

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 927
SENATE BILL 910

AN ACT TO MAKE STATUTORY CHANGES TO THE PRECINCT BOUNDARY PROGRAM TO PREPARE FOR THE UNITED STATES CENSUS FOR THE YEAR 2000 AND TO FACILITATE THE REPORTING OF ELECTION DATA TO THE SECRETARY OF STATE'S OFFICE.

The General Assembly of North Carolina enacts:

Section 1. Article 12A of Chapter 163 of the General Statutes reads as rewritten:

"ARTICLE 12A.

"Precinct Boundaries.

"§ 163-132.1: Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1074, s. 2.

"§ 163-132.1A. Precinct boundaries for certain counties.

(a) The boundaries of precincts for the counties listed in subsection (b) of this section are those recorded in the Legislative Services Office's automated redistricting system as of May 1, 1991, except as changed in accordance with G.S. 163-132.3, and except in Caldwell County, the boundaries of Lenoir #3, North Catawba, Gamewell #1, and Gamewell #2 Precincts shall be as provided on the precinct map of the county adopted by the Caldwell County Board of Elections and in effect on January 1, 1992, unless changed in accordance with G.S. 163-132.3.

(b) This section shall apply only to the following counties: Alamance, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham, Chowan, Cleveland, Craven, Cumberland, Davidson, Duplin, Durham, Edgecombe, Forsyth, Gaston, Granville, Guilford, Halifax, Harnett, Henderson, Iredell, Johnston, Jones, Lenoir, Mecklenburg, Nash, New Hanover, Onslow, Orange, Pender, Pitt, Randolph, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Surry, Union, Wake, Washington, Wayne, Wilkes, Wilson, and Yancey.

"§ 163-132.2. Establishment of precinct boundaries for 1990 Census. — Precinct boundaries for other counties.

(a) The Legislative Services Office as soon as it receives the U.S. Census Bureau's official census block maps to be used in the 1990 U.S. Census shall send the relevant copies of those maps to county boards of elections. shall send as directed by the schedule contained in subsection (g) of this section the relevant copies of the U.S. Census Bureau's official census block maps of the 1990 U.S. Census to each county board of elections. After Not later than 90 days after receiving copies of those maps, the county boards of election board of elections shall:

- (1) Alter, where necessary, precinct boundaries to be coterminous with ~~township boundaries, municipal boundaries, census block boundaries, or a combination of those boundaries provided those of:~~
 - a. Townships, as certified by the county manager, or the chairman of the board of county commissioners if there is not a county manager, on the official map of the county;
 - b. The census blocks established under the latest U.S. Census;
 - c. Named roads and streets and drainage features of 40 feet or more in width, as certified by the North Carolina Department of Transportation on its highway maps or the planning department of the relevant county;
 - d. Municipalities, as certified by the city clerk on the official map of the city; or
 - e. A combination of these boundaries;

Provided that if, as a result of the alteration, the polling place is no longer in the precinct, it may continue to be the polling place as long as the lot or tract on which the polling place is situated adjoins the precinct;
- (1a) Alter, where necessary, precinct boundaries so that each precinct is composed solely of contiguous territory, ~~except where the operation of G.S. 163-132.5A has caused a precinct to be divided into two or more non-contiguous areas.~~ territory;
- (2) Mark all precinct boundaries on the maps sent by the Legislative Services Office, showing the precinct boundaries in effect as of the time of marking, but with any changes effective at a later time as provided by subsection (d) of this section; and
- (3) File at a time deemed necessary by the Executive Secretary-Director of the State Board of Elections with the State Board and the Legislative Services Office the maps identifying the precinct boundaries. The Executive Secretary-Director may require a county board of elections to file a written description of the boundaries of any precinct or part thereof.

