

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 352
Committee Substitute Favorable 5/23/95
Committee Substitute #2 Favorable 6/22/95

Short Title: Primary Date Earlier.

(Public)

Sponsors:

Referred to:

March 6, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN EARLIER DATE FOR THE PRESIDENTIAL AND OTHER PRIMARIES AND TO REIMBURSE THE COUNTIES FOR POSTAGE IN THE DELIVERY OF CERTIFICATIONS OF CANDIDACY AND RESULTS OF PRIMARIES AND ELECTIONS AND TO REMOVE THE EXCUSE REQUIREMENT FROM ABSENTEE VOTING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-213.2 reads as rewritten:

"§ 163-213.2. Primary to be held; date; qualifications and registration of voters.

On the ~~Tuesday after the first Monday in May, 1992,~~ first Tuesday in March 1996, and every four years thereafter, the voters of this State shall be given an opportunity to express their preference for the person to be the presidential candidate of their political party.

Any person otherwise qualified who will become qualified by age to vote in the general election held in the same year of the presidential preference primary shall be entitled to register and vote in the presidential preference primary. Such persons may register not earlier than 60 days nor later than the 21st day prior to the said primary. In addition, persons who will become qualified by age to register and vote in the general

1 election for which the primary is held, who do not register during the special period may
2 register to vote after such period as if they were qualified on the basis of age, but until
3 they are qualified by age to vote, they may vote only in primary elections."

4 Sec. 2. G.S. 163-1(b) reads as rewritten:

5 "(b) On ~~Tuesday next after the first Monday in May~~ the first Tuesday in March
6 preceding each general election to be held in November for the officers referred to in
7 subsection (a) of this section, there shall be held in all election precincts within the
8 territory for which the officers are to be elected a primary election for the purpose of
9 nominating candidates for each political party in the State for those offices."

10 Sec. 3. G.S. 163-22(k) reads as rewritten:

11 "(k) Notwithstanding the provisions contained in Article 20 or Article 21 of
12 Chapter 163, the State Board of Elections shall be authorized, by resolution adopted prior
13 to the printing of the primary ballots, to reduce the time by which absentee ballots are
14 required to be printed and distributed for the primary election from 50 days to ~~45~~ 30 days.
15 This authority shall not be authorized for absentee ballots to be voted in the general
16 election."

17 Sec. 4. G.S. 163-213.4 reads as rewritten:

18 "**§ 163-213.4. Nomination by State Board of Elections.**

19 The State Board of Elections shall convene in Raleigh on the first ~~Tuesday~~ business
20 day in ~~February~~ January preceding the presidential preference primary election. At the
21 meeting required by this section, the State Board of Elections shall nominate as
22 presidential primary candidates all candidates affiliated with a political party, recognized
23 pursuant to the provisions of Article 9 of Chapter 163 of the General Statutes, who have
24 become eligible to receive payments from the Presidential Primary Matching Payment
25 Account, as provided in section 9033 of the U.S. Internal Revenue Code of 1954, as
26 amended. Immediately upon completion of these requirements, the Board shall release to
27 the news media all such nominees selected. Provided, however, nothing shall prohibit the
28 partial selection of nominees prior to the meeting required by this section, if all
29 provisions herein have been complied with."

30 Sec. 5. G.S. 163-106(c) reads as rewritten:

31 "(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary
32 nominations for the following offices shall file their notice of candidacy with the State
33 Board of Elections no earlier than 12:00 noon on the ~~first Monday in January and no later~~
34 ~~than 12:00 noon on the first Monday in February~~ last Tuesday in December (or the next
35 business day if that is a holiday) and no later than 12:00 noon on the second Friday in
36 January preceding the primary:

37 Governor

38 Lieutenant Governor

39 All State executive officers

40 Justices of the Supreme Court, Judges of the Court of Appeals

41 Judges of the superior courts

42 Judges of the district courts

43 United States Senators

1 Members of the House of Representatives of the United States

2 District attorneys

3 Candidates seeking party primary nominations for the following offices shall file their
4 notice of candidacy with the county board of elections no earlier than 12:00 noon on the
5 ~~first Monday in January and no later than 12:00 noon on the first Monday in February last~~
6 Tuesday in December (or the next business day if that is a holiday) and no later than
7 12:00 noon on the second Friday in January preceding the primary:

