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SENATE BILL 1126*
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Short Title: Countywide Pollworkers.

(Public)

Sponsors: Senators Gulley, Plexico, and Winner.

Referred to: Judiciary II/Election Laws.

May 14, 1996

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE APPOINTMENT IN CERTAIN CIRCUMSTANCES OF
PRECINCT OFFICIALS, OBSERVERS, AND BALLOT COUNTERS FOR A
PRECINCT WHO ARE NOT REGISTERED TO VOTE IN THAT PRECINCT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-41(a) reads as rewritten:

"(a) Appointment of Chief Judge and Judges. – At the meeting required by G.S. 163-31 to be held on the Tuesday following the third Monday in August of the year in which they are appointed, the county board of elections shall appoint one person to act as chief judge and two other persons to act as judges of election for each precinct in the county. Their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and ~~qualified~~ qualified, except that if a nonresident of the precinct is appointed as chief judge or judge for a precinct, that person's term of office shall end if the board of elections appoints a qualified resident of the precinct of the same party to replace the nonresident chief judge or judge. It shall be their duty to conduct the primaries and elections within their respective precincts. Persons appointed to these offices must be registered voters and residents of the ~~precinct for which appointed,~~ county in which the precinct is located, of good repute, and able to read and

1 write. Not more than one judge in each precinct shall belong to the same political party as
2 the chief judge.

3 The term 'precinct official' shall mean chief judges and judges appointed pursuant to
4 this section, and all assistants appointed pursuant to G.S. 163-42, unless the context of a
5 statute clearly indicates a more restrictive meaning.

6 No person shall be eligible to serve as a precinct official, as that term is defined
7 above, who holds any elective office under the government of the United States, or of the
8 State of North Carolina or any political subdivision thereof.

9 No person shall be eligible to serve as a precinct official who is a candidate for
10 nomination or election.

11 No person shall be eligible to serve as a precinct official who holds any office in a
12 state, congressional district, county, or precinct political party or political organization, or
13 who is a manager or treasurer for any candidate or political party, provided however that
14 the position of delegate to a political party convention shall not be considered an office
15 for the purpose of this subsection.

16 The chairman of each political party in the county where possible shall recommend
17 two registered voters in each precinct who are otherwise qualified, are residents of the
18 precinct, have good moral character, and are able to read and write, for appointment as
19 chief judge in the precinct, and he shall also recommend where possible the same number
20 of similarly qualified voters for appointment as judges of election in that precinct. If such
21 recommendations are received by the county board of elections no later than the fifth day
22 preceding the date on which appointments are to be made, it must make precinct
23 appointments from the names of those recommended. Provided that if only one name is
24 submitted by the fifth day preceding the date on which appointments are to be made, by a
25 party for judge of election by the chairman of one of the two political parties in the
26 county having the greatest numbers of registered voters in the State, the county board of
27 elections must appoint that person.

28 If the recommendations of the party chairs for chief judge or judge in a precinct are
29 insufficient, the county board of elections by unanimous vote of all of its members may
30 name to serve as chief judge or judge in that precinct registered voters in that precinct
31 who were not recommended by the party chairs. If, after diligently seeking to fill the
32 positions with registered voters of the precinct, the county board by unanimous vote of all
33 of its members still has an insufficient number of officials for the precinct, the county
34 board may appoint to the positions registered voters in other precincts in the same county
35 who meet the qualifications other than residence to be precinct officials in the precinct,
36 provided that where possible the county board shall seek and adopt the recommendation
37 of the county chairman of the political party affected. In making its appointments, the
38 county board shall assure, wherever possible, that no precinct has a chief judge and
39 judges all of whom are registered with the same party. In no instance shall the county
40 board appoint nonresidents of the precinct to a majority of the three positions of chief
41 judge and judge in a precinct.

42 If, at any time other than on the day of a primary or election, a chief judge or judge of
43 election shall be removed from office, or shall die or resign, or if for any other cause

1 there be a vacancy in a precinct election office, the chairman of the county board of
2 elections shall appoint another in his place, promptly notifying him of his appointment. If
3 at all possible, the chairman of the county board of elections shall consult with the county
4 chairman of the political party of the vacating official, and if the chairman of the county
5 political party nominates a qualified voter of that precinct to fill the vacancy, the
6 chairman of the county board of elections shall appoint that person. In filling such a
7 vacancy, the chairman shall appoint a person who belongs to the same political party as
8 that to which the vacating member belonged when appointed. If the chairman of the
9 county board of elections did not appoint a person upon recommendation of the chairman
10 of the party to fill such a vacancy, then the term of office of the person appointed to fill
11 the vacancy shall expire upon the conclusion of the next canvass held by the county
12 board of elections under this Chapter, and any successor must be a person nominated by
13 the chairman of the party of the vacating officer.