~~Provided, where a precinct boundary has been or is to be altered because of the operation of G.S. 163-132.5A, the boundary on the map shall be shown as in effect on the date reported through the U.S. Census Bureau's 1988 Boundary and Annexation Survey of the underlying municipal boundary on the map, but the fact that the boundary has been or is to be moved because of an intervening annexation shall be reported to the Executive Secretary Director of the State Board of Elections and Legislative Services Office.~~

(b) The Executive Secretary-Director of the State Board of Elections and the Legislative Services Office shall examine the returned maps and their written descriptions. After its examination of the maps and their written descriptions, the Legislative Services Office shall submit to the Executive Secretary-Director of the State Board of Elections its opinion as to whether ~~all precinct boundaries are coterminous~~

~~with current township boundaries, current municipal boundaries, census block boundaries, or a combination of those boundaries, the county board of elections has complied with the provisions of subsection (a) of this section, with notations as to where those boundaries do not comply with these standards. If the Executive Secretary-Director of the State Board determines that all precinct boundaries are coterminous with current township boundaries, current municipal boundaries, census block boundaries, or a combination of those boundaries, the county board of elections has complied with the provisions of subsection (a) of this section, the Executive Secretary-Director of the State Board shall approve the maps and written descriptions as filed and these precincts shall be the official precincts. Additionally, the Legislative Services Office shall submit to the Executive Secretary-Director of the State Board of Elections its opinion as to whether each precinct is composed solely of contiguous territory.~~

(c) ~~If the Executive Secretary-Director of the State Board does not find that the filed precinct boundaries are coterminous with the current township boundaries, current municipal boundaries, census block boundaries, or a combination of those boundaries, determines that the county board of elections has not complied with the provisions of subsection (a) of this section, he shall not approve those precinct boundaries but shall alter the precinct boundaries so that each precinct consists solely of contiguous territory and that each precinct's boundaries are coterminous with those boundaries set forth in subsection (a)(1) of this section nearest to those existing precinct boundaries. to be coterminous with the census block boundaries, municipal boundaries or township boundaries nearest to those existing precinct boundaries and these~~ These altered precincts shall then be the official precincts. ~~If the Executive Secretary-Director of the State Board finds that a precinct does not consist solely of contiguous territory, he shall alter the precinct boundary so that it consists solely of contiguous territory, except where the non-contiguity is caused by the operation of G.S. 163-132.5A.~~

(d) ~~The changes in precinct boundaries under subsections (b) and (c) of this section shall be made effective not later than January 1, 1992. 1997; unless the change would result in placing a precinct in more than one State House of Representatives, State Senate, or Congressional district, in which case it shall be made effective not later than January 1, 2002.~~

(e) ~~After the Executive Secretary-Director of the State Board approves or alters the precincts filed by the county boards and before January 2, 1990, no county board of elections may establish, alter, discontinue, or create any precinct except for the following:~~

- ~~(1) Changes resulting from G.S. 163-132.5A;~~
- ~~(2) Division of one precinct into two or more precincts; or~~
- ~~(3) With the consent of the Executive Secretary-Director of the State Board of Elections, changes of boundaries that the U.S. Census Bureau has identified for the Legislative Services Office as not being coterminous with census block boundaries, township boundaries, municipal boundaries, or a combination of these boundaries, provided that the boundaries are made so coterminous. The Executive~~

Secretary Director shall consult with the Legislative Services Office prior to consenting to precinct changes under this subdivision.

(f) ~~The State shall request that the U.S. Census Bureau provide summaries of census data by precinct, and shall participate in the 1990 Census Redistricting Data Program. When the State files with the Census Bureau precinct maps, those boundaries shall be those effective at the date of submission, but with any change with a postponed effective date made under subsection (d) of this section or made under G.S. 163-132.5A. In any case where the precinct includes non-contiguous portions because of the operation of G.S. 163-132.5A, the Executive Secretary Director of the State Board of Elections shall designate those areas for census data purposes as separate precincts.~~

(g) The Legislative Services Office shall send maps, under subsection (a) of this section, to the counties named below by the dates indicated:

- (1) Maps to be sent not later than January 1, 1993, to the following counties: Alexander, Alleghany, Anson, Ashe, Avery, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Caswell, Currituck, Cherokee, Clay, Franklin, Gates, and Hoke;
- (2) Maps to be sent not later than January 1, 1994, to the following counties: Columbus, Dare, Davie, Graham, Haywood, Hertford, Hyde, Jackson, Lee, Lincoln, Madison, Martin, Mitchell, Montgomery, Northampton, and Pasquotank; and
- (3) Maps to be sent not later than January 1, 1995, to the following counties: Macon, McDowell, Moore, Pamlico, Perquimans, Person, Polk, Rutherford, Stanly, Stokes, Swain, Transylvania, Tyrrell, Vance, Warren, and Yadkin.