8 State Senators

9 Members of the State House of Representatives

10 All county offices."

11 Sec. 6. G.S. 163-177 reads as rewritten:

12 **"§ 163-177. Disposition of duplicate abstracts.**

13 Within six hours after the returns of a primary or election have been canvassed and
14 the results judicially determined, the chairman of the county board of elections shall at
15 the expense of the State mail, or otherwise deliver, to the State Board of Elections the
16 duplicate-original abstracts prepared in accordance with G.S. 163-176 for all offices and
17 referenda for which the State Board of Elections is required to canvass the votes and
18 declare the results including:

19 President and Vice-President of the United States

20 Governor, Lieutenant Governor, and all other State executive officers

21 United States Senators

22 Members of the House of Representatives of the United States Congress

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

24 State Senators in multi-county senatorial districts

25 Members of the State House of Representatives in multi-county representative
26 districts

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

29 One duplicate abstract prepared in accordance with G.S. 163-176 for all offices and
30 referenda for which the county board of elections is required to canvass the votes and
31 declare the results (and which are listed below) shall be retained by the county board,
32 which shall forthwith publish and declare the results; the second duplicate abstract shall
33 be mailed at the expense of the State to the chairman of the State Board of Elections, to
34 the end that there be one set of all primary and election returns available at the seat of
35 government.

36 All county offices

37 State Senators in single-county senatorial districts

38 Members of the State House of Representatives in single-county representative
39 districts

40 Propositions submitted to the voters of one county.

41 If the chairman of the county board of elections fails or neglects to transmit duplicate
42 abstracts to the chairman of the State Board of Elections within the time prescribed in this
43 section, he shall be guilty of a Class 2 misdemeanor. Provided, that the penalty shall not

1 apply if the chairman was prevented from performing the prescribed duty because of
2 sickness or other unavoidable delay, but the burden of proof shall be on the chairman to
3 show that his failure to perform was due to sickness or unavoidable delay."

4 Sec. 7. G.S. 163-108 reads as rewritten:

5 "**§ 163-108. Certification of notices of candidacy.**

6 (a) Within three days after the time for filing notices of candidacy with the State
7 Board of Elections under the provisions of G.S. 163-106(c) has expired, the chairman or
8 secretary of that Board shall certify at the expense of the State to the Secretary of State
9 the name, address, and party affiliation of each person who has filed with the State Board
10 of Elections, indicating in each instance the office sought.

11 (b) No later than 10 days after the time for filing notices of candidacy under the
12 provisions of G.S. 163-106(c) has expired, the chairman of the State Board of Elections
13 shall certify to the chairman of the county board of elections in each county in the
14 appropriate district the names of candidates for nomination to the following offices who
15 have filed the required notice and pledge and paid the required filing fee to the State
16 Board of Elections, so that their names may be printed on the official county ballots:
17 Superior court judge, district court judge, and district attorney.

18 (c) In representative districts composed of more than one county and in multi-
19 county senatorial districts the chairman or secretary of the county board of elections in
20 each county shall, at the expense of the State within three days after the time for filing
21 notices of candidacy under the provisions of G.S. 163-106(c) has expired, certify to the
22 State Board of Elections (i) the names of all candidates who have filed notice of
23 candidacy in his county for member of the State Senate, or, if such is the fact, that no
24 candidates have filed in his county for that office, and (ii) the names of all candidates
25 who have filed notice of candidacy in his county for the office of member of the State
26 House of Representatives or, if such is the fact, that no candidates have filed in his county
27 for that office. The chairman of the county board of elections shall at the expense of the
28 State forward a copy of this report to the chairman of the board of elections of each of the
29 other counties in the representative or senatorial district. Within 10 days after the time for
30 filing notices of candidacy for those offices has expired the chairman or secretary of the
31 State Board of Elections shall certify to the chairman of the county board of elections in
32 each county of each multi-county representative or senatorial district the names of all
33 candidates for the House of Representatives and Senate which must be printed on the
34 county ballots.

35 (d) Within two days after he receives each of the letters of certification from the
36 chairman of the State Board of Elections required by subsections (b) and (c) of this
37 section, each county elections board chairman shall at the expense of the State
38 acknowledge receipt by letter addressed to the chairman of the State Board of Elections."