14 If any person appointed chief judge shall fail to be present at the voting place at the
15 hour of opening the polls on primary or election day, or if a vacancy in that office shall
16 occur on primary or election day for any reason whatever, the precinct judges of election
17 shall appoint another to act as chief judge until such time as the chairman of the county
18 board of elections shall appoint to fill the vacancy. If such appointment by the chairman
19 of the county board of elections is not a person nominated by the county chairman of the
20 political party of the vacating officer, then the term of office of the person appointed to
21 fill the vacancy shall expire upon the conclusion of the next canvass held by the county
22 board of elections under this Chapter. If a judge of election shall fail to be present at the
23 voting place at the hour of opening the polls on primary or election day, or if a vacancy in
24 that office shall occur on primary or election day for any reason whatever, the chief judge
25 shall appoint another to act as judge until such time as the chairman of the county board
26 of elections shall appoint to fill the vacancy. Persons appointed to fill vacancies shall,
27 whenever possible, be chosen from the same political party as the person whose vacancy
28 is being filled, and all such appointees shall be sworn before acting.

29 As soon as practicable, following their training as prescribed in G.S. 163-82.24, each
30 chief judge and judge of election shall take and subscribe the following oath of office to
31 be administered by an officer authorized to administer oaths and file it with the county
32 board of elections:

33 'I,, do solemnly swear (or affirm) that I will support the Constitution of the
34 United States; that I will be faithful and bear true allegiance to the State of North
35 Carolina, and to the constitutional powers and authorities which are or may be established
36 for the government thereof; that I will endeavor to support, maintain and defend the
37 Constitution of said State not inconsistent with the Constitution of the United States; that
38 I will administer the duties of my office as chief judge of (judge of election in)
39 precinct, County, without fear or favor; that I will not in any manner request or seek
40 to persuade or induce any voter to vote for or against any particular candidate or
41 proposition; and that I will not keep or make any memorandum of anything occurring
42 within a voting booth, unless I am called upon to testify in a judicial proceeding for a
43 violation of the election laws of this State; so help me, God.'

1 Notwithstanding the previous paragraph, a person appointed chief judge by the judges
2 of election under this section, or appointed judge of election by the chief judge under this
3 section may take the oath of office immediately upon appointment.

4 Before the opening of the polls on the morning of the primary or election, the chief
5 judge shall administer the oath set out in the preceding paragraph to each assistant, and
6 any judge of election not previously sworn, substituting for the words 'chief judge of' the
7 words 'assistant in' or 'judge of election in' whichever is appropriate."

8 Sec. 2. G.S. 163-42 reads as rewritten:

9 **"§ 163-42. Assistants at polls; appointment; term of office; qualifications; oath of**
10 **office.**

11 Each county and municipal board of elections is authorized, in its discretion, to
12 appoint two or more assistants for each precinct to aid the chief judge and judges. Not
13 more than two assistants shall be appointed in precincts having 500 or less registered
14 voters. Assistants shall be qualified voters of the ~~precinct for which appointed.~~ county in
15 which the precinct is located. When the board of elections determines that assistants are
16 needed in a precinct an equal number shall be appointed from different political parties,
17 unless the requirement as to party affiliation cannot be met because of an insufficient
18 number of voters of different political parties within a ~~precinct.~~ the county.

19 The chairman of each political party in the county shall have the right to recommend
20 from three to 10 registered voters in each precinct for appointment as precinct assistants
21 in that precinct. If the recommendations are received by it no later than the thirtieth day
22 prior to the primary or election, the board shall make appointments of the precinct
23 assistants for each precinct from the names thus recommended. If the recommendations
24 of the party chairs for precinct assistant in a precinct are insufficient, the county board of
25 elections by unanimous vote of all of its members may name to serve as precinct assistant
26 in that precinct registered voters in that precinct who were not recommended by the party
27 chairs. If, after diligently seeking to fill the positions with registered voters of the
28 precinct, the county board still has an insufficient number of precinct assistants for the
29 precinct, the county board by unanimous vote of all of its members may appoint to the
30 positions registered voters in other precincts in the same county who meet the
31 qualifications other than residence to be precinct officials in the precinct. In making its
32 appointments, the county board shall assure, wherever possible, that no precinct has
33 precinct officials all of whom are registered with the same party. In no instance shall the
34 county board appoint nonresidents of the precinct to a majority of the positions as
35 precinct assistant in a precinct.

36 In addition, a county board of elections by unanimous vote of all of its members may
37 appoint any registered voter in the county as emergency election-day assistant, as long as
38 that voter is otherwise qualified to be a precinct official. The State Board of Elections
39 shall determine for each election the number of emergency election-day assistants each
40 county may have, based on population, expected turnout, and complexity of election
41 duties. The county board by unanimous vote of all of its members may assign emergency
42 election-day assistants on the day of the election to any precinct in the county where the
43 number of precinct officials is insufficient because of an emergency occurring within 48

1 hours of the opening of the polls that prevents an appointed precinct official from
2 servng. A person appointed to serve as emergency election-day assistant shall be trained
3 and paid like other precinct assistants in accordance with G.S. 163-46. A county board of
4 elections shall apportion the appointments as emergency election-day assistant among
5 registrants of each political party so as to make possible the staffing of each precinct with
6 officials of more than one party, and the county board shall make assignments so that no
7 precinct has precinct officials all of whom are registered with the same party.

8 Before entering upon the duties of the office, each assistant shall take the oath
9 prescribed in G.S. 163-41(a) to be administered by the chief judge of the precinct
10 for which the assistant is appointed. Assistants serve for the particular primary or election
11 for which they are appointed, unless the county board of elections appoints them for a
12 term to expire on the date appointments are to be made pursuant to G.S. 163-41."

13 Sec. 3. G.S. 163-43 reads as rewritten:

14 **"§ 163-43. Ballot counters; appointment; qualifications; oath of office.**

15 The county board of elections of any county may authorize the use of precinct ballot
16 counters to aid the chief judges and judges of election in the counting of ballots in any
17 precinct or precincts within the county. The county board of elections shall appoint the
18 ballot counters it authorizes for each precinct or, in its discretion, the board may delegate
19 authority to make such appointments to the precinct chief judge, specifying the number of
20 ballot counters to be appointed for each precinct. A ballot counter must be a resident of
21 ~~that precinct.~~ the county in which the precinct is located.

22 No person shall be eligible to serve as a ballot counter, who holds any elective office
23 under the government of the United States, or of the State of North Carolina or any
24 political subdivision thereof.

25 No person shall be eligible to serve as a ballot counter, who serves as chairman of a
26 state, congressional district, county, or precinct political party or political organization.

27 No person who is the wife, husband, mother, father, son, daughter, brother or sister of
28 any candidate for nomination or election may serve as ballot counter during any primary
29 or election in which such candidate qualifies.

30 No person shall be eligible to serve as a ballot counter who is a candidate for
31 nomination or election.

32 Upon acceptance of appointment, each ballot counter shall appear before the precinct
33 chief judge at the voting place immediately at the close of the polls on the day of the
34 primary or election and take the following oath to be administered by the chief judge:

35 'I,, do solemnly swear (or affirm) that I will support the Constitution of the
36 United States; that I will be faithful and bear true allegiance to the State of North
37 Carolina, and to the constitutional powers and authorities which are or may be established
38 for the government thereof; that I will endeavor to support, maintain and defend the
39 Constitution of said State not inconsistent with the Constitution of the United States; that
40 I will honestly discharge the duties of ballot counter in precinct, County for
41 primary (or election) held this day, and that I will fairly and honestly tabulate the votes
42 cast in said primary (or election); so help me, God.'

1 The names and addresses of all ballot counters serving in any precinct, whether appointed
2 by the county board of elections or by the chief judge, shall be reported by the chief judge
3 to the county board of elections at the county canvass following the primary or election."

4 Sec. 4. G.S. 163-87 reads as rewritten:

5 **"§ 163-87. Challenges allowed on day of primary or election.**

6 On the day of a primary or election, at the time a registered voter offers to vote, any
7 other registered voter of the precinct may exercise the right of challenge, and when he
8 does so may enter the voting enclosure to make the challenge, but he shall retire
9 therefrom as soon as the challenge is heard.

10 On the day of a primary or election, any other registered voter of the precinct may
11 challenge a person for one or more of the following reasons:

12 (1) One or more of the reasons listed in G.S. 163-85(c), or

13 (2) That the person has already voted in that primary or election, or

14 (3) That the person presenting himself to vote is not who he represents
15 himself to be.

16 On the day of a party primary, any voter of the precinct who is registered as a member
17 of the political party conducting the primary may, at the time any registrant proposes to
18 vote, challenge his right to vote upon the ground that he does not affiliate with the party
19 conducting the primary or does not in good faith intend to support the candidates
20 nominated in that party's primary, and it shall be the duty of the chief judge and judges of
21 election to determine whether or not the challenged registrant has a right to vote in that
22 primary according to the procedures prescribed in G.S. 163-88; provided that no
23 challenge may be made on the grounds specified in the paragraph against an unaffiliated
24 voter voting in the primary under G.S. 163-74(a1).

25 The chief judge, judge, or assistant appointed under G.S. 163-41 or 163-42 may enter
26 challenges under this section against voters in the precinct for which appointed regardless
27 of the place of residence of the chief judge, judge, or assistant.

28 If a person is challenged under this subsection, and the challenge is sustained under
29 G.S. 163-85(c)(3), the voter may still transfer his registration under G.S. 163-82.15(e) if
30 eligible under that section, and the registration shall not be cancelled under G.S. 163-
31 90.2(a) if the transfer is made. A person who has transferred his registration under G.S.
32 163-82.15(e) may be challenged at the precinct to which the registration is being
33 transferred."

34 Sec. 4.1. G.S. 163-45 reads as rewritten:

35 **"§ 163-45. Observers; appointment.**

36 The chairman of each political party in the county shall have the right to designate
37 two observers to attend each voting place at each primary and election and such observers
38 may, at the option of the designating party chairman, be relieved during the day of the
39 primary or election after serving no less than four hours and provided the list required by
40 this section to be filed by each chairman contains the names of all persons authorized to
41 represent such chairman's political party. Not more than two observers from the same
42 political party shall be permitted in the voting enclosure at any time. This right shall not
43 extend to the chairman of a political party during a primary unless that party is

1 participating in the primary. In any election in which an unaffiliated candidate is named
2 on the ballot, ~~he or his~~ the candidate or the candidate's campaign manager shall have the
3 right to appoint two observers for each voting place consistent with the provisions
4 specified herein. Persons appointed as observers must be registered voters of the ~~precinct~~
5 county for which appointed and must have good moral character. Observers shall take no
6 oath of office.

7 Individuals authorized to appoint observers must submit in writing to the chief judge
8 of each precinct a signed list of the observers appointed for that precinct. Individuals
9 authorized to appoint observers must, prior to 10:00 A.M. on the fifth day prior to any
10 primary or general election, submit in writing to the chairman of the county board of
11 elections two signed copies of a list of observers appointed by them, designating the
12 precinct for which each observer is appointed. Before the opening of the voting place on
13 the day of a primary or general election, the chairman shall deliver one copy of the list to
14 the chief judge for each affected precinct. He shall retain the other copy. The chairman,
15 or the chief judge and judges for each affected precinct, may for good cause reject any
16 appointee and require that another be appointed. The names of any persons appointed in
17 place of those persons rejected shall be furnished in writing to the chief judge of each
18 affected precinct no later than the time for opening the voting place on the day of any
19 primary or general election, either by the chairman of the county board of elections or the
20 person making the substitute appointment.

21 An observer shall do no electioneering at the voting place, and he shall in no manner
22 impede the voting process or interfere or communicate with or observe any voter in
23 casting his ballot, but, subject to these restrictions, the chief judge and judges of elections
24 shall permit him to make such observation and take such notes as he may desire.

25 Whether or not the observer attends to the polls for the requisite time provided by this
26 section, each observer shall be entitled to obtain at times specified by the State Board of
27 Elections, but not less than three times during election day with the spacing not less than
28 one hour apart, a list of the persons who have voted in the precinct so far in that election
29 day. Counties that use an 'authorization to vote document' instead of poll books may
30 comply with the requirement in the previous sentence by permitting each observer to
31 inspect election records so that the observer may create a list of persons who have voted
32 in the precinct so far that election day; each observer shall be entitled to make the
33 inspection at times specified by the State Board of Elections, but not less than three times
34 during election day with the spacing not less than one hour apart."

35 Sec. 5. G.S. 163-226(a) reads as rewritten:

36 "(a) Who May Vote Absentee Ballot; Generally. – Any qualified voter of the State
37 may vote by absentee ballot in a statewide primary, general, or special election on
38 constitutional amendments, referenda or bond proposals, and any qualified voter of a
39 county is authorized to vote by absentee ballot in any primary or election conducted by
40 the county board of elections, in the manner provided in this Article if:

- 41 (1) ~~He~~ The voter expects to be absent from the county in which he is
42 registered during the entire period that the polls are open on the day of
43 the specified election in which he desires to vote; or

- 1 (2) ~~He~~The voter is unable to be present at the voting place to vote in person
2 on the day of the specified election in which he desires to vote because
3 of his sickness or other physical disability; or
4 (3) ~~He~~The voter is incarcerated, whether in his county of residence or
5 elsewhere, shall be entitled to vote by absentee ballot in the county of
6 his residence in any election, specified herein, in which he otherwise
7 would be entitled to vote. Absentee voting shall be in the same manner
8 as provided in this Article. The chief custodian or superintendent of the
9 institution or other place of confinement shall certify that the applicant
10 is not a felon, and the certification shall be as prescribed by the State
11 Board of Elections. The State Board of Elections is authorized to
12 prescribe procedures to carry out the intent and purpose of this
13 subsection;
14 (4) ~~He~~The voter is an employee of the county board of elections or a
15 precinct official, observer, or ballot counter, in another precinct and his
16 the voter's assigned duties on the day of the election will cause ~~him~~the
17 voter to be unable to be present at the voting place to vote in person and
18 provided such employee has ~~his~~the application witnessed by the
19 chairman of the county board of elections."

20 Sec. 6. This act is effective upon ratification.