

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

1

HOUSE BILL 794

Short Title: Voter Freedom Act of 2013. (Public)

Sponsors: Representatives Saine, Luebke, Lewis, and R. Moore (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Elections.

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE DEFINITION OF "POLITICAL PARTY," TO AMEND THE
3 NOMINATION PROCESS, TO AMEND THE REQUIREMENTS FOR UNAFFILIATED
4 AND WRITE-IN CANDIDATES, TO ALLOW NOMINATION BY CONVENTION BY
5 SMALLER PARTIES, AND TO PROVIDE THAT SMALLER PARTIES ELECTING TO
6 HAVE PRIMARIES WILL HAVE THE RESULTS DETERMINED BY PLURALITY.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 163-96(a) reads as rewritten:

9 "(a) Definition. – A political party within the meaning of the election laws of this State
10 shall be either:

11 (1) Any group of voters which, at the last preceding general State election,
12 polled for its candidate for Governor, or for presidential electors, at least ~~two~~
13 ~~percent (2%)~~ one-quarter of one percent (0.25%) of the entire vote cast in the
14 State for Governor or for presidential electors; or

15 (2) Any group of voters which shall have filed with the State Board of Elections
16 petitions for the formulation of a new political party which are signed by
17 registered and qualified voters in this State equal in number to ~~two percent~~
18 ~~(2%)~~ one-quarter of one percent (0.25%) of the total number of voters who
19 voted in the most recent general election for ~~Governor~~ Governor, or for
20 presidential electors, whichever is less. Also the petition must be signed by
21 at least 200 registered voters from each of ~~four~~ three congressional districts
22 in North Carolina. To be effective, the petitioners must file their petitions
23 with the State Board of Elections before 12:00 noon on the ~~first day of June~~
24 third Friday in July preceding the day on which is to be held the first general
25 State election in which the new political party desires to participate. The
26 State Board of Elections shall forthwith determine the sufficiency of
27 petitions filed with it and shall immediately communicate its determination
28 to the State chairman of the proposed new political party."

29 **SECTION 2.** G.S. 163-98 reads as rewritten:

30 **"§ 163-98. General election participation by new political party.**

31 (a) In the first general election following the date on which a new political party
32 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its
33 candidates for national, State, congressional, and local offices printed on the official ballots
34 upon paying a filing fee equal to that provided for candidates for the office in G.S. 163-107 or
35 upon complying with the alternative available to candidates for the office in G.S. 163-107.1.



1 For the first general election following the date on which it qualifies under G.S. 163-96, a
2 new political party shall select its candidates by party convention. Following adjournment of
3 the nominating convention, but not later than the ~~first day of July~~ first day of August prior to
4 the general election, the president of the convention shall certify to the State Board of Elections
5 the names of persons chosen in the convention as the new party's candidates in the ensuing
6 general election. Any candidate nominated by a new party shall be affiliated with the party at
7 the time of certification to the State Board of Elections. The requirement of affiliation with the
8 party will be met if the candidate submits at or before the time of certification as a candidate an
9 application to change party affiliation to that party. The State Board of Elections shall print
10 names thus certified on the appropriate ballots as the nominees of the new party. The State
11 Board of Elections shall send to each county board of elections the list of any new party
12 candidates so that the county board can add those names to the appropriate ballot.

13 (b) A political party with less than ten percent (10%) of the registered voters in this
14 State is not subject to the Primary Act, Article 10 of this Chapter (other than as provided by
15 subsection (d) of this section), if, after approval of its State convention or State executive
16 committee, it notifies the State Board of its action before September 1 of an odd-numbered
17 year. The exemption shall remain in effect unless revoked by the State convention or State
18 executive committee, and such revocation shall become effective beginning in the next
19 even-numbered year after September 1 of the year the political party notifies the State Board.

20 (c) A political party electing under subsection (b) of this section to be exempt from
21 Article 10 of this Chapter shall select its candidates by party convention. Following
22 adjournment of the nominating convention, but not later than the first day of August prior to the
23 general election, the presiding officer of the convention shall certify to the State Board the
24 names of persons chosen in the convention as the party's candidates in the ensuing general
25 election. Any candidate nominated shall be affiliated with the party at the time of certification
26 to the State Board. The requirement of affiliation with the party will be met if the candidate
27 submits at or before the time of certification as a candidate an application to change party
28 affiliation to that party. The State Board shall print names thus certified on the appropriate
29 ballots as the nominees of the party. The State Board shall send to each county board of
30 elections the list of any party candidates so that the county board can add those names to the
31 appropriate ballot.

32 (d) Political parties exempt from Article 10 of this Chapter shall nonetheless be subject
33 to G.S. 163-113 (withdrawal of nominee), 163-114 (filling vacancy in nomination after
34 convention), and 163-115 (nominations when vacancies in office occur)."

35 **SECTION 3.(a)** G.S. 163-111 is amended by adding a new subsection to read:

36 "(g) No Second Primaries for Political Parties With Less Than Ten Percent of Registered
37 Voters. – This section does not apply to political parties with less than ten percent (10%) of the
38 registered voters in the State."

39 **SECTION 3.(b)** Article 10 of Chapter 163 of the General Statutes is amended by
40 adding a new section to read:

41 **§ 163-111.1. Determination of primary results for political parties.**

42 (a) This section applies only to political parties that, as of January 1 of the year that the
43 primary election is to be held, have less than ten percent (10%) of the registered voters in the
44 State.

45 (b) Nominations in primary elections shall be determined as follows:

46 (1) When more than one person is seeking election to a single office, the
47 candidate who receives the highest number of votes shall be declared the
48 nominee.

49 (2) When more persons are seeking nomination to two or more offices
50 (constituting a group) than there are offices to be filled, those candidates

1 receiving the highest numbers of votes, equal in number to the number of
2 offices to be filled, shall be declared the nominees.

3 (c) When more than one person is seeking election to a single office and two or more
4 candidates receiving the highest number of votes each receive the same number of votes, the
5 proper party executive committee shall, from among those candidates receiving the same
6 number of votes, select the party nominee in accordance with G.S. 163-114.

7 (d) When more persons are seeking nomination to two or more offices (constituting a
8 group) than there are offices to be filled and two or more candidates receiving the lowest
9 number of votes necessary for nomination each receive the same number of votes, the proper
10 party executive committee shall, from among those candidates receiving the same number of
11 votes, select the party nominee in accordance with G.S. 163-114.

12 (e) This section prevails over any local act."

13 **SECTION 4.(a)** G.S. 163-122(a) reads as rewritten:

14 "(a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. – Any
15 qualified voter who seeks to have his name printed on the general election ballot as an
16 unaffiliated candidate shall:

17 (1) If the office is a statewide office, file written petitions with the State Board
18 of Elections supporting his candidacy for a specified office. These petitions
19 must be filed with the State Board of Elections on or before 12:00 noon on
20 the ~~last Friday in June~~ third Friday in July preceding the general election and
21 must be signed by qualified voters of the State equal in number to ~~two~~
22 ~~percent (2%)~~ one-quarter of one percent (0.25%) of the total number of
23 voters who voted in the most recent general election ~~for Governor, for that~~
24 ~~office.~~ Also, the petition must be signed by at least 200 registered voters
25 from each of ~~four~~ three congressional districts in North Carolina. No later
26 than 5:00 p.m. on the fifteenth day preceding the date the petitions are due to
27 be filed with the State Board of Elections, each petition shall be presented to
28 the chairman of the board of elections of the county in which the signatures
29 were obtained. Provided the petitions are timely submitted, the chairman
30 shall examine the names on the petition and place a check mark on the
31 petition by the name of each signer who is qualified and registered to vote in
32 his county and shall attach to the petition his signed certificate. Said
33 certificates shall state that the signatures on the petition have been checked
34 against the registration records and shall indicate the number of signers to be
35 qualified and registered to vote in his county. The chairman shall return each
36 petition, together with the certificate required in this section, to the person
37 who presented it to him for checking. Verification by the chairman of the
38 county board of elections shall be completed within two weeks from the date
39 such petitions are presented.