39 Sec. 7.1. (a) G.S. 163-226(a) reads as rewritten:

40 "(a) Who May Vote Absentee Ballot; Generally. – Any qualified voter of the State
41 may vote by absentee ballot in a statewide primary, general, or special election on
42 constitutional amendments, referenda or bond proposals, and any qualified voter of a

1 county is authorized to vote by absentee ballot in any primary or election conducted by
2 the county board of elections, in the manner provided in this Article if:

- 3 (1) ~~He The voter expects to be absent from the county in which he is~~
4 ~~registered during the entire period that the polls are open not to be~~
5 ~~present at the voting place to vote in person on the day of the specified~~
6 ~~election in which he desires to vote; or~~
- 7 (2) He is unable to be present at the voting place to vote in person on the
8 day of the specified election in which he desires to vote because of his
9 sickness or other physical ~~disability; disability where such illness or~~
10 ~~other physical disability arises before 5:00 p.m. on the day prior to the~~
11 ~~date of the specified election. or~~
- 12 (3) ~~He is incarcerated, whether in his county of residence or elsewhere,~~
13 ~~shall be entitled to vote by absentee ballot in the county of his residence~~
14 ~~in any election, specified herein, in which he otherwise would be~~
15 ~~entitled to vote. Absentee voting shall be in the same manner as~~
16 ~~provided in this Article. The chief custodian or superintendent of the~~
17 ~~institution or other place of confinement shall certify that the applicant~~
18 ~~is not a felon, and the certification shall be as prescribed by the State~~
19 ~~Board of Elections. The State Board of Elections is authorized to~~
20 ~~prescribe procedures to carry out the intent and purpose of this~~
21 ~~subsection;~~
- 22 (4) ~~He is an employee of the county board of elections and his assigned~~
23 ~~duties on the day of the election will cause him to be unable to be~~
24 ~~present at the voting place to vote in person and provided such~~
25 ~~employee has his application witnessed by the chairman of the county~~
26 ~~board of elections."~~

27 Sec. 7.2. G.S. 163-227 reads as rewritten:

28 "**§ 163-227. State Board to prescribe form of application for absentee ballots;**
29 **county to secure.**

30 (a) Applications for Absentee Ballots Generally. – A voter falling in any one of
31 the categories defined in G.S. 163-226, 163-226.1 or 163-226.2 may apply for absentee
32 ballots not earlier than 50 days prior to the statewide, county or municipal election in
33 which he seeks to vote and not later than 5:00 P.M. on the Tuesday before that election.
34 Subject to all other provisions contained in this Article, a voter applying for an absentee
35 ballot shall complete the standard application form to be secured by the county board of
36 elections, as designed and prescribed by the State Board of Elections. The form shall
37 contain lines to be checked off by each of the kinds of voters specified below:

- 38 (1) ~~A voter expecting to be absent from the county of his residence all day~~
39 ~~expecting not to be present at the voting place to vote in person on the~~
40 ~~day of the specified election. (G.S. 163-226(a)(1)).~~
- 41 (2) A voter who is unable to be present at the voting place to vote in person
42 on the day of the specified election because of his sickness or other

1 physical disability occurring before 5:00 P.M. on the day prior to the
2 date of the specified election. (G.S. 163-226(a)(2)).

3 (3) Repealed by Session Laws 1991, c. 727, s. 6.1.

4 (4) A voter expecting ~~to be absent from the county, not to be present at the~~
5 voting place to vote in person, or due to emergency disability will be
6 unable to vote in person, ~~or a person who qualifies under G.S. 163-~~
7 ~~226(a)(4)~~, and who, in lieu of making application by mail, wishes to
8 apply in person and receive a ballot which he may immediately vote in
9 the office of the county board of elections.

10 (b) Types of Applications; Instructions. –

11 (1) Expected Absence from ~~County Voting Place~~ on Election Day. – A
12 voter expected ~~to be absent from the county not to be present at the~~
13 voting place in which registered during the entire period that the polls
14 will be open on primary or general election day, or a near relative, or
15 verifiable legal guardian, shall make written application for absentee
16 ballots to the chairman of the board of elections of the county in which
17 the voter is registered not earlier than 50 days nor later than 5:00 P.M.
18 on the Tuesday before the election. The application shall be submitted
19 in the form set out in this subdivision upon a copy which shall be
20 furnished the voter or a near relative by the chairman of the county
21 board of elections.

