

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**HOUSE BILL 88
Committee Substitute Favorable 3/28/05
Committee Substitute #2 Favorable 8/23/05
Fourth Edition Engrossed 8/24/05
Senate Judiciary I Committee Substitute Adopted 7/19/06**

Short Title: Electoral Fairness Act.

(Public)

Sponsors:

Referred to:

February 7, 2005

A BILL TO BE ENTITLED

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

11 The General Assembly of North Carolina enacts:

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

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

- 15 (1) Any group of voters which, at the last preceding general State election,
16 polled for its candidate for Governor, or for presidential electors, at
17 least ~~ten-two~~ two percent (~~40%~~) (2%) of the entire vote cast in the State for
18 Governor or for presidential electors; or
19 (2) Any group of voters which shall have filed with the State Board of
20 Elections petitions for the formulation of a new political party which
21 are signed by registered and qualified voters in this State equal in
22 number to two percent (2%) of the total number of voters who voted in
23 the most recent general election for Governor. Also the petition must
24 be signed by at least 200 registered voters from each of four
25 congressional districts in North Carolina. To be effective, the
26 petitioners must file their petitions with the State Board of Elections

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

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

8 **"§ 163-97. Termination of status as political party.**

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

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

15 **"§ 163-98. General election participation by new political party.**

16 In the first general election following the date on which a new political party
17 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its
18 candidates for national, State, congressional, and local offices printed on the official
19 ~~ballots~~ ballots upon paying a filing fee equal to that provided for candidates for the
20 office in G.S. 163-107 or upon complying with the alternative available to candidates
21 for the office in G.S. 163-107.1.

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

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

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

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

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

19"

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

21 "(d) Any candidate seeking to have that candidate's name printed on the general
 22 election ballot under this section shall pay a filing fee equal to that provided for
 23 candidates for the office in G.S. 163-107 or comply with the alternative available to
 24 candidates for the office in G.S. 163-107.1."

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

26 "**§ 163-114. Filling vacancies among party nominees occurring after nomination**
 27 **and before election.**

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

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

- 1 of Representatives
- 2 District Attorney
- 3 State Senator in a multi-county
- 4 senatorial district
- 5 Member of State House of
- 6 Representatives in a multi-county
- 7 representative district
- 8
- 9 State Senator in a single-county County executive committee of political
- 10 senatorial district party in which vacancy occurs,
- 11 Member of State House of provided, in the case of the State
- 12 Representatives in a single-county Senator or State Representative in a
- 13 representative district single-county district where not all the
- 14 Any elective county office county is located in that district, then in
- 15 voting, only those members of the
- 16 county executive committee who reside
- 17 within the district shall vote
- 18

19 The party executive making a nomination in accordance with the provisions of this
 20 section shall certify the name of its nominee to the chairman of the board of elections,
 21 State or county, that has jurisdiction over the ballot item under G.S. 163-182.4. If at the
 22 time a nomination is made under this section the general election ballots have already
 23 been printed, the provisions of G.S.163-165.3(c) shall apply. If a vacancy occurs in a
 24 nomination of a political party and that vacancy arises from a cause other than death and
 25 the vacancy in nomination occurs more than 120 days before the general election, the
 26 vacancy in nomination may be filled under this section only if the appropriate executive
 27 committee certifies the name of the nominee in accordance with this paragraph at least
 28 75 days before the general election.

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

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

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

43 **SECTION 7.** This act becomes effective January 1, 2007, and applies to all
 44 primaries and elections held on or after that date.