  
25 boundary changes required by this Article.

26 (b) Notwithstanding G.S. 163-128, precinct boundaries established, retained or  
27 changed under this Article may cross township lines.

28 **"§ 163-132.5D. Retention of precinct maps.**

29 The Executive Secretary-Director of the State Board of Elections shall retain the  
30 maps and written descriptions which he approves pursuant to G.S. 163-132.3.

31 **"§ 163-132.5E. Precinct voter statistics filed with the Legislative Services Office.**

32 No later than January 31 of each year, the chairman of the county board of elections  
33 shall file with the Executive Secretary-Director of the State Board of Elections a listing  
34 of each precinct in the county as of January 1 of that year and the number of voters  
35 registered therein by party and race. The Executive Secretary-Director shall send to the  
36 Legislative Services Office copies of each listing received under their section.

37 For reports filed on or after January 1, 1996, the county board of elections shall list  
38 also for each of its precincts the number of voters registered by each party; with a  
39 numerical breakdown, as to race of the registered voters of each party.

40 **"§ 163-132.6. Applicability of Article.**

41 ~~This Article applies only to counties with a population of 55,000 or over, according~~  
42 ~~to the 1980 decennial federal census and to any other county whose board of elections~~  
43 ~~adopts not later than October 1, 1988, a resolution indicating a desire to participate in~~  
44 ~~the program established by this Article, which resolution shall only become effective if~~

1 received by the Executive Secretary Director and approved by him on or before October  
2 15, 1988. The Executive Secretary Director shall approve the resolution if, after  
3 consultation with the Legislative Services Office, he determines that available resources  
4 exist to map the precincts of the county applying while doing the work for the mandated  
5 counties. A county approved to participate in the program may discontinue its  
6 participation if it so indicates by a resolution received by the Executive Secretary  
7 Director on or before February 1, 1989. Counties voluntarily participating in this  
8 Article are bound by all the provisions of this Article. the following counties:  
9 Alamance, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham, Chowan,  
10 Cleveland, Craven, Cumberland, Davidson, Duplin, Durham, Edgecombe, Forsyth,  
11 Gaston, Granville, Guilford, Halifax, Harnett, Henderson, Iredell, Johnston, Jones,  
12 Lenoir, Mecklenburg, Nash, New Hanover, Onslow, Orange, Pender, Pitt, Randolph,  
13 Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Surry, Union, Wake,  
14 Washington, Wayne, Wilkes, Wilson, and Yancey.

15 "§§ 163-133, 163-134: **Reserved for future codification purposes.**"

16 Sec. 2. G.S. 163-192 reads as rewritten:

17 **"§ 163-192. State Board of Elections to prepare abstracts and declare results of**  
18 **primaries and elections.**

19 (a) After Primary. – At the conclusion of its canvass of the primary election, the  
20 State Board of Elections shall prepare separate abstracts of the votes cast:

- 21 (1) For Governor and all State officers, justices of the Supreme Court,  
22 judges of the Court of Appeals, judges of the superior court, and  
23 United States Senators.
- 24 (2) For members of the United States House of Representatives for the  
25 several congressional districts in the State.
- 26 (3) For district court judges for the several district court districts in the  
27 State.
- 28 (4) For district attorney in the several prosecutorial districts in the State.
- 29 (5) For State Senators in the several senatorial districts in the State  
30 composed of more than one county.
- 31 (6) For members of the State House of Representatives in the several  
32 representative districts in the State composed of more than one county.

33 Abstracts prepared by the State Board of Elections under this subsection shall state  
34 the total number of votes cast for each candidate of each political party for each of the  
35 various offices canvassed by the State Board of Elections. They shall also state the  
36 name or names of the person or persons whom the State Board of Elections shall  
37 ascertain and judicially determine by the count to be nominated for each office.

38 Abstracts prepared under this subsection shall be signed by the members of the State  
39 Board of Elections in their official capacity and shall have the great seal of the State  
40 affixed thereto.

41 (b) After General Election. – At the conclusion of its canvass of the general  
42 election, the State Board of Elections shall prepare abstracts of the votes cast:

- 43 (1) For President and Vice-President of the United States, when an  
44 election is held for those offices.

- 1 (2) For Governor and all State officers, justices of the Supreme Court,  
2 judges of the Court of Appeals, judges of the superior court, and  
3 United States Senators.  
4 (3) For members of the United States House of Representatives for the  
5 several congressional districts in the State.  
6 (4) For district court judges for the several district court district as defined  
7 in G.S. 7A-133 in the State.  
8 (5) For district attorney in the several prosecutorial districts in the State.  
9 (6) For State Senators in the several senatorial districts in the State  
10 composed of more than one county.  
11 (7) For members of the State House of Representatives in the several  
12 representative districts in the State composed of more than one county.  
13 (8) For and against any constitutional amendments or propositions  
14 submitted to the people.

15 Abstracts prepared by the State Board of Elections under this subsection shall state  
16 the names of all persons voted for, the office for which each received votes, and the  
17 number of legal ballots cast for each candidate for each office canvassed by the State  
18 Board of Elections. They shall also state the name or names of the person or persons  
19 whom the State Board of Elections shall ascertain and judicially determine by the count  
20 to be elected to each office.

21 Abstracts prepared under this subsection shall be signed by the members of the State  
22 Board of Elections in their official capacity and shall have the great seal of the State  
23 affixed thereto.

24 (c) Disposition of Abstracts of Returns. – The State Board of Elections shall file  
25 with the Secretary of State the original abstracts of returns prepared by it under the  
26 provisions of subsections (a) and (b) of this section, and also the duplicate county  
27 abstracts transmitted to the State Board of Elections under the provisions of G.S. 163-  
28 177. The State Board of Elections shall file a copy of the original abstracts of returns  
29 prepared by it with the Legislative Services Office at the same time that it files the  
30 original with the Secretary of State."

31 Sec. 3. G.S. 163-132.2 and G.S. 163-132.5A are repealed, however, the  
32 precincts created under these provisions are not affected by their repeal.

33 Sec. 4. There is appropriated from the General Fund to the Legislative  
34 Services Commission for the 1991-92 fiscal year the sum of \$20,000 and for the 1992-  
35 93 fiscal year the sum of \$20,000 to implement its responsibilities under this act.

36 Sec. 5. Section 3 of this act becomes effective on January 2, 1992. The rest  
37 of this act becomes effective on July 1, 1991.