22 The applicant shall sign his application personally, or it shall be
23 signed by a near relative or verifiable legal guardian. The application
24 shall be signed in the presence of a witness, who shall sign his name in
25 the place provided on the form. The application form when properly
26 filled out shall be transmitted by mail or delivered in person by the
27 applicant or a near relative to the chairman or the supervisor of elections
28 of the county board of elections.

29 (2) Absence for Sickness or Physical Disability Occurring before 5:00 P.M.
30 on the day prior to the Primary or General Election. – A voter expecting
31 to be unable to go to the voting place to vote in person on primary or
32 general election day because of his sickness or other physical ~~disability,~~
33 disability occurring before 5:00 p.m. on the day prior to the date of the
34 specified election, or his near relative or verifiable legal guardian, shall
35 make written application for absentee ballots to the chairman of the
36 board of elections of the county in which the voter is registered not
37 earlier than 50 days nor later than 5:00 P.M. on the day before the
38 election. The application shall be submitted in the form set out in this
39 subdivision upon a copy which shall be furnished the voter or a near
40 relative or verifiable legal guardian by the chairman of the county board
41 of elections.

42 The application shall be signed by the voter personally, or it shall be
43 signed by a near relative or verifiable legal guardian. The application

1 shall be signed in the presence of a witness, who shall sign his name in
2 the place provided on the form.

3 The application form, when properly filled out, shall be transmitted
4 by mail or delivered in person by the applicant or a near relative or
5 verifiable legal guardian to the chairman or supervisor of elections of
6 the county board of elections of the county in which the applicant is
7 registered.

8 (3) Repealed by Session Laws 1991, c. 727, s. 6.1.

9 (4) 'One-Stop' Voting Procedure, in Office of the County Board of
10 Elections. – A voter falling in the category specified in G.S. 163-227.2
11 may execute an application form and proceed to vote his absentee ballot
12 in the office of the county board of elections only.

13 (c) Application Forms Issued by Chairman of County Board of Elections. – The
14 chairman of the county board of elections shall be sole custodian of all absentee ballot
15 application forms, but he, the secretary of the board and the supervisor of elections of the
16 board, in accordance with one of the following two procedures, shall issue and deliver a
17 single application form, upon request, to a person authorized to sign such an application
18 under the provisions of this section:

19 (1) The chairman, secretary or supervisor of elections may deliver the form
20 to a voter personally or to his near relative or verifiable legal guardian at
21 the office of the county board of elections for the voter's own use; or

22 (2) The chairman, secretary or supervisor of elections may mail the form to
23 a voter for his own use upon receipt of a written request from the voter
24 or his near relative or verifiable legal guardian.

25 At the time he issues an application form, the chairman, secretary or
26 supervisor of elections of the county board of elections shall number it
27 and write the name of the voter in the space provided therefor at the top
28 of the form. At the same time the chairman, secretary or supervisor of
29 elections shall insert the name of the voter and the number assigned his
30 application in the register of absentee ballot applications and ballots
31 issued provided for in G.S. 163-228. If the application is requested by
32 the voter's near relative, or verifiable legal guardian, the chairman,
33 secretary or supervisor of elections also shall insert that person's name
34 in the register after the name of the voter.

35 The chairman, secretary or supervisor of elections shall issue only
36 one application form to a voter or his near relative or verifiable legal
37 guardian unless a form previously issued is returned to the chairman,
38 secretary or supervisor of elections and marked 'Void' by him. In such a
39 situation, the chairman, secretary or supervisor of elections may issue
40 another application form to the voter or a near relative or verifiable legal
41 guardian, but he shall retain the voided application form in the board's
42 records. If the application is requested by the voter's near relative or
43 verifiable legal guardian, the chairman, secretary or supervisor of

1 elections shall write the name of the near relative or verifiable legal
2 guardian on the index of near relatives or verifiable legal guardians,
3 applying for applications for absentee ballots; the index shall be in such
4 form as may be prescribed or approved by the State Board of Elections;
5 a separate index shall be maintained for each primary, general or special
6 election in which absentee voting is allowed.

7 (3) Applications or Absentee Ballots Transmitted by Mail or in Person. –
8 An application for absentee ballots shall be made and signed only by the
9 voter desiring to use them or the voter's near relative or verifiable legal
10 guardian and shall be valid only when transmitted to the chairman or
11 supervisor of elections of the county board of elections by mail or
12 delivered in person by the voter or his near relative or legal verifiable
13 guardian.