(h) This section shall apply only to the following counties: Alexander, Alleghany, Anson, Ashe, Avery, Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Caswell, Cherokee, Clay, Columbus, Currituck, Dare, Davie, Franklin, Gates, Graham, Greene, Haywood, Hertford, Hoke, Hyde, Jackson, Lee, Lincoln, Macon, Madison, Martin, McDowell, Mitchell, Montgomery, Moore, Northampton, Pamlico, Pasquotank, Perquimans, Person, Polk, Rutherford, Stanly, Stokes, Swain, Transylvania, Tyrrell, Vance, Warren, Watauga, and Yadkin.

"§ 163-132.3. Alterations to precinct boundaries after January 1, 1990. approved precinct boundaries.

(a) No county board of elections of a county listed in G.S. 163-132.1A (b), after January 1, 1990, and no county board of elections of a county listed in G.S. 163-132.2(h), after its precinct boundaries are approved pursuant to G.S. 163-132.2, may change any precinct boundary unless the proposed new precinct consists solely of contiguous territory and its new boundaries are coterminous with those of:

- (1) Townships, municipalities, Townships, as certified by the county manager, or the chairman of the board of county commissioners if there is not a county manager, on the official map of the county; the
- (2) The census blocks established under the latest U.S. Census, or Census;
- (3) Named roads and streets and drainage features of 40 feet or more in width, as certified by the North Carolina Department of Transportation

on its highway maps or the planning department of the relevant county;

(4) Municipalities, as certified by the city clerk on the official map of the city; or

(5) a combination of these boundaries.

The county boards of elections shall report precinct boundary changes by filing with the ~~Executive Secretary Director of the State Board~~ Legislative Services Office on current official census maps or maps certified by the North Carolina Department of Transportation or the county's planning department the new boundaries of these precincts. The Executive Secretary-Director may require a county board of elections to file a written description of the boundaries of any precinct or part thereof. No newly created or altered precinct boundary ~~occurring after January 1, 1990,~~ is effective until approved by the Executive Secretary-Director of the State Board as being ~~eoterminous with the boundaries of townships, municipalities, census blocks established by the then latest U.S. Census, or a combination of those boundaries.~~ in compliance with this subsection.

(b) The Executive Secretary-Director of the State Board of Elections and the Legislative Services Office shall examine the maps of the proposed new or altered precincts and any required written descriptions. After its examination of the maps and their written descriptions, the Legislative Services Office shall submit to the Executive Secretary-Director of the State Board of Elections its opinion as to whether all of the proposed precinct boundaries are in compliance with subsection (a) of this section, with notations as to where those boundaries do not comply with these standards. If the Executive Secretary-Director of the State Board determines that all precinct boundaries are in compliance with this section, the Executive Secretary-Director of the State Board shall approve the maps and written descriptions as filed and these precincts shall be the official precincts.

(c) If the Executive Secretary-Director of the State Board determines that the proposed precinct boundaries are not in compliance with subsection (a) of this section, he shall not approve those precinct boundaries. He shall notify the county board of elections of his disapproval specifying the reasons. The county board of elections may then resubmit new precinct maps and written descriptions to cure the reasons for their disapproval.

"§ 163-132.4. Directives.

The Executive Secretary-Director of the State Board of Elections may promulgate directives concerning its duties and those of the county boards of elections under this Article.

"§ 163-132.5. Cooperation of State and local agencies.

The State Budget Office, the Department of Transportation and county and municipal planning departments shall cooperate and assist the Legislative Services Office, the Executive Secretary-Director of the State Board of Elections and the county boards of elections in the implementation of this Article.

~~"§ 163-132.5A. Precinct boundaries.~~

~~(a) Whenever an annexation ordinance adopted under Parts 1, 2, or 3 of Article 4A of Chapter 160A of the General Statutes, or a local act of the General Assembly annexing property to a municipality, becomes effective during the period beginning with the date of the annexation as reported through the U.S. Census Bureau's 1988 Boundary and Annexation Survey and ending October 31, 1989, and any part of the boundary of the area being annexed which is actually contiguous to the city is also a precinct boundary for elections administered by the county board of elections then the annexed area is automatically moved into the 'city precinct', provided that if the annexed area is adjacent to more than one city precinct, the board of elections shall place the area in any one or more of the adjacent city precincts. The county board of elections may delay the effective date of any change under this subsection to a date not later than January 1, 1992.~~

~~(b) Repealed by Session Laws 1989, c. 770, s. 75.3. (1987, c. 715, s. 4; 1987 (Reg. Sess., 1988), c. 1074, s. 2; 1989, c. 440, s. 3, c. 770, s. 75.3.)~~

"§ 163-132.5B. Exemption from Administrative Procedure Act.

