

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 38
Judiciary I Committee Substitute Adopted 2/25/09
House Committee Substitute Favorable 6/24/09

Short Title: Municipal District Elections/Census.

(Public)

Sponsors:

Referred to:

February 4, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO CONTINUALLY APPLY THE SPECIAL RULES FOLLOWING A FEDERAL
3 DECENNIAL CENSUS TO MUNICIPAL REDISTRICTING AFTER THAT CENSUS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 160A-23.1 reads as rewritten:

6 "§ 160A-23.1. Special rules for redistricting after 2000 a federal decennial census.

7 (a) As soon as possible after receipt of federal decennial census information in 2001
8 information, the council of any city which elects the members of its governing board on a
9 district basis, or where candidates for such office must reside in a district in order to run, shall
10 evaluate the existing district boundaries to determine whether it would be lawful to hold the
11 next election without revising districts to correct population imbalances. If such revision is
12 necessary, the council shall consider whether it will be possible to adopt the changes (and
13 obtain approval from the United States Department of Justice, if necessary) before the third day
14 before opening of the filing period for the municipal election. The council shall take into
15 consideration the time that will be required to afford ample opportunities for public input. If the
16 council determines that it most likely will not be possible to adopt the changes (and obtain
17 federal approval, if necessary) before the third business day before opening of the filing period,
18 and determines further that the population imbalances are so significant that it would not be
19 lawful to hold the next election using the current electoral districts, it may adopt a resolution
20 delaying the election so that it will be held on the timetable provided by subsection (d) of this
21 section. Before adopting such a resolution, the council shall hold a public hearing on it. The
22 notice of public hearing shall summarize the proposed resolution and shall be published at least
23 once in a newspaper of general circulation, not less than seven days before the date fixed for
24 the hearing. Notwithstanding adoption of such a resolution, if the council proceeds to adopt the
25 changes, (and federal approval is obtained, if necessary) by the end of the third business day
26 before the opening of the filing period, the election shall be held on the regular schedule under
27 the revised electoral districts. Any resolution adopted under this subsection, and any changes in
28 electoral district boundaries made under this section shall be submitted to the United States
29 Department of Justice (if the city is covered under Section 5 of the Voting Rights Act of 1965),
30 the State Board of Elections, and to the board conducting the elections for that city.

31 (b) In adopting any revision under this section, if the council determines that in order for
32 the plan to conform to the Voting Rights Act of 1965, the number of district seats needs to be
33 increased or decreased, it may do so by following the procedures set forth in Part 4 of Article 5
34 of Chapter 160A of the General Statutes, except that the ordinance under G.S. 160A-102 may
35 be adopted at the same meeting as the public hearing, and any referendum on the change under



1 G.S. 160A-103 shall not apply to the municipal election in ~~2001 or 2002~~; the two years
2 following a federal decennial census.

3 (c) If the resolution provided for in subsection (a) of this section is not adopted and:

4 (1) Proposed changes to the electoral districts are not adopted, or

5 (2) Such changes are adopted, but approval under the Voting Rights Act of
6 1965, as amended, is required, and notice of such approval is not received,

7 by the end of the third business day before the opening of the filing period, the election shall be
8 held on the regular schedule using the current electoral districts.

9 (d) If the council adopts the resolution provided for in subsection (a) of this section and
10 does not adopt the changes, or does adopt the changes, but approval under the Voting Rights
11 Act of 1965, as amended, is required, and notice of such approval is not received, by the end of
12 the third day before the opening of the filing period, the municipal election shall be rescheduled
13 as provided in this subsection and current officeholders shall hold over until their successors
14 are elected and qualified. For cities using the:

15 (1) Partisan primary and election method under G.S. 163-291, the primary shall
16 be held on the primary election date for county officers in ~~2002~~; the second
17 year following a federal decennial census, the second primary, if necessary,
18 shall be held on the second primary election date for county officers in
19 ~~2002~~; that year, and the general election shall be held on the general election
20 date for county officers in ~~2002~~; that year.

21 (2) Nonpartisan primary and election method under G.S. 163-294, the primary
22 shall be held on the primary election date for county officers in ~~2002~~ the
23 second year following a federal decennial census, and the election shall be
24 held on the date for the second primary for county officers in ~~2002~~; that year.

25 (3) Nonpartisan plurality election method under G.S. 163-292, the election shall
26 be held on the primary election date for county officers in ~~2002~~; the second
27 year following a federal decennial census.

28 (4) Election and runoff method under G.S. 163-293, the election shall be held on
29 the primary election date for county officers in ~~2002~~ the second year
30 following a federal decennial census, and the runoffs, if necessary, shall be
31 held on the date for the second primary for county officers in ~~2002~~; that year.

32 The organizational meeting of the new council may be held at any time after the results of
33 the election have been officially determined and published, but not later than the time and date
34 of the first regular meeting of the council in November ~~2002~~; of the second year following a
35 federal decennial census, except in the case of partisan municipal elections, when the
36 organizational meeting shall be held not later than the time and date of the first regular meeting
37 of the council in December of ~~2002~~; the second year following a federal decennial census.

38 (e) This section does not apply to any municipality that, under its charter, is not
39 scheduled to hold an election in the year following a federal decennial census."

40 **SECTION 2.** G.S. 163-291(2) reads as rewritten:

41 "(2) A candidate seeking party nomination for municipal or district office shall
42 file notice of candidacy with the board of elections no earlier than 12:00
43 noon on the first Friday in July and no later than 12:00 noon on the third
44 Friday in July preceding the election, except:

45 a. In ~~2001~~ the year following a federal decennial census, a candidate
46 seeking party nomination for municipal or district office in any city
47 which elects members of its governing board on a district basis, or
48 requires that candidates reside in a district in order to run, shall file
49 his notice of candidacy with the board of elections no earlier than
50 12:00 noon on the fourth Monday in July and no later than 12:00
51 noon on the second Friday in August preceding the election; and

- 1 b. In ~~2002~~the second year following a federal decennial census, if the
2 election is held then under G.S. 160A-23.1, a candidate seeking party
3 nomination for municipal or district office shall file his notice of
4 candidacy with the board of elections at the same time as notices of
5 candidacy for county officers are required to be filed under
6 G.S. 163-106.

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

12 **SECTION 3.** G.S. 163-294.2(c) reads as rewritten:

13 "(c) Candidates seeking municipal office shall file their notices of candidacy with the
14 board of elections no earlier than 12:00 noon on the first Friday in July and no later than 12:00
15 noon on the third Friday in July preceding the election, except:

- 16 (1) In ~~2001~~the year following a federal decennial census, candidates seeking
17 municipal office in any city which elects members of its governing board on
18 a district basis, or requires that candidates reside in a district in order to run,
19 shall file their notices of candidacy with the board of elections no earlier
20 than 12:00 noon on the fourth Monday in July and no later than 12:00 noon
21 on the second Friday in August preceding the election; and
22 (2) In ~~2002~~the second year following a federal decennial census, if the election
23 is held then under G.S. 160A-23.1, candidates seeking municipal office shall
24 file their notices of candidacy with the board of elections at the same time as
25 notices of candidacy for county officers are required to be filed under
26 G.S. 163-106.

27 Notices of candidacy which are mailed must be received by the board of elections before
28 the filing deadline regardless of the time they were deposited in the mails."

29 **SECTION 4.** This act is effective when it becomes law.