

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS65011-RR-3 (1/16)

Short Title: Resolving Elections.

(Public)

Sponsors: Senator Foxx.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENSURE THAT THE WILL OF THE VOTERS IS NOT FRUSTRATED
BY PROTRACTED ELECTION PROTESTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-182.15 reads as rewritten:

"§ 163-182.15. Certificate of nomination or election, or certificate of the results of a referendum.

(a) Issued by County Board of Elections. – In ballot items within the jurisdiction of the county board of elections, the county board shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the county board five days after the completion of the canvass pursuant to G.S. 163-182.5, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:

- (1) The certificate shall be issued five days after the protest is dismissed or denied by the county board of elections, unless that decision has been appealed to the State Board of Elections.
- (2) The certificate shall be issued 10 days after the final decision of the State Board, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to G.S. 163-182.14.
- (3) If the decision of the State Board has been appealed to the Superior Court of Wake County and the court has stayed the certification, the certificate shall be issued five days after the entry of a final order in the case in the Superior Court of Wake County, unless that court or an appellate court orders otherwise.

1 (4) If a certificate of election has not been issued by the date the term of
2 the office is scheduled to commence, and a new election has not been
3 ordered, the board of elections shall issue a provisional certificate to
4 the apparent winner according to the most recent official count so that
5 that person may take office. The provisional certificate shall be subject
6 to certification of a different winner in accordance with this Article,
7 but not until the protest has reached a final resolution and the appellate
8 process has been exhausted. If upon final resolution of the protest a
9 different winner is not certified, the provisional certificate issued to the
10 apparent winner becomes a final certificate and operates as such
11 retroactively to the date of issuance.

12 (b) Issued by State Board of Elections. – In ballot items within the jurisdiction of
13 the State Board of Elections, the State Board of Elections shall issue a certificate of
14 nomination or election, or a certificate of the results of the referendum, as appropriate.
15 The certificate shall be issued by the State Board five days after the completion of the
16 canvass pursuant to G.S. 163-182.5, unless there is an election protest pending. If there
17 is an election protest, the certificate of nomination or election or the certificate of the
18 result of the referendum shall be issued in one of the following ways, as appropriate:

19 (1) The certificate shall be issued 10 days after the final decision of the
20 State Board on the election protest, unless the State Board has ordered
21 a new election or the issuance of the certificate is stayed by the
22 Superior Court of Wake County pursuant to G.S. 163-14.

23 (2) If the decision of the State Board has been appealed to the Superior
24 Court of Wake County and the court has stayed the certification, the
25 certificate shall be issued five days after the entry of a final order in
26 the case in the Superior Court of Wake County, unless that court or an
27 appellate court orders otherwise.

28 (3) If a certificate of election has not been issued by the date the term of
29 the office is scheduled to commence, and a new election has not been
30 ordered, the board of elections shall issue a provisional certificate to
31 the apparent winner according to the most recent official count so that
32 that person may take office. The provisional certificate shall be subject
33 to certification of a different winner in accordance with this Article,
34 but not until the protest has reached a final resolution and the appellate
35 process has been exhausted. If upon final resolution of the protest a
36 different winner is not certified, the provisional certificate issued to the
37 apparent winner becomes a final certificate and operates as such
38 retroactively to the date of issuance.

39 (c) Copy to Secretary of State. – The State Board of Elections shall provide to
40 the Secretary of State a copy of each certificate of nomination or election, or certificate
41 of the results of a referendum, issued by it. The Secretary shall keep the certificates in a
42 form readily accessible and useful to the public."

43 **SECTION 2.** This act is retroactively effective December 1, 2002.