The State Board of Elections is exempt from the provisions of Chapter 150B of the General Statutes while acting under the authority of this Article. Appeals from a final decision of the Executive Secretary-Director of the State Board of Elections under this Article shall be taken to the State Board of Elections within 30 days of that decision. The State Board shall approve, disapprove or modify the Executive Secretary's decision within 30 days of receipt of notice of appeal. Failure of the State Board to act within 30 days of receipt of notice of appeal shall constitute a final decision approving that of the Executive Secretary. Appeals from a final decision of the State Board under this Article shall be taken to the Superior Court of Wake County.

"§ 163-132.5C. Local acts and township lines.

(a) Notwithstanding the provisions of any local act, a county board of elections need not have the approval of any other county board or commission to make precinct boundary changes required by this Article.

(b) Notwithstanding G.S. 163-128, precinct boundaries established, retained or changed under this Article, or changed to follow a district line where a precinct has been divided in a districting plan, may cross township lines.

"§ 163-132.5D. Retention of precinct maps.

The Executive Secretary-Director of the State Board of Elections shall retain the maps and written descriptions which he approves pursuant to G.S. 163-132.3.

"§ 163-132.5E. Precinct maps and voter statistics filed with the Legislative Services Office.

(a) No later than January 31 of each year, the chairman of each county board of elections shall file with the Legislative Services Office a map showing the county's precincts as of January 1 of that year.

(b) No later than January 31 of each year, the chair of each county board of elections shall file with the Legislative Services Office a list of each precinct in the county as of January 1 of that year and the number of registered voters, in each precinct, by political party and race; and, no later than January 31 of each year beginning in 1996, with a numerical breakdown as to the race of registered voters of each political party.

(c) The Legislative Services Office shall develop and send by mail to each county board of elections by September 15 of each year a standard electronic data format that can be used in the following year by county boards of election as an alternative method of filing the list required by subsection (b) of this section. The standard electronic data format shall be for data provided in international standard ASCII file format on 9-track magnetic tape, 8-millimeter magnetic tape, 5 1/4 inch diskettes, or 3 1/2 inch diskettes. The standard electronic data format shall contain the name of the precinct, and for each precinct the total number of registered voters, the number of registered voters by party affiliation, the number of registered voters by race, and a numerical breakdown as to the race of registered voters in each political party.

"§ 163-132.5F. U.S. Census data by precinct.

The State shall request the U.S. Census Bureau for each decennial census to provide summaries of census data by precinct and shall participate in any U.S. Bureau of the Census' program to effectuate this provision.

"§ 163-132.6. Applicability of Article.

~~This Article applies only to counties with a population of 55,000 or over, according to the 1980 decennial federal census and to any other county whose board of elections adopts not later than October 1, 1988, a resolution indicating a desire to participate in the program established by this Article, which resolution shall only become effective if received by the Executive Secretary Director and approved by him on or before October 15, 1988. The Executive Secretary Director shall approve the resolution if, after consultation with the Legislative Services Office, he determines that available resources exist to map the precincts of the county applying while doing the work for the mandated counties. A county approved to participate in the program may discontinue its participation if it so indicates by a resolution received by the Executive Secretary Director on or before February 1, 1989. Counties voluntarily participating in this Article are bound by all the provisions of this Article.~~

"§§ 163-133, 163-134: Reserved for future codification purposes."

Sec. 2. G.S. 163-192 reads as rewritten:

"§ 163-192. State Board of Elections to prepare abstracts and declare results of primaries and elections.

(a) After Primary. – At the conclusion of its canvass of the primary election, the State Board of Elections shall prepare separate abstracts of the votes cast:

- (1) For Governor and all State officers, justices of the Supreme Court, judges of the Court of Appeals, judges of the superior court, and United States Senators.
- (2) For members of the United States House of Representatives for the several congressional districts in the State.
- (3) For district court judges for the several district court districts in the State.
- (4) For district attorney in the several prosecutorial districts in the State.
- (5) For State Senators in the several senatorial districts in the State composed of more than one county.

