

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

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**SENATE BILL 399**

Short Title: Minority Appeal From County Bd Elections. (Public)

Sponsors: Senators Clary; Apodaca, Brock, Daniel, Gunn, Jackson, Jones, Meredith, Newton, Preston, Soucek, and Vaughan.

Referred to: State and Local Government.

March 23, 2011

A BILL TO BE ENTITLED  
AN ACT TO PROVIDE A PROCESS FOR AN APPEAL OF A DECISION OF THE  
COUNTY BOARD OF ELECTIONS TO THE STATE BOARD OF ELECTIONS BY A  
MEMBER OF THE COUNTY BOARD OF ELECTIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 163-33 reads as rewritten:

**"§ 163-33. Powers and duties of county boards of elections.**

(a) The county boards of elections within their respective jurisdictions shall exercise all powers granted to such boards in this Chapter, and they shall perform all the duties imposed upon them by law, which shall include the following:

- (1) To make and issue such rules, regulations, and instructions, not inconsistent with law, with directives promulgated under the provisions of G.S. 163-132.4, or with the rules, orders, and directives established by the State Board of Elections, as it may deem necessary for the guidance of election officers and voters.
- (2) To appoint all chief judges, judges, assistants, and other officers of elections, and designate the precinct in which each shall serve; and, after notice and hearing, to remove any chief judge, judge of elections, assistant, or other officer of election appointed by it for incompetency, failure to discharge the duties of office, failure to qualify within the time prescribed by law, fraud, or for any other satisfactory cause. In exercising the powers and duties of this subdivision, the board may act only when a majority of its members are present at any meeting at which such powers or duties are exercised.
- (3) To investigate irregularities, nonperformance of duties, and violations of laws by election officers and other persons, and to report violations to the State Board of Elections. In exercising the powers and duties of this subdivision, the board may act only when a majority of its members are present at any meeting at which such powers or duties are exercised. Provided that in any hearing on an irregularity no board of elections shall consider as evidence the testimony of a voter who cast a ballot, which ballot that voter was not eligible to cast, as to how that voter voted on that ballot.
- (4) As provided in G.S. 163-128, to establish, define, provide, rearrange, discontinue, and combine election precincts as it may deem expedient, and to fix and provide for places of registration and for holding primaries and elections.



- 1 (5) To review, examine, and certify the sufficiency and validity of petitions and  
2 nomination papers.
- 3 (6) To advertise and contract for the printing of ballots and other supplies used  
4 in registration and elections; and to provide for the delivery of ballots,  
5 pollbooks, and other required papers and materials to the voting places.
- 6 (7) To provide for the purchase, preservation, and maintenance of voting booths,  
7 ballot boxes, registration and pollbooks, maps, flags, cards of instruction,  
8 and other forms, papers, and equipment used in registration, nominations,  
9 and elections; and to cause the voting places to be suitably provided with  
10 voting booths and other supplies required by law.
- 11 (8) To provide for the issuance of all notices, advertisements, and publications  
12 concerning elections required by law. If the election is on a State bond issue,  
13 an amendment to the Constitution, or approval of an act submitted to the  
14 voters of the State, the State Board of Elections shall reimburse the county  
15 boards of elections for their reasonable additional costs in placing such  
16 notices, advertisements, and publications. In addition, the county board of  
17 elections shall give notice at least 20 days prior to the date on which the  
18 registration books or records are closed that there will be a primary, general  
19 or special election, the date on which it will be held, and the hours the voting  
20 places will be open for voting in that election. The notice also shall describe  
21 the nature and type of election, and the issues, if any, to be submitted to the  
22 voters at that election. Notice shall be given by advertisement at least once  
23 weekly during the 20-day period in a newspaper having general circulation  
24 in the county and by posting a copy of the notice at the courthouse door.  
25 Notice may additionally be made on a radio or television station or both, but  
26 such notice shall be in addition to the newspaper and other required notice.  
27 This subdivision shall not apply in the case of bond elections called under  
28 the provisions of Chapter 159.
- 29 (9) To receive the returns of primaries and elections, canvass the returns, make  
30 abstracts thereof, transmit such abstracts to the proper authorities, and to  
31 issue certificates of election to county officers and members of the General  
32 Assembly except those elected in districts composed of more than one  
33 county.
- 34 (10) To appoint and remove the board's clerk, assistant clerks, and other  
35 employees; and to appoint and remove precinct transfer assistants as  
36 provided in G.S. 163-82.15(g).
- 37 (11) To prepare and submit to the proper appropriating officers a budget  
38 estimating the cost of elections for the ensuing fiscal year.
- 39 (12) To perform such other duties as may be prescribed by this Chapter, by  
40 directives promulgated pursuant to G.S. 163-132.4, or by the rules, orders,  
41 and directives of the State Board of Elections.
- 42 (13) Notwithstanding the provisions of any other section of this Chapter, to have  
43 access to any ballot boxes and their contents, any voting machines and their  
44 contents, any registration records, pollbooks, voter authorization cards or  
45 voter lists, any lists of absentee voters, any lists of presidential registrants  
46 under the Voting Rights Act of 1965 as amended, and any other voting  
47 equipment or similar records, books or lists in any precinct or municipality  
48 over whose elections it has jurisdiction or for whose elections it has  
49 responsibility.

50 (b) With respect to any decision made by the county board of elections, a member  
51 voting in the minority may appeal that decision to the State Board if the appeal is submitted in

1 writing to the State Board within 10 days of the decision. The board member voting in the  
2 minority may direct the staff to the county board to prepare and submit the report."

3           **SECTION 2.** This act becomes effective January 1, 2012, and applies to decisions  
4 of the county board of elections made on or after that date.