

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 88
Committee Substitute Favorable 3/28/05

Short Title: Electoral Fairness Act.

(Public)

Sponsors:

Referred to:

February 7, 2005

A BILL TO BE ENTITLED

1 AN ACT TO REDUCE THE NUMBER OF SIGNATURES REQUIRED OF A NEW
2 POLITICAL PARTY AND OF A STATEWIDE UNAFFILIATED CANDIDATE
3 TO ACHIEVE BALLOT ELIGIBILITY; TO REDUCE THE NUMBER OF
4 VOTES A NEW POLITICAL PARTY MUST GAIN FOR A NOMINEE IN
5 ORDER TO MAINTAIN BALLOT ELIGIBILITY; TO MOVE TO A DATE
6 BEFORE THE POLITICAL PARTY PRIMARIES THE DEADLINES FOR
7 FILING NEW POLITICAL PARTY PETITIONS AND NOMINATING NEW
8 POLITICAL PARTY CANDIDATES; TO EXTEND FILING FEE PROVISIONS
9 TO NEW PARTY AND UNAFFILIATED CANDIDATES; AND TO PROVIDE
10 THAT A CANDIDATE WHO RAN IN A PARTY PRIMARY FOR AN OFFICE IS
11 NOT ELIGIBLE FOR NOMINATION BY ANOTHER PARTY TO FILL A
12 VACANCY IN ITS NOMINATION FOR THE SAME OFFICE IN THE SAME
13 YEAR.
14

15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** G.S. 163-96(a) reads as rewritten:

17 "(a) Definition. – A political party within the meaning of the election laws of this
18 State shall be either:

- 19 (1) Any group of voters which, at the last preceding general State election,
20 polled for its candidate for Governor, or for presidential electors, at
21 least ~~ten-two~~ two percent (~~10%~~) (2%) of the entire vote cast in the State for
22 Governor or for presidential electors; or
23 (2) Any group of voters which shall have filed with the State Board of
24 Elections petitions for the formulation of a new political party which
25 are signed by registered and qualified voters in this State equal in
26 number to ~~two~~ one-half of one percent (~~2%~~) (0.5%) of the total number
27 of voters who voted in the most recent general election for Governor.
28 Also the petition must be signed by at least 200 registered voters from
29 each of four congressional districts in North Carolina. To be effective,

1 the petitioners must file their petitions with the State Board of
2 Elections before 12:00 noon on the first day of ~~June~~ April preceding
3 the day on which is to be held the first general State election in which
4 the new political party desires to participate. The State Board of
5 Elections shall forthwith determine the sufficiency of petitions filed
6 with it and shall immediately communicate its determination to the
7 State chairman of the proposed new political party."

8 **SECTION 2.** G.S. 163-97 reads as rewritten:

9 **"§ 163-97. Termination of status as political party.**

10 When any political party fails to poll for its candidate for governor, or for
11 presidential electors, at least ~~ten~~ two percent ~~(10%)~~ (2%) of the entire vote cast in the
12 State for governor or for presidential electors at a general election, it shall cease to be a
13 political party within the meaning of the primary and general election laws and all other
14 provisions of this Chapter."

15 **SECTION 3.** G.S. 163-98 reads as rewritten:

16 **"§ 163-98. General election participation by new political party.**

17 In the first general election following the date on which a new political party
18 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its
19 candidates for national, State, congressional, and local offices printed on the official
20 ~~ballots~~ ballots upon paying a filing fee equal to one percent (1%) of the office sought.

21 For the first general election following the date on which it qualifies under
22 G.S. 163-96, a new political party shall select its candidates by party convention.
23 Following adjournment of the nominating convention, but not later than the first day of
24 ~~July~~ May prior to the general election, the president of the convention shall certify to the
25 State Board of Elections the names of persons chosen in the convention as the new
26 party's candidates ~~for State, congressional, and national offices~~ in the ensuing general
27 election. The State Board of Elections shall print names thus certified on the appropriate
28 ballots as the nominees of the new party. The State Board of Elections shall send to
29 each county board of elections the list of any new party candidates so that the county
30 board can add those names to the appropriate ballot."

31 **SECTION 4.** G.S. 163-122(a)(1) reads as rewritten:

32 "(a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. –
33 Any qualified voter who seeks to have his name printed on the general election ballot as
34 an unaffiliated candidate shall:

- 35 (1) If the office is a statewide office, file written petitions with the State
36 Board of Elections supporting his candidacy for a specified office.
37 These petitions must be filed with the State Board of Elections on or
38 before 12:00 noon on the last Friday in June preceding the general
39 election and must be signed by qualified voters of the State equal in
40 number to ~~two percent (2%)~~ one-half of one percent (0.5%) of the total
41 number of ~~registered voters in the State as reflected by the voter~~
42 ~~registration records of the State Board of Elections as of January 1 of~~
43 ~~the year in which the general election is to be held~~ voters who voted in
44 the most recent general election for Governor. Also, the petition must

1 be signed by at least 200 registered voters from each of four
 2 congressional districts in North Carolina. No later than 5:00 p.m. on
 3 the fifteenth day preceding the date the petitions are due to be filed
 4 with the State Board of Elections, each petition shall be presented to
 5 the chairman of the board of elections of the county in which the
 6 signatures were obtained. Provided the petitions are timely submitted,
 7 the chairman shall examine the names on the petition and place a
 8 check mark on the petition by the name of each signer who is qualified
 9 and registered to vote in his county and shall attach to the petition his
 10 signed certificate. Said certificates shall state that the signatures on the
 11 petition have been checked against the registration records and shall
 12 indicate the number of signers to be qualified and registered to vote in
 13 his county. The chairman shall return each petition, together with the
 14 certificate required in this section, to the person who presented it to
 15 him for checking. Verification by the chairman of the county board of
 16 elections shall be completed within two weeks from the date such
 17 petitions are presented.

18"

19 **SECTION 5.** G.S. 163-122 is amended by adding a new subsection to read:

20 "(d) Any candidate seeking to have his name printed on the general election ballot
 21 under this section shall pay a filing fee equal to one percent (1%) of the annual salary of
 22 the office sought."

23 **SECTION 6.** G.S. 163-114 reads as rewritten:

24 "**§ 163-114. Filling vacancies among party nominees occurring after nomination**
 25 **and before election.**

26 If any person nominated as a candidate of a political party for one of the offices
 27 listed below (either in a primary or convention or by virtue of having no opposition in a
 28 primary) dies, resigns, or for any reason becomes ineligible or disqualified before the
 29 date of the ensuing general election, the vacancy shall be filled by appointment
 30 according to the following instructions:

31		
32	Position	
33	President	Vacancy is to be filled by appointment of
34	Vice President	national executive committee of
35		political party in which vacancy occurs
36		
37	Presidential elector or alternate elector	Vacancy is to be filled by appointment of
38	Any elective State office	State executive committee of political
39	United States Senator	party in which vacancy occurs
40		
41	A district office, including:	Appropriate district executive committee of
42	Member of the United States House	political party in which vacancy occurs
43	of Representatives	
44	District Attorney	

1	State Senator in a multi-county	
2	senatorial district	
3	Member of State House of	
4	Representatives in a multi-county	
5	representative district	
6		
7	State Senator in a single-county	County executive committee of political
8	senatorial district	party in which vacancy occurs,
9	Member of State House of	provided, in the case of the State
10	Representatives in a single-county	Senator or State Representative in a
11	representative district	single-county district where not all the
12	Any elective county office	county is located in that district, then in
13		voting, only those members of the
14		county executive committee who reside
15		within the district shall vote
16		

17 The party executive making a nomination in accordance with the provisions of this
 18 section shall certify the name of its nominee to the chairman of the board of elections,
 19 State or county, that has jurisdiction over the ballot item under G.S. 163-182.4. If at the
 20 time a nomination is made under this section the general election ballots have already
 21 been printed, the provisions of G.S.163-165.3(c) shall apply. If a vacancy occurs in a
 22 nomination of a political party and that vacancy arises from a cause other than death and
 23 the vacancy in nomination occurs more than 120 days before the general election, the
 24 vacancy in nomination may be filled under this section only if the appropriate executive
 25 committee certifies the name of the nominee in accordance with this paragraph at least
 26 75 days before the general election.

27 In a county not all of which is located in one congressional district, in choosing the
 28 congressional district executive committee member or members from that area of the
 29 county, only the county convention delegates or county executive committee members
 30 who reside within the area of the county which is within the congressional district may
 31 vote.

32 In a county which is partly in a multi-county senatorial district or which is partly in a
 33 multi-county House of Representatives district, in choosing that county's member or
 34 members of the senatorial district executive committee or House of Representatives
 35 district executive committee for the multi-county district, only the county convention
 36 delegates or county executive committee members who reside within the area of the
 37 county which is within that multi-county district may vote.

38 An individual whose name appeared on the ballot in a primary election preliminary
 39 to the general election shall not be eligible to be nominated to fill a vacancy in the
 40 nomination of another party for the same office in the same year."

41 **SECTION 7.** This act becomes effective January 1, 2006, and applies to all
 42 primaries and elections held on or after that date.