- (6) For members of the State House of Representatives in the several representative districts in the State composed of more than one county.

Abstracts prepared by the State Board of Elections under this subsection shall state the total number of votes cast for each candidate of each political party for each of the various offices canvassed by the State Board of Elections. They shall also state the name or names of the person or persons whom the State Board of Elections shall ascertain and judicially determine by the count to be nominated for each office.

Abstracts prepared under this subsection shall be signed by the members of the State Board of Elections in their official capacity and shall have the great seal of the State affixed thereto.

(b) After General Election. – At the conclusion of its canvass of the general election, the State Board of Elections shall prepare abstracts of the votes cast:

- (1) For President and Vice-President of the United States, when an election is held for those offices.
- (2) For Governor and all State officers, justices of the Supreme Court, judges of the Court of Appeals, judges of the superior court, and United States Senators.
- (3) For members of the United States House of Representatives for the several congressional districts in the State.
- (4) For district court judges for the several district court district as defined in G.S. 7A-133 in the State.
- (5) For district attorney in the several prosecutorial districts in the State.
- (6) For State Senators in the several senatorial districts in the State composed of more than one county.
- (7) For members of the State House of Representatives in the several representative districts in the State composed of more than one county.
- (8) For and against any constitutional amendments or propositions submitted to the people.

Abstracts prepared by the State Board of Elections under this subsection shall state the names of all persons voted for, the office for which each received votes, and the number of legal ballots cast for each candidate for each office canvassed by the State Board of Elections. They shall also state the name or names of the person or persons whom the State Board of Elections shall ascertain and judicially determine by the count to be elected to each office.

Abstracts prepared under this subsection shall be signed by the members of the State Board of Elections in their official capacity and shall have the great seal of the State affixed thereto.

(c) Disposition of Abstracts of Returns. – The State Board of Elections shall file with the Secretary of State the original abstracts of returns prepared by it under the provisions of subsections (a) and (b) of this section, and also the duplicate county abstracts transmitted to the State Board of Elections under the provisions of G.S. 163-177. Upon the request of the Legislative Services Office, the Secretary of State shall submit a copy of the original abstracts to that Office."

Sec. 3. The Legislative Services Commission may use funds otherwise available to implement the provisions of Section 1 of this act for which the Legislative Services Office is responsible.

Sec. 4. G.S. 163-195 reads as rewritten:

"§ 163-195. Secretary of State to record abstracts and general election results.

(a) The Secretary of State shall record the State, district, and county abstracts filed with him by the State Board of Elections in a book to be kept by him for that purpose.

(b) Within seven days after the county board of elections meets to canvass the returns for the general election, the chairman of that board shall mail, or otherwise deliver, to the Secretary of State results of elections for:

President and Vice President of the United States

Governor, Lieutenant Governor, and all other State executive officers

United States Senators

Members of the House of Representatives of the United States Congress

Justices, Judges, and District Attorneys of the General Court of Justice

State Senators

Members of the State House of Representatives

Constitutional amendments and propositions submitted to the voters of the State.

The chairman shall deliver the results in a format prescribed by the Secretary of State. The chairman shall use the same format to amend the results to reflect any recounts or changes in the data that he learns of later after the initial results are sent in. In prescribing the format for any county, the Secretary of State shall, to the extent practicable, work within the limits of that county's existing reporting system.

The Secretary of State shall compile the results he receives in a document and deliver copies to the State Senate and the State House of Representatives within 90 days after the general election. The Secretary of State shall amend the document to correct any inaccuracies that later counts reveal in the data, and shall provide the House and Senate with the corrected data."

Sec. 5. Notwithstanding the provisions of G.S. 163-132.3, as amended by Section 1 of this act, the validity of the boundaries of a precinct of a county subject to G.S. 163-132.1A which consists of noncontiguous territory as of January 1, 1992, shall not be affected by the provisions of G.S. 163-132.3; provided, however, that any change to the boundaries of that precinct after that date shall be subject to G.S. 163-132.3, as amended by this act. Notwithstanding the preceding sentence, not later than January 1, 1997, the relevant county board of elections shall change any nonconforming precinct to eliminate noncontiguous territory in a precinct.

Sec. 6. This act becomes effective July 1, 1992.

In the General Assembly read three times and ratified this the 10th day of July, 1992.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives