

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL 2
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Short Title: Gubernatorial Team Ticket.

(Public)

Sponsors:

Referred to:

January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE GOVERNOR AND LIEUTENANT GOVERNOR RUN AS A JOINT TICKET IN THE GENERAL ELECTION, TO CLARIFY THE STATUS OF ACTING GOVERNOR, TO PROVIDE THAT THE LIEUTENANT GOVERNOR SHALL BE NOMINATED BY THE PARTY EXECUTIVE COMMITTEE, RATHER THAN UNDER THE PRIMARY ACT, TO PROVIDE THAT IN THE CASE OF A VACANCY IN THE OFFICE OF LIEUTENANT GOVERNOR, THE GOVERNOR SHALL APPOINT A SUCCESSOR SUBJECT TO CONFIRMATION, AND TO PROVIDE THAT THE PROCEDURES FOR REMOVAL OF THE LIEUTENANT GOVERNOR ARE THE SAME AS THOSE FOR REMOVAL OF THE GOVERNOR.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Article III of the North Carolina Constitution is amended by adding a new subsection to read:

"(3) Team election. In the general election, each candidate for the office of Governor shall form a joint candidacy with a candidate for Lieutenant Governor so that each voter shall cast a single vote for a candidate for Governor and a candidate for Lieutenant Governor running together."

SECTION 2. Section 3 of Article III of the North Carolina Constitution reads as rewritten:

"Sec. 3. Succession to office of Governor.

(1) Succession as Governor. The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor ~~whom he succeeds~~ and until a new Governor is elected and qualified.

1 (2) Succession as Acting Governor. During ~~the absence of the Governor from the~~
2 ~~State, or during~~ the physical or mental incapacity of the Governor to perform the duties
3 of ~~his~~ office, the Lieutenant Governor shall be Acting Governor. The absence of the
4 Governor from the State does not affect the power of the Governor, but the Governor
5 may designate in writing those powers of the Governor that the Lieutenant Governor
6 may exercise during such absence, or if there is no Lieutenant Governor or the
7 Lieutenant Governor is absent from the State, that the next person in succession to be
8 Acting Governor may exercise. The further order of succession as Acting Governor
9 shall be prescribed by law.

10 (3) Physical incapacity. The Governor or Lieutenant Governor may, by a written
11 statement filed with the Attorney General, declare that ~~he~~ the respective officer is
12 physically incapable of performing the duties of ~~his~~ office, and may thereafter in the
13 same manner declare that ~~he~~ the respective officer is physically capable of performing
14 the duties of ~~his~~ office.

15 (4) Mental incapacity. The mental incapacity of the Governor or Lieutenant
16 Governor to perform the duties of ~~his~~ office shall be determined only by joint resolution
17 adopted by a vote of two-thirds of all the members of each house of the General
18 Assembly. Thereafter, the mental capacity of the Governor or Lieutenant Governor to
19 perform the duties of ~~his~~ office shall be determined only by joint resolution adopted by
20 a vote of a majority of all the members of each house of the General Assembly. In all
21 cases, the General Assembly shall give the Governor or Lieutenant Governor such
22 notice as it may deem proper and shall allow ~~him~~ that officer an opportunity to be heard
23 before a joint session of the General Assembly before it takes final action. When the
24 General Assembly is not in session, the Council of State, a majority of its members
25 concurring, may convene it in extra session for the purpose of proceeding under this
26 paragraph.

27 (5) Impeachment. Removal of the Governor or Lieutenant Governor from office
28 for any other cause shall be by impeachment.

29 (6) Vacancy in office of Lieutenant Governor. If the office of Lieutenant
30 Governor is vacated by death, resignation, or otherwise, it shall be the duty of the
31 Governor, with the advice and consent of a majority of the Senate, to appoint another to
32 serve until a successor is elected and qualified. The person chosen shall hold the office
33 for the remainder of the unexpired term."

34 **SECTION 3.** Section 7(6) of Article III of the North Carolina Constitution
35 reads as rewritten:

36 "(6) Determination of incapacity. The General Assembly shall by law prescribe
37 with respect to those officers, other than the Governor or Lieutenant Governor, whose
38 offices are created by this Article, procedures for determining the physical or mental
39 incapacity of any officer to perform the duties of ~~his~~ office, and for determining whether
40 an officer who has been temporarily incapacitated has sufficiently recovered ~~his~~ the
41 physical or mental capacity to perform the duties of ~~his~~ office. Removal of those
42 officers from office for any other cause shall be by impeachment."

43 **SECTION 4.** The amendments set out in Sections 1 through 3 of this act
44 shall be submitted to the qualified voters of the State at the general election in

1 November 2002, which election shall be conducted under the laws then governing
2 elections in the State. Ballots, voting systems, or both may be used in accordance with
3 Chapter 163 of the General Statutes. The question to be used in the voting systems and
4 ballots shall be:

5 "[] FOR [] AGAINST

6 Constitutional amendment providing that candidates for Governor and
7 Lieutenant Governor shall be listed on the general election ballot as a team, and
8 providing for the filling of vacancies in the office of Lieutenant Governor."

9 **SECTION 5.** If a majority of the votes cast on the question are in favor of
10 the amendments set out in Sections 1 through 3 of this act, the State Board of Elections
11 shall certify the amendments to the Secretary of State. The constitutional amendment in
12 Section 1 of this act shall become effective beginning with candidacies for the 2004
13 General Election. The constitutional amendments in Sections 2 and 3 of this act
14 become effective January 1, 2005. The Secretary of State shall enroll the amendments
15 so certified among the permanent records of that office.

16 **SECTION 6.** Chapter 163 of the General Statutes is amended by adding a
17 new section to read:

18 "**§ 163-115.1. Party must nominate candidates for Governor and Lieutenant**
19 **Governor.**

20 If a party nominates a candidate for Governor under this Article, it must also
21 nominate a candidate for Lieutenant Governor, or the nomination as Governor is void. If
22 a party nominates a candidate for Lieutenant Governor under this Article, it must also
23 nominate a candidate for Governor, or the nomination as Lieutenant Governor is void."

24 **SECTION 7.** Chapter 163 of the General Statutes is amended by adding a
25 new section to read:

26 "**§ 163-108.2. Nomination of Lieutenant Governor.**

27 Except for G.S. 163-114 and G.S. 163-115.1, the provisions of this Article do not
28 apply to the office of Lieutenant Governor. Nomination for such office is as provided by
29 Article 11B of this Chapter."

30 **SECTION 8.** G.S. 163-98 reads as rewritten:

31 "**§ 163-98. General election participation by new political party.**

32 In the first general election following the date on which a new political party
33 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its
34 candidates for State, congressional, and national offices printed on the official ballots,
35 but it shall not be entitled to have the names of candidates for other offices printed on
36 State, district, or county ballots at that election.

37 For the first general election following the date on which it qualifies under G.S.
38 163-96, a new political party shall select its candidates by party convention. Following
39 adjournment of the nominating convention, but not later than the first day of July prior
40 to the general election, the president of the convention shall certify to the State Board of
41 Elections the names of persons chosen in the convention as the new party's candidates
42 for State, congressional, and national offices in the ensuing general election. The State
43 Board of Elections shall print names thus certified on the appropriate ballots as the
44 nominees of the new party. The convention, if it nominates a candidate for Governor,

1 must also nominate a candidate for Lieutenant Governor, or the nomination for
2 Governor shall be void except that if it fails to nominate a candidate for Lieutenant
3 Governor, its candidate for Governor may nominate a candidate for Lieutenant
4 Governor between July 1 and July 15. The convention, if it nominates a candidate for
5 Lieutenant Governor, must also nominate a candidate for Governor, or the nomination
6 for Lieutenant Governor is void."

7 **SECTION 9.** G.S. 163-122 is amended by adding a new subsection to read:

8 "(d) In filing petitions as an unaffiliated candidate, a petition for the office of
9 Governor shall also contain the name of a candidate for Lieutenant Governor, and the
10 petition shall be a petition for both. In filing petitions as an unaffiliated candidate, a
11 petition for the office of Lieutenant Governor shall also contain the name of a candidate
12 for Governor, and the petition shall be a petition for both. The form of the petition
13 requesting unaffiliated candidates to be placed on the ballot for Governor and
14 Lieutenant Governor on the general election ballot shall contain on the heading of each
15 page of the petition in bold print or in all capital letters the words: 'THE
16 UNDERSIGNED REGISTERED VOTERS IN COUNTY HEREBY PETITION
17 ON BEHALF OF AS AN UNAFFILIATED CANDIDATE FOR GOVERNOR
18 AND AS AN UNAFFILIATED CANDIDATE FOR LIEUTENANT
19 GOVERNOR IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED
20 HEREBY PETITION THAT THE SUBJECT CANDIDATES BE PLACED ON THE
21 APPROPRIATE BALLOT UPON COMPLIANCE WITH THE PROVISIONS OF G.S.
22 163-122.'"

23 **SECTION 10.** G.S. 163-140(b)(4) reads as rewritten:

24 "(4) State Ballot: Beneath the title and general instructions set out in this
25 subsection, the ballot for single-seat contests for State officers, and for
26 all State officers where mechanical voting machines are used shall be
27 divided into parallel columns separated by distinct black lines. The
28 State Board of Elections shall assign a separate column to each
29 political party having candidates for State offices and one to
30 unaffiliated candidates, if any. At the head of each party column the
31 party's name shall be printed in large type, and at the head of the
32 column for unaffiliated candidates shall be printed in large type the
33 words 'Unaffiliated Candidates' Below the party name in each column
34 shall be printed a circle, one-half inch in diameter, around which shall
35 be plainly printed the following instruction: 'For a straight ticket, mark
36 within this circle.' With distinct black lines, the State Board of
37 Elections shall divide the columns into horizontal sections and, in the
38 customary order of office, assign a separate section to each office or
39 group of offices to be filled. The offices of Governor and Lieutenant
40 Governor shall be combined on the State ballot and the nominees of
41 each party or unaffiliated offices listed together so that a vote for a
42 candidate for one of those offices is a vote for the candidates for both
43 offices. Such team election of Governor and Lieutenant Governor is
44 not a multiseat race for the purpose of subsection (f) of this section.

1 On a single line at the top of each section shall be printed a
2 direction as to the number of candidates for whom a vote may be cast.
3 If candidates are to be chosen for different terms to the same office,
4 the term in each instance shall be printed as part of the title of the
5 office.

6 The name or names of each political party's candidate or candidates
7 for each office listed on the ballot shall be printed in the appropriate
8 office section of the proper party column, and the names of
9 unaffiliated candidates shall be printed in the appropriate office section
10 of the column headed 'Unaffiliated Candidates.' At the left of each
11 name shall be printed a voting square, and in each column all voting
12 squares shall be arranged in a perpendicular line.

13 On the face of the ballot, above the party and unaffiliated column
14 division, the following instructions shall be printed in heavy black
15 type, and the words 'you must also' in instruction c. shall be
16 underlined:

- 17 'a. To vote for all candidates of one party (a straight ticket), make a
18 cross (X) mark in the circle of the party for whose candidates
19 you wish to vote.
- 20 b. You may vote a split ticket by not marking a cross (X) mark in
21 the party circle, but by making a cross (X) mark in the square
22 opposite the name of each candidate for whom you wish to
23 vote.
- 24 c. You may also vote a split ticket by marking a cross (X) mark in
25 the party circle and then making a cross (X) mark in the square
26 opposite the name of any candidate you choose of a different
27 party. In any multi-seat race where a party circle is marked and
28 you vote for candidates of another party, you must also make a
29 cross (X) mark opposite the name of any candidate you choose
30 of the party for which you marked the party circle to assure
31 your vote will count.
- 32 d. If you tear or deface or wrongly mark this ballot, return it and
33 get another.'

34 On the bottom of the ballot shall be printed an identified facsimile
35 of the signature of the Chairman of the State Board of Elections. If the
36 State ballot contains no multi-seat race, then the second sentence of
37 instruction b. shall not appear on the ballot."

38 **SECTION 11.** G.S. 163-151(6) is amended by adding a new sub-subdivision

39 to read:

- 40 "f. A write-in vote for a candidate for Governor shall not be
41 counted unless that person has also written in the name of a
42 candidate for Lieutenant Governor. A write-in vote for a
43 candidate for Lieutenant Governor shall not be counted unless

1 that person has also written in the name of a candidate for
2 Governor."

3 **SECTION 12.** Chapter 163 of the General Statutes is amended by adding a
4 new Article to read:

5 "Article 11B.

6 "Nomination of Lieutenant Governor.

7 **"§ 163-127.1. Lieutenant Governor.**

8 Political parties nominating a candidate for Governor under Article 10 of this
9 Chapter shall nominate a candidate for Lieutenant Governor in accordance with this
10 Article.

11 **"§ 163-127.2. State executive committee or gubernatorial candidate to make**
12 **nomination.**

13 Each party shall choose its nominee for Lieutenant Governor by its State executive
14 committee except if the State executive committee fails to make a nomination by the
15 last Monday in July, its candidate for Governor may nominate a person prior to the
16 deadline in G.S. 163-127.3.

17 **"§ 163-127.3. Time of nomination.**

18 The nomination for Lieutenant Governor shall be made no earlier than the date that
19 party's nomination for Governor is determined under G.S. 163-110, 163-111, or
20 163-112, as appropriate, and no later than the first Monday in August. The State Board
21 of Elections shall be notified of the nomination for Lieutenant Governor no later than
22 the first Monday in August. The State Board of Elections shall cause the name of the
23 nominee to be printed on the general election ballots as if the nomination had been
24 made by primary under Article 10 of this Chapter.

25 **"§ 163-127.4. Vacancies in nomination.**

26 If a party has nominated a candidate for Lieutenant Governor, and a vacancy occurs
27 in that nomination, it shall be filled in accordance with G.S. 163-114 whether the
28 nomination was made by the State convention under G.S. 163-98, or by the State
29 executive committee or gubernatorial candidate under G.S. 163-98 or G.S. 163-127.2."

30 **SECTION 13.** 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
34 later than 12:00 noon on the first Monday in February preceding the primary:

35 Governor

36 Lieutenant Governor

37 All State executive officers

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

39 Judges of the district courts

40 United States Senators

41 Members of the House of Representatives of the United States

42 District attorneys

43 Candidates seeking party primary nominations for the following offices shall file
44 their notice of candidacy with the county board of elections no earlier than 12:00 noon

1 on the first Monday in January and no later than 12:00 noon on the first Monday in
2 February preceding the primary:

3 State Senators

4 Members of the State House of Representatives

5 All county offices."

6 **SECTION 14.** G.S. 163-107(a) is amended by deleting in the schedule under
7 "Office Sought", and "Amount of Filing Fee" the entries for "Lieutenant Governor".

8 **SECTION 15.** G.S. 163-107.1(b) reads as rewritten:

9 "(b) If the candidate is seeking the office of United States Senator, Governor,
10 ~~Lieutenant Governor~~, any State executive officer, Justice of the Supreme Court or Judge
11 of the Court of Appeals, the petition must be signed by 10,000 registered voters who are
12 members of the political party in whose primary the candidate desires to run, except that
13 in the case of a political party as defined by G.S. 163-96(a)(2) which will be making
14 nominations by primary election, the petition must be signed by ten percent (10%) of
15 the registered voters of the State who are affiliated with the same political party in
16 whose primary the candidate desires to run, or in the alternative, the petition shall be
17 signed by no less than 10,000 registered voters regardless of the voter's political party
18 affiliation, whichever requirement is greater. The petition must be filed with the State
19 Board of Elections not later than 12:00 noon on Monday preceding the filing deadline
20 before the primary in which he seeks to run. The names on the petition shall be verified
21 by the board of elections of the county where the signer is registered, and the petition
22 must be presented to the county board of elections at least 15 days before the petition is
23 due to be filed with the State Board of Elections. When a proper petition has been filed,
24 the candidate's name shall be printed on the primary ballot."

25 **SECTION 16.** G.S. 163-111(c)(1) reads as rewritten:

26 "(1) A candidate who is apparently entitled to demand a second primary,
27 according to the unofficial results, for one of the offices listed below,
28 and desiring to do so, shall file a request for a second primary in
29 writing or by telegram with the Executive Secretary-Director of the
30 State Board of Elections no later than 12:00 noon on the seventh day
31 (including Saturdays and Sundays) following the date on which the
32 primary was conducted, and such request shall be subject to the
33 certification of the official results by the State Board of Elections. If
34 the vote certification by the State Board of Elections determines that a
35 candidate who was not originally thought to be eligible to call for a
36 second primary is in fact eligible to call for a second primary, the
37 Executive Secretary-Director of the State Board of Elections shall
38 immediately notify such candidate and permit him to exercise any
39 options available to him within a 48-hour period following the
40 notification:

41 Governor,

42 ~~Lieutenant Governor~~,

43 All State executive officers,

1 Justices, Judges, or District Attorneys of the General Court of
2 Justice, other than superior court judge
3 United States Senators,
4 Members of the United States House of Representatives,
5 State Senators in multi-county senatorial districts, and
6 Members of the State House of Representatives in multi-county
7 representative districts."

8 **SECTION 17.** G.S. 163-1(b) reads as rewritten:

9 "(b) On Tuesday next after the first Monday in May preceding each general
10 election to be held in November for the officers referred to in subsection (a) of this
11 section other than Lieutenant Governor, there shall be held in all election precincts
12 within the territory for which the officers are to be elected a primary election for the
13 purpose of nominating candidates for each political party in the State for those offices."

14 **SECTION 18.** G.S. 163-123 is amended by adding a new subsection to read:

15 "(c1) Any declaration of intent filed under this section for the office of Governor
16 shall be a joint declaration with another candidate for the office of Lieutenant Governor.
17 Any declaration of intent filed under this section for the office of Lieutenant Governor
18 shall be a joint declaration with another candidate for the office of Governor. The
19 declaration shall be signed by both candidates. The State Board of Elections shall
20 provide for a joint petition form for Governor and Lieutenant Governor in lieu of the
21 one provided by subsection (d) of this section."

22 **SECTION 19.** G.S. 147-11.1(a)(2) reads as rewritten:

23 "~~(2) During the absence of the Governor from the State, or during the~~
24 ~~physical or mental incapacity of the Governor to perform the duties of~~
25 ~~his office, the Lieutenant Governor shall be Acting Governor. The~~
26 ~~further order of succession as Acting Governor shall be prescribed by~~
27 ~~law.~~"

28 **SECTION 20.** G.S. 147-11.1(c)(1) reads as rewritten:

29 "~~(1) If, by reason of absence from the State or physical or mental~~
30 ~~incapacity, there is neither a Governor nor a Lieutenant Governor~~
31 ~~qualified to discharge the powers and duties of the office of Governor,~~
32 ~~then the President of the Senate shall become Acting Governor.~~"

33 **SECTION 21.** G.S. 147-11.1 is amended by adding a new subsection to
34 read:

35 "(g) Designation of Powers to Be Exercised in the Absence of the Governor. – If
36 the Governor is absent from the State and has designated some or all of the powers of
37 the Governor to be exercised by the Lieutenant Governor (or the next person in
38 succession if there is no Lieutenant Governor or the Lieutenant Governor is absent from
39 the State), such designation shall be made by filing with the Secretary of State."

40 **SECTION 22.** Sections 6 through 21 of this act become effective only if the
41 constitutional amendments proposed by Sections 1 through 3 of this act are approved as
42 provided by Sections 4 and 5 of this act, and if so approved, Sections 6 through 18 of
43 this act become effective beginning with the 2004 General Election and Sections 19
44 through 21 become effective January 1, 2005.

1 **SECTION 23.** This act is effective when it becomes law.