14 (4) Who Is Authorized to Request Applications for Absentee Ballots. – A
15 voter may personally request an application for absentee ballots or may
16 cause such request to be made through a near relative or verifiable legal
17 guardian. For the purpose of this Article, 'near relative' means spouse,
18 brother, sister, parent, grandparent, child, or grandchild.

19 (5) The form of application for persons applying to vote in a primary under
20 the provisions of this section shall be as designed and prescribed by the
21 State Board of Elections. No voter shall be furnished ballots for voting
22 in a primary except the ballots for candidates for nomination in the
23 primary of the political party with which he is affiliated at the time he
24 makes application for absentee ballots. The official registration records
25 of the county in which the voter is registered shall be proof of the party,
26 if any, with which the voter is affiliated.

27 (6) The county board of elections shall cause to be stamped or printed on
28 the face of each application for absentee ballots the following legend,
29 and the blank space in the legend to be completed:

30 'This application is issued for absentee ballots to be voted in the
31 _____ (primary or general or special election) to be held in
32 _____ County on the _____ day of _____, 19
33 ____.' The county board of elections shall not issue any absentee ballots
34 on the basis of any application that does not bear the completed legend.

35 (7) No applications shall be issued earlier than 50 days prior to the election
36 in which the voter wishes to vote. Nothing herein shall prohibit the
37 county board of elections from receiving written requests for
38 applications earlier than 50 days prior to the election but such
39 applications shall not be mailed or issued to the voter in person earlier
40 than 50 days prior to the election.

41 (8) Applications for absentee ballots shall be issued only by mail or in the
42 office of the county board of elections to the voter or a near relative or
43 verifiable legal guardian authorized to make application. No election

1 official shall issue applications for absentee ballots except in
2 compliance with the provisions stated herein."

3 Sec. 7.3. G.S. 163-227.2(a) reads as rewritten:

4 "(a) A person expecting ~~to be absent from the county~~ not to be present at the voting
5 place in which he is registered during the entire period that the polls are open on the day
6 of an election in which absentee ballots are authorized or is eligible under G.S. 163-
7 226(a)(2) ~~or G.S. 163-226(a)(4)~~ may request an application for absentee ballots, complete
8 the application, receive the absentee ballots, vote and deliver them sealed in a container-
9 return envelope to the county board of elections in the county in which he is registered
10 under the provisions of this section."

11 Sec. 7.4. G.S. 163-229(b)(2) reads as rewritten:

12 **"§ 163-229. Absentee ballots, container-return envelopes, and instruction sheets.**

13 (a) Absentee Ballot Form. – In accordance with the provisions of G.S. 163-230(3),
14 persons entitled to vote by absentee ballot shall be furnished with regular official ballots.
15 Separate or distinctly marked absentee ballots shall not be used.

16 (b) Container-Return Envelope. – In time for use not later than 50 days before a
17 statewide primary, general election or county bond election, the county board of elections
18 shall print a sufficient number of envelopes in which persons casting absentee ballots
19 may transmit their marked ballots to the chairman of the county board of elections. Each
20 container-return envelope shall be printed in accordance with the following instructions:

21 (1) On one side shall be printed an identified space in which shall be
22 inserted the application number of the voter and the following statement
23 which shall be certified by one member of the county board of elections:

24
25 'Certification of Election Official

26 The undersigned election official does by his hand and
27 seal certify that..... is a registered and qualified voter of
28 County, Precinct # and has made proper
29 application to vote under the Absentee Ballot Law of North
30 Carolina.

31(Seal)Ch
32 airman-Member'(2).....On the
33 other side shall be printed the return address of the chairman of the county board of
34 elections and the following certificate:'Certificate of Absentee or Sick Voter

35 State of

36 County of,, do certify that I am a resident and
37 registered voter in precinct, County, North Carolina; that on the day of an
38 election,, ~~19~~.... (check whichever of the following statements is correct.)

39 [] I will ~~be absent from the county in which I reside~~ not be
40 present at the voting place in which I am registered during the
41 entire time the polls will be open on election day.

42 [] Due to sickness or physical disability, occurring before 5:00
43 p.m. on the day before the election, ~~or incarceration as a~~

