

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1119\*

Short Title: Friday Canvass.

(Public)

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Sponsors: Senators Gulley; and Plexico.

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Referred to: Judiciary II/Election Laws.

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May 14, 1996

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR HOLDING THE CANVASS FOR PRIMARIES AND ELECTIONS ON THE THIRD RATHER THAN THE SECOND DAY AFTER ELECTION DAY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-175 reads as rewritten:

**"§ 163-175. County board of elections to canvass returns.**

On the ~~second~~third day (Sunday excepted) next after every primary and election, the county board of elections shall meet at 11:00 A.M. at the county courthouse or at the office of the county board of elections (the choice of location to be at the option of the county board of elections) to canvass the votes cast in the county and prepare the county abstracts. If the returns from any precinct have not been received by the county board by 12:00 noon on that day, or if the returns of any precinct are incomplete or defective, the board shall have authority to dispatch a peace officer to the residences of the election officials of the delinquent precinct for the purpose of securing proper returns for that precinct.

In the presence of such persons as choose to attend, the members of the county board of elections shall open the precinct returns, canvass and judicially determine the results of the voting in the county, and prepare and sign duplicate abstracts showing:

- 1 (1) In a primary, the total number of votes cast in each precinct and in the  
2 county for each candidate of each political party for each office.
- 3 (2) In an election, the number of legal votes cast in [each] precinct for each  
4 candidate, the name of each person voted for, the political party with  
5 which he is affiliated, and the total number of votes cast in the county  
6 for each person for each different office.

7 In complying with the provisions of this section, the county board of elections shall  
8 have power and authority to pass judicially upon all facts relative to the primary or  
9 election, to make or order such recounts as it deems necessary, and to determine  
10 judicially the result of the primary or election. Provided, however, that where a petitioner  
11 has been denied a recount upon a verbal or written order of the State Board of Elections  
12 pursuant to regulations of the State Board, the county board of elections shall not make or  
13 order a further recount. The board shall also have power to send for papers and persons  
14 and to examine them and to pass upon the legality of any disputed ballots transmitted to it  
15 by any precinct election official.

16 When, on account of errors in tabulating returns and filling out abstracts, the result of  
17 a primary or election in any one or more precincts cannot be accurately known, the  
18 county board of elections shall be allowed access to the ballot boxes in such precincts to  
19 make or order a recount and to declare the result."

20 Sec. 2. G.S. 163-291 reads as rewritten:

21 "**§ 163-291. Partisan primaries and elections.**

22 The nomination of candidates for office in cities, towns, villages, and special districts  
23 whose elections are conducted on a partisan basis shall be governed by the provisions of  
24 this Chapter applicable to the nomination of county officers, and the terms 'county board  
25 of elections,' 'chairman of the county board of elections,' 'county officers,' and similar  
26 terms shall be construed with respect to municipal elections to mean the appropriate  
27 municipal officers and candidates, except that:

- 28 (1) The dates of primary and election shall be as provided in G.S. 163-279.
- 29 (2) A candidate seeking party nomination for municipal or district office  
30 shall file his notice of candidacy with the board of elections no earlier  
31 than 12:00 noon on the first Friday in July and no later than 12:00 noon  
32 on the first Friday in August preceding the election, except:

- 33 a. ~~In 1991 a candidate seeking party nomination for municipal or~~  
34 ~~district office in any city which elects members of its governing~~  
35 ~~board on a district basis, or requires that candidates reside in a~~  
36 ~~district in order to run, shall file his notice of candidacy with the~~  
37 ~~board of elections no earlier than 12:00 noon on the fourth~~  
38 ~~Monday in July and no later than 12:00 noon on the second~~  
39 ~~Friday in August preceding the election; and~~
- 40 b. ~~In 1992 if the election is held then under G.S. 160A-23.1, a~~  
41 ~~candidate seeking party nomination for municipal or district~~  
42 ~~office shall file his notice of candidacy with the board of~~

1 elections at the same time as notices of candidacy for county  
2 officers are required to be filed under G.S. 163-106. election.

3 No person may file a notice of candidacy for more than one municipal  
4 office at the same election. If a person has filed a notice of candidacy  
5 for one office with the county board of elections under this section, then  
6 a notice of candidacy may not later be filed for any other municipal  
7 office for that election unless the notice of candidacy for the first office  
8 is withdrawn first.

9 (3) The filing fee for municipal and district primaries shall be fixed by the  
10 governing board not later than the day before candidates are permitted  
11 to begin filing notices of candidacy. There shall be a minimum filing fee  
12 of five dollars (\$5.00). The governing board shall have the authority to  
13 set the filing fee at not less than five dollars (\$5.00) nor more than one  
14 percent (1%) of the annual salary of the office sought unless one percent  
15 (1%) of the annual salary of the office sought is less than five dollars  
16 (\$5.00), in which case the minimum filing fee of five dollars (\$5.00)  
17 will be charged. The fee shall be paid to the board of elections at the  
18 time notice of candidacy is filed.

19 (4) The municipal ballot may not be combined with any other ballot.

20 (5) The canvass of the primary and second primary shall be held on the  
21 ~~Thursday~~ third day (Sunday excepted) following the primary or second  
22 primary.

23 (6) Candidates having the right to demand a second primary shall do so not  
24 later than 12:00 noon on the Monday following the canvass of the first  
25 primary."

26 Sec. 3. G.S. 163-293 reads as rewritten:

27 **"§ 163-293. Determination of election results in cities using the election and runoff**  
28 **election method.**

29 (a) Except as otherwise provided in this section, nonpartisan municipal elections  
30 in cities using the election and runoff election method shall be determined by a majority  
31 of the votes cast. A majority within the meaning of this section shall be determined as  
32 follows:

33 (1) When more than one person is seeking election to a single office, the  
34 majority shall be ascertained by dividing the total vote cast for all  
35 candidates by two. Any excess of the sum so ascertained shall be a  
36 majority, and the candidate who obtains a majority shall be declared  
37 elected.

38 (2) When more persons are seeking election to two or more offices  
39 (constituting a group) than there are offices to be filled, the majority  
40 shall be ascertained by dividing the total vote cast for all candidates by  
41 the number of offices to be filled, and by dividing the result by two.  
42 Any excess of the sum so ascertained shall be a majority, and the  
43 candidates who obtain a majority shall be declared elected. If more

1 candidates obtain a majority than there are offices to be filled, those  
2 having the highest vote (equal to the number of offices to be filled) shall  
3 be declared elected.

4 (b) If no candidate for a single office receives a majority of the votes cast, or if an  
5 insufficient number of candidates receives a majority of the votes cast for a group of  
6 offices, a runoff election shall be held as herein provided:

7 (1) If no candidate for a single office receives a majority of the votes cast,  
8 the candidate receiving the highest number of votes shall be declared  
9 elected unless the candidate receiving the second highest number of  
10 votes requests a runoff election in accordance with subsection (c) of this  
11 section. In the runoff election only the names of the two candidates who  
12 received the highest and next highest number of votes shall be printed  
13 on the ballot.

14 (2) If candidates for two or more offices (constituting a group) are to be  
15 selected and aspirants for some or all of the positions within the group  
16 do not receive a majority of the votes, those candidates equal in number  
17 to the positions remaining to be filled and having the highest number of  
18 votes shall be declared elected unless some one or all of the candidates  
19 equal in number to the positions remaining to be filled and having the  
20 second highest number of votes shall request a runoff election in  
21 accordance with subsection (c) of this section. In the runoff election to  
22 elect candidates for the positions in the group remaining to be filled, the  
23 names of all those candidates receiving the highest number of votes and  
24 demanding a runoff election shall be printed on the ballot.

25 (c) The canvass of the first election shall be held on the ~~Thursday~~ third day  
26 (Sunday excepted) after the election. A candidate entitled to a runoff election may do so  
27 by filing a written request for a runoff election with the board of elections no later than  
28 12:00 noon on the Monday after the result of the first election has been officially  
29 declared.

30 (d) Tie votes; how determined:

31 (1) If there is a tie for the highest number of votes in a first election, the  
32 board of elections shall conduct a recount and declare the results. If the  
33 recount shows a tie vote, a runoff election between the two shall be held  
34 unless one of the candidates, within three days after the result of the  
35 recount has been officially declared, files a written notice of withdrawal  
36 with the board of elections. Should that be done, the remaining  
37 candidate shall be declared elected.

38 (2) If one candidate receives the highest number of votes cast in a first  
39 election, but short of a majority, and there is a tie between two or more  
40 of the other candidates receiving the second highest number of votes,  
41 the board of elections shall declare the candidate having the highest  
42 number of votes to be elected, unless all but one of the tied candidates  
43 give written notice of withdrawal to the board of elections within three

1 days after the result of the first election has been officially declared. If  
2 all but one of the tied candidates withdraw within the prescribed three-  
3 day period, and the remaining candidate demands a runoff election in  
4 accordance with subsection (c) of this section, a runoff election shall be  
5 held between the candidate who received the highest vote and the  
6 remaining candidate who received the second highest vote.

7 (e) Runoff elections shall be held on the date fixed in G.S. 163- 279(a)(4).  
8 Persons whose registrations become valid between the date of the first election and the  
9 runoff election shall be entitled to vote in the runoff election, but in all other respects the  
10 runoff election shall be held under the laws, rules, and regulations provided for the first  
11 election.

12 (f) A second runoff election shall not be held. The candidates receiving the  
13 highest number of votes in a runoff election shall be elected. If in a runoff election there  
14 is a tie for the highest number of votes between two candidates, the board of elections  
15 shall determine the winner by lot."

16 Sec. 4. G.S. 163-294 reads as rewritten:

17 "**§ 163-294. Determination of election results in cities using nonpartisan primaries.**

18 (a) In cities whose elections are nonpartisan and who use the nonpartisan primary  
19 and election method, there shall be a primary to narrow the field of candidates to two  
20 candidates for each position to be filled if, when the filing period closes, there are more  
21 than two candidates for a single office or the number of candidates for a group of offices  
22 exceeds twice the number of positions to be filled. If only one or two candidates file for  
23 a single office, no primary shall be held for that office and the candidates shall be  
24 declared nominated. If the number of candidates for a group of offices does not exceed  
25 twice the number of positions to be filled, no primary shall be held for those offices and  
26 the candidates shall be declared nominated.

27 (b) In the primary, the two candidates for a single office receiving the highest  
28 number of votes, and those candidates for a group of offices receiving the highest number  
29 of votes, equal to twice the number of positions to be filled, shall be declared nominated.  
30 In both the primary and election, a voter should not mark more names for any office than  
31 there are positions to be filled by election, as provided in G.S. 163-135(e) and G.S. 163-  
32 151(2). If two or more candidates receiving the highest number of votes each received  
33 the same number of votes, the board of elections shall determine their relative ranking by  
34 lot, and shall declare the nominees accordingly. The canvass of the primary shall be held  
35 on the ~~Thursday~~ third day (Sunday excepted) following the primary.

36 (c) In the election, the names of those candidates declared nominated without a  
37 primary and those candidates nominated in the primary shall be placed on the ballot. The  
38 candidate for a single office receiving the highest number of votes shall be elected.  
39 Those candidates for a group of offices receiving the highest number of votes, equal in  
40 number to the number of positions to be filled, shall be elected. If two candidates  
41 receiving the highest number of votes each received the same number of votes, the board  
42 of elections shall determine the winner by lot."

43 Sec. 5. This act is effective upon ratification.