

The Daily Bulletin: 2023-08-15

PUBLIC/SENATE BILLS

S 747 (2023-2024) **ELECTIONS LAW CHANGES**. Filed Jun 1 2023, *AN ACT TO MAKE VARIOUS CHANGES REGARDING ELECTIONS LAW*.

House committee substitute to the 3rd edition makes the following changes.

Amends proposed GS 163-22(t) by prohibiting, instead of specifying that GS Chapter 163 does not give authority to, the State Board of Elections (State Board) from accepting private monetary donations or in-kind contributions for conducting elections or temporarily employing individuals. Makes similar changes to proposed GS 163-33(18), applicable to county boards of elections, and to GS 163-37(b), applicable to county boards of commissions.

As described below, makes changes throughout GS Chapter 163 by making provisions that were applicable to one-stop voting applicable to early voting instead.

Amends GS 163-27.2 by providing that appointment as a precinct official or assistant or employment at an early voting location (was, at a one-stop location) does not require a criminal history record check unless the individual performs specified functions.

Instead of amending GS 163-45(a), repeals GS 163-45, which concerns voting place observers and their appointment, in its entirety. Instead, enacts new GS 163-45.1, as follows. Provides for the following appointment of observers: (1) allows the chair of each political party in the county to designate two voters registered in the county to serve as observers at each voting place in that county in which the political party has a candidate appearing on the ballot, (2) allows the chair of each political party in the county to designate up to 10 voters registered in the county to serve at any voting place in the county in which the political party has a candidate appearing on the ballot, (3) allows the chair of each political party in the State to designate up to 100 registered voters of the State to serve at any voting place in the State in which the political party has a candidate appearing on the ballot, and (4) allows an unaffiliated candidate (or their campaign manager) to designate two observers to serve at each voting place in which that unaffiliated candidate appears on the ballot. Requires a list of the appointed individuals to be submitted to either the director of county board of elections or to the Executive Director of the State Board, depending on where the observer will serve, by noon on the business day before each observer is scheduled to serve. Requires the list to be given to the chief judge for each voting place, sets out requirements for verifying observer identities, and allows the State Board to require observers to wear badges that make people aware of their role. Prohibits more than three observers from the same political party from being in the voting enclosure at any time. Allows observers appointed to serve at a particular voting place to be relieved during the day after serving no less than four hours while observers appointed to serve countywide or statewide may be relieved anytime throughout the day. Prohibits observers from appearing on the ballot as a candidate or serve as an election official in the primary or election in which they are serving as an observer and specifies that observers must not take an oath of office. Allows the county board of elections or a chief judge of a voting place to only challenge the appointment of an observer for good cause; sets out requirements for a form to make a challenge. Sets out six actions that an elections official may not prohibit an observer from doing, including: taking notes in the voting place (including using an electronic device for note taking); listening to conversations between a voter and election official happening in the voting place, so long as the conversation is related to election administration; and witnessing any opening and closing procedures at the voting place. Sets out five actions observers are prohibited from taking inside the voting place, including look at, photographing, videotaping, or otherwise recording the image of any voter's marked ballot, inhibiting or interfering with any election official in the performance of his or her duties (which includes interfering with the transport of sealed ballot boxes, election equipment, or election results to the county board of elections), and engaging in electioneering. Allows an observer to take photos inside the voting place before voting starts and after voting has concluded so long as it does not impair opening and closing procedures or compromise the security of ballots, election equipment, or election results; requires the State Board to adopt related rules. Allows a chief judge to remove an observer for engaging in prohibited behavior or for good cause and sets

out the procedure for removal. Allows an observer who has been denied the ability to serve to appeal the denial and sets out requirements for such an appeal. Allows an observer to obtain copies of the list of persons who have voted at each voting place during the times that the voting place is open for voting; sets out provisions related to providing such lists. Makes conforming changes to GS 163-166.7.

Enacts new GS 163-45.2 allowing the chair of a county political party to send a runner to obtain copies of the list of persons who have voted at each voting place during the times the voting place is open for voting. Requires a list of the runners. Specifies that the runner can only enter the voting enclosure to announce the runner's presence and obtain a copy of the list, leaving immediately after obtaining the list. Sets out requirements for how often the lists must be provided.

Amends GS 18B-601, concerning observers appointed by proponents and opponents in an alcoholic beverage control election, by changing the deadline for submitting the names of the observers from three days before the election to noon on the business day before the observer is schedule to serve, and changing the recipient of the list from the chief judge of each precinct to the county board of elections; requires the county board to then provide a copy to the chief judge for that respective voting place. Requires persons appointed as observers to be registered voters of the county (was, precinct) in which appointed to serve. Allows the chief judge and judges for the voting place to challenge the appointment of an observer under GS 163-45.1.

Amends proposed language in GS 163-47 by now requiring that the county board of elections ensure that the positions of chief judge and judges of elections are filled at each voting place for the duration of the duties of the positions on each date of voting in person at the voting place (was, filled for the duration of their duties on the day of each primary and general and special election).

Amends GS 163-82.6A concerning address and name changes to make the provisions applicable at early voting sites instead of one-stop voting sites.

Amends proposed new GS 163-82.6B as follows. Allows an individual qualified to register to vote to register in person and then vote at an early voting site (was, at a one-stop voting site) in their county of residence during the early (was, one-stop) voting period. Requires the individual to complete the voter registration application, provide proof of residence, and present photo id. Requires the individual to vote a retrievable ballot immediately after submitting the voter registration application form (was, vote by provisional ballot unless the address on the person's photo id is the same as one listed on a copy of a HAVA document or if their photo id lacked an address and the individual provides a document from the institution issuing the photo id showing the individual's name and address and a copy of a HAVA document showing the individual's name and address). Requires the vote to be counted unless the county board determines that the applicant is not qualified to vote. Sets out requirements and process related to verifying the voter's information and updating the statewide registration database. Amends the items that are considered HAVA documents by requiring the document from the institution issuing the photo id be current; makes technical changes.

Amends GS 163-166.12, requirements for certain voters who register by mail, by exempting from the statute an individual who registers by mail and submits a copy of a HAVA document (was, a copy of one of the specified documents that shows the voter's name and address).

Amends GS 163-82.8A(d)(2) by making conforming changes related to recodification and change in one-stop voting to early voting.

Amends GS 163-82.7 by amending the provisions the county board of elections must follow when an election occurs before the voter verification process has had time to be completed, to provide that if the postal service has returned as undeliverable a notice sent to an applicant within 25 days before the election, then specifies that the person may vote only in person in accordance with Article 14A (voting) of GS Chapter 163 in that first election and may not vote by absentee ballot. Clarifies that the county board of elections must establish a procedure at the voting site for both obtaining the person's' correct address and for assuring the person votes in the proper place and in the proper contests.

Amends GS 163-87 by amending when challenges are allowed to also include during the hours for early voting (in addition to on the day of a primary or election), and specifies that the voter must be voting in person. Also allows a chief judge, judge, or assistant appointed under GS 163-166.35 (sites and hours for early voting), to enter challenges. Makes conforming changes. Amends GS 163-88, concerning requirements for hearings on challenges, to include those made during early voting. Makes other clarifying changes and makes language gender neutral.

Amends the changes to GS 163-89 to allow an absentee ballot received by the county board of elections under GS 163-231(b) (1) to be challenged no later than 5:00 p.m. on the fifth business day after the primary or general election or county bond election (previous edition was, may be challenged beginning no earlier than noon and ending no later than 7:30 p.m. on the day of the primary or election and allowed for challenge by the chief judge at the time of the closing of the polls). Also amends the timing of a challenge of ballots received under GS 163-231(b)(2) by no longer limiting it to no earlier than noon on the day following the election.

Amends GS 163-111 to require that when a second primary is required, the appropriate board of elections, State or county, must order that it be held 10 weeks after the first primary (was, limited to when any of the offices for which a second primary is required are for a candidate for the office of US Senate or member of the US House of Representatives and otherwise, the second primary was to be held seven weeks after the first primary).

Amends GS 163-119 to require that unaffiliated voters be allowed to vote in a primary of the voter's choosing, subject to GS 163-59 (Right to participate or vote in party primary), GS 163-111 (Determination of primary results; second primaries), and GS 163-166.7 (Voting procedures), no longer requiring permission from a political party.

Amends GS 163-132.5G by amending the requirements of county boards of elections when reporting returns, to: (1) require that the report on the number of voters who selected more choices than available for that item be by precinct for each item on the ballot and (2) add the requirement that ballots cast during early voting be reported separately from mail-in absentee ballots. Makes additional technical and clarifying changes.

Amends GS 163-165 by adding and defining the term early voting as casting a ballot in person prior to election day at the county board office or another location designated by the county board of elections for the purpose of casting ballots.

Amends GS 163-166.3 by amending who may enter the voting enclosure during the time allowed for voting, to also include a student election assistant acting in accordance with Article 5 (precinct election officials). Makes additional conforming changes.

Amends GS 163-166.4 by making conforming changes.

Deletes proposed changes to GS 163-166.8(b) and instead enacts new (d), which requires precinct officials to keep a log of any individual, other than a minor under the age of 18 in the voter's care, who enters the voting place and is not seeking to vote in that voting place. Requires the log to include individual's name and address, the time the individual entered the voting place, and a space for that individual's signature.

Amends GS 163-166.11 by making technical and conforming changes.

Amends GS 163-166.12 by adding the requirement that the county board of elections create a list that denotes the voter, their method of voting, and the type of id they submitted; makes this list public record.

Changes the title of Part 3 of Article 14A of GS Chapter 163 to Procedures at the Voting Place Generally.