40 (2) If the office is a district office under the jurisdiction of the State Board of
41 Elections under G.S. 163-182.4(b), file written petitions with the State Board
42 of Elections supporting that voter's candidacy for a specified office. These
43 petitions must be filed with the State Board of Elections on or before 12:00
44 noon on the ~~last Friday in June~~ third Friday in July preceding the general
45 election and must be signed by qualified voters of the district equal in
46 number to ~~four percent (4%)~~ one percent (1%) of the total number of
47 registered voters in the district as reflected by the voter registration records
48 of the State Board of Elections as of January 1 of the year in which the
49 general election is to be held. Each petition shall be presented to the
50 chairman of the board of elections of the county in which the signatures
51 were obtained. The chairman shall examine the names on the petition and

1 the procedure for certification and deadline for submission to the county
2 board shall be the same as specified in (1) above.

3 (3) If the office is a county office or a single county legislative district, file
4 written petitions with the chairman or director of the county board of
5 elections supporting his candidacy for a specified county office. These
6 petitions must be filed with the county board of elections on or before 12:00
7 noon on the ~~last Friday in June~~ third Friday in July preceding the general
8 election and must be signed by qualified voters of the county equal in
9 number to ~~four percent (4%)~~ one percent (1%) of the total number of
10 registered voters in the county as reflected by the voter registration records
11 of the State Board of Elections as of January 1 of the year in which the
12 general election is to be held, except if the office is for a district consisting
13 of less than the entire county and only the voters in that district vote for that
14 office, the petitions must be signed by qualified voters of the district equal in
15 number to ~~four percent (4%)~~ one percent (1%) of the total number of voters
16 in the district according to the voter registration records of the State Board of
17 Elections as of January 1 of the year in which the general election is to be
18 held. Each petition shall be presented to the chairman or director of the
19 county board of elections. The chairman shall examine, or cause to be
20 examined, the names on the petition and the procedure for certification shall
21 be the same as specified in (1) above.

22 (4) If the office is a partisan municipal office, file written petitions with the
23 chairman or director of the county board of elections in the county wherein
24 the municipality is located supporting his candidacy for a specified
25 municipal office. These petitions must be filed with the county board of
26 elections on or before the time and date specified in G.S. 163-296 and must
27 be signed by the number of qualified voters specified in ~~G.S. 163-296~~
28 subdivision (3) of this subsection. The procedure for certification shall be the
29 same as specified in (1) above.

30 Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the board of
31 elections with which the petitions have been timely filed shall cause the unaffiliated candidate's
32 name to be printed on the general election ballots in accordance with Article 14A of this
33 Chapter.

34 An individual whose name appeared on the ballot in a primary election preliminary to the
35 general election shall not be eligible to have his name placed on the general election ballot as
36 an unaffiliated candidate for the same office in that year."

37 **SECTION 4.(b)** G.S. 163-296 reads as rewritten:

38 **"§ 163-296. Nomination by petition.**

39 In cities conducting partisan elections, any qualified voter who seeks to have his name
40 printed on the regular municipal election ballot as an unaffiliated candidate ~~may~~ shall do so in
41 the manner provided in G.S. 163-122, except that the petitions and affidavits shall be filed not
42 later than 12:00 noon on the Friday preceding the seventh Saturday before the election, ~~and the~~
43 ~~petitions shall be signed by a number of qualified voters of the municipality equal to at least~~
44 ~~four percent (4%) of the whole number of voters qualified to vote in the municipal election~~
45 ~~according to the voter registration records of the State Board of Elections as of January 1 of the~~
46 ~~year in which the general municipal election is held.~~ election. A person whose name appeared
47 on the ballot in a primary election is not eligible to have his name placed on the regular
48 municipal election ballot as an unaffiliated candidate for the same office in that year. The
49 Board of Elections shall examine and verify the signatures on the petition, and shall certify only
50 the names of signers who are found to be qualified registered voters in the municipality.
51 Provided that in the case where a qualified voter seeks to have his name printed on the regular

1 municipal election ballot as an unaffiliated candidate for election from an election district
2 within the municipality, the petition shall be signed by four percent (4%) of the voters qualified
3 to vote for that office."

4 **SECTION 5.** G.S. 163-123 reads as rewritten:

5 "**§ 163-123. Declaration of intent and petitions for write-in candidates in partisan**
6 **elections.**

7 (a) Procedure for Qualifying as a Write-In Candidate. – Any qualified voter who seeks
8 to have write-in votes for him counted in a general election shall file a declaration of intent in
9 accordance with subsection (b) of this section ~~and petition(s) in accordance with subsection (e)~~
10 ~~of this section.~~

11 (b) Declaration of Intent. – The applicant for write-in candidacy shall file ~~his~~ a
12 declaration of intent ~~at the same time and with the same board of elections as his petition~~, as set
13 out in subsection (c) of this section. The declaration shall contain:

- 14 (1) Applicant's name,
- 15 (2) Applicant's residential address,
- 16 (3) Declaration of applicant's intent to be a write-in candidate,
- 17 (4) Title of the office sought,
- 18 (5) Date of the election,
- 19 (6) Date of the declaration,
- 20 (7) Applicant's signature.

21 (c) ~~Petitions~~ Declaration of Intent for Write-in Candidacy. – An applicant for write-in
22 candidacy shall:

- 23 (1) If the office is a statewide office, file ~~written petitions~~ a declaration of intent
24 with the State Board of Elections supporting ~~his~~ that applicant's candidacy
25 for a specified office. ~~These petitions~~ The declaration of intent shall be filed
26 on or before noon on the 90th day before the general election. ~~They shall be~~
27 ~~signed by 500 qualified voters of the State. No later than 5:00 p.m. on the~~
28 ~~fifteenth day preceding the date the petitions are due to be filed with the~~
29 ~~State Board of Elections, each petition shall be presented to the board of~~
30 ~~elections of the county in which the signatures were obtained. A petition~~
31 ~~presented to a county board of elections shall contain only names of voters~~
32 ~~registered in that county. Provided the petitions are timely submitted, the~~
33 ~~chairman of the county board of elections shall examine the names on the~~
34 ~~petition and place a check mark by the name of each signer who is qualified~~
35 ~~and registered to vote in his county. The chairman of the county board shall~~
36 ~~attach to the petition his signed certificate. On his certificate the chairman~~
37 ~~shall state that the signatures on the petition have been checked against the~~
38 ~~registration records and shall indicate the number of signers who are~~
39 ~~qualified and registered to vote in his county and eligible to vote for that~~
40 ~~office. The chairman shall return each petition, together with the certificate~~
41 ~~required in this section, to the person who presented it to him for checking.~~
42 ~~The chairman of the county board shall complete the verification within two~~
43 ~~weeks from the date the petition is presented.~~
44 (2) If the office is a district office under the jurisdiction of the State Board of
45 Elections under G.S. 163-182.4(b), file ~~written petitions~~ a declaration of
46 intent with the State Board of Elections supporting that applicant's candidacy
47 for a specified office. ~~These petitions~~ The declaration of intent must be filed
48 with the State Board of Elections on or before noon on the 90th day before
49 the general election ~~and must be signed by 250 qualified voters. Before~~
50 ~~being filed with the State Board of Elections, each petition shall be presented~~
51 ~~to the board of elections of the county in which the signatures were obtained.~~

1 ~~A petition presented to a county board of elections shall contain only names~~
2 ~~of voters registered in that county who are eligible to vote for that office.~~
3 ~~The chairman of the county board shall examine the names on the petition~~
4 ~~and the procedure for certification shall be the same as specified in~~
5 ~~subdivision (1). election.~~

- 6 (3) If the office is a county office, or is a school administrative unit office
7 elected on a partisan basis, or is a legislative district consisting of a single
8 county or a portion of a county, file ~~written petitions~~ a declaration of intent
9 with the county board of elections supporting ~~his~~ that applicant's candidacy
10 for a specified office. ~~A petition presented to a county board of elections~~
11 ~~shall contain only names of voters registered in that county. These petitions~~
12 The declaration of intent must be filed on or before noon on the 90th day
13 before the general election ~~and must be signed by 100 qualified voters who~~
14 ~~are eligible to vote for the office, unless fewer than 5,000 persons are~~
15 ~~eligible to vote for the office as shown by the most recent records of the~~
16 ~~appropriate board of elections. If fewer than 5,000 persons are eligible to~~
17 ~~vote for the office, an applicant's petition must be signed by not less than one~~
18 ~~percent (1%) of those registered voters. Before being filed with the county~~
19 ~~board of elections, each petition shall be presented to the county board of~~
20 ~~elections for examination. The chairman of the county board of elections~~
21 ~~shall examine the names on the petition and the procedure for certification~~
22 ~~shall be the same as specified in subdivision (1). election.~~

23 (d) ~~Form of Petition.~~ ~~Petitions requesting the qualification of a write-in candidate in a~~
24 ~~general election shall contain on the heading of each page of the petition in bold print or in~~
25 ~~capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN _____~~
26 ~~COUNTY HEREBY PETITION ON BEHALF OF _____ AS A WRITE IN~~
27 ~~CANDIDATE IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY~~
28 ~~PETITION THAT SUBJECT CANDIDATE BE PLACED ON THE LIST OF QUALIFIED~~
29 ~~WRITE-IN CANDIDATES WHOSE VOTES ARE TO BE COUNTED AND RECORDED IN~~
30 ~~ACCORDANCE WITH G.S. 163-123."~~

31 (e) ~~Defeated Primary Candidate.~~ – No person whose name appeared on the ballot in a
32 primary election preliminary to the general election shall be eligible to have votes counted for
33 him as a write-in candidate for the same office in that year.

34 (f) ~~Counting and Recording of Votes.~~ – If a qualified voter has complied with the
35 provisions of subsections (a), (b), and (c) and is not excluded by subsection (e), the board of
36 elections with which petition has been filed shall count votes for ~~him~~ that qualified voter
37 according to the procedures set out in G.S. 163-182.1, and the appropriate board of elections
38 shall record those votes on the official abstract. Write-in votes for names other than those of
39 qualified write-in candidates shall not be counted for any purpose and shall not be recorded on
40 the abstract.

41 (f1) When any person files a ~~petition~~ declaration of intent with a board of elections
42 under this section, the board of elections shall, immediately upon ~~receipt of the petition,~~
43 receipt of the declaration of intent, inspect the registration records of the county and cancel the ~~petition~~
44 declaration of intent of any person who does not meet the constitutional or statutory
45 qualifications for the office, including residency.

46 The board shall give notice of cancellation to any person whose ~~petition~~ declaration of
47 intent has been cancelled under this subsection by mail or by having the notice served on that
48 person by the sheriff. A person whose ~~petition~~ declaration of intent has been cancelled or
49 another candidate for the same office affected by a substantiation under this subsection may
50 request a hearing on the issue of constitutional or statutory qualifications for the office. If the

1 person requests a hearing, the hearing shall be conducted in accordance with Article 11B of
2 Chapter 163 of the General Statutes.

3 (g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to
4 municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and
5 does not apply to nonpartisan elections except for elections under Article 25 of this Chapter."

6 **SECTION 6.** This act becomes effective January 1, 2014, and applies to primaries
7 and elections held on or after that date, except that Section 2 is effective when this act becomes
8 law.