Adds a new Part 4, Election Day Voting, in Article 14A, consisting of GS 163-116.01, which is now recodified as GS 163-166.25. Makes conforming changes. Amends this statute as follows. Removes the provision that would have required poll closing time to be extended on election day in all precincts by an equal amount of time when the statutory poll closing time on election day is extended by court order in one or more counties. Requires poll closing time to be extended on election day in all precincts by an equal amount of time when the statutory poll closing time is extended by the State Board or a federal or State Court order in one or more precincts for a reason other than a declared natural disaster or equipment failure at the voting site (previous edition was, if the statutory poll closing time on election day is extended by court order in one or more counties). Makes additional clarifying and technical changes.

Adds a new Part 5, Early Voting, in Article 14A, consisting of GS 163-227.6, which has been recodified as GS 163-166.35; GS 163-227.2, which has been recodified as GS 163-166.40; GS 163-227.5, which has been recodified as GS 163-166.45; and GS 163-228(a1), which has been recodified as GS 163-166.50. Amends these statutes as follows.

Amends GS 163-166.35 as follows. Makes the statute's provisions applicable to site and hours for early voting instead of one-stop voting. Allows a county board of elections by unanimous vote to provide for one or more sites in that county for ballots (was, for absentee ballots) to be applied for and cast. Excludes individuals appointed to early voting sites from the requirement that early voting staff must be a member or full-time employee of the county board of elections or an employee of the county

board of elections whom the board has given training equivalent to that given a full-time employee. Requires sites to be approved as part of a Plan for Implementation, with requirements previously set out under the statute still applicable. No longer requires the Plan for Implementation to provide for the presence of political party observers at each site. Requires that for each early voting site other than the county board of elections office, precinct officials must be appointed by the county board of elections for each primary or election. Requires the chair of each political party in the county to recommend individuals who are otherwise qualified to serve as precinct officials at early voting sites; if the recommendations are received by the county board of elections no later than the fifth business day preceding the date on which appointments are to be made, the county board of elections must make appointments from the list of recommendations. Requires that in making the appointments, precinct officials must be appointed according to all of the following: (1) a chief judge and judges must be appointed to each early voting site for each day of early voting in the same manner as allocated to each precinct in the county as provided in GS 163-41 (Precinct chief judges and judges of election; appointment; terms of office; qualifications; vacancies; oaths of office) where possible; however, a chief judge must be appointed to each early voting site for each day of early voting; (2) assistants must be appointed to each early voting site in the same manner as allocated to each precinct in the county as provided in GS 163-42 (Assistants at polls; appointment; term of office; qualifications; oath of office) where possible; (3) The provisions of GS 163-41.1 (Certain relatives prohibited from serving together), GS 163-41.2 (Discharge of precinct official unlawful), and GS 163-42.1 (Student election assistants) apply to early voting sites; and (4) multiple chief judges, judges, and assistants may be appointed to serve at each early voting site so that chief judges, judges, and assistants may serve for partial shifts throughout each day of early voting or serve for less than the full number of days of early voting. Provides that a county board of elections by unanimous vote may propose a Plan for Implementation providing for sites in that county for ballots cast during early voting (was for absentee ballots) to be applied for and cast in elections for all entities (was, in elections) conducted in odd-numbered years. Makes additional conforming, clarifying, and technical changes.

Amends GS 163-166.40 as follows. Makes the statute's provisions applicable to early voting instead of one-stop voting. Allows a voter who is eligible to vote to vote a ballot under Part 5 (early voting) (was, any voter eligible to vote by absentee ballot may request an application for absentee ballots, complete the application, and vote under provisions related to one-stop voting). Requires that no earlier than the third Tuesday before an election in which a voter seeks to vote and no later than 3:00 p.m. on the last Saturday before that election, the voter may appear in person only at the office of the county board of elections (except as provided above in GS 163-166.35). Requires a county board of elections to conduct early voting on the last Saturday before the election from 8:00 a.m. until 3:00 p.m. Amends the process for voting to specify that the voter must state his or her name to an authorized member or employee of the board or election official and makes other clarifying and conforming changes. Allows a voter found to be registered to vote a ballot instead of allowing the voter found to be registered to request an application for absentee ballots, and complete and deliver that application to the authorized person. Makes conforming deletions of provisions related to the application for an absentee ballot.

Amends GS 163-166.45 as follows. Allows a county using a voting system with retrievable ballots to, by resolution, elect to conduct early voting (was, one-stop absentee) voting. Makes the procedures for voting under the statute applicable to early voting instead of one-stop voting. Specifies that the ballot number or equivalent identifier is not a public record.

Amends GS 163-166.50 as follows. Requires the State Board, with respect to each ballot voted under Part 5 (early voting) (was, with respect to each early one-stop absentee ballot voted), to approve an official register in which the county board of elections must record the previously specified information. Removes references to absentee ballot applications. Makes the official register a public record. Allows the official register to be kept by electronic data processing equipment. Requires the State Board to require county boards of elections to transmit information in the official register to the State Board. Requires the State Board to adopt rules to implement this statute.

Makes technical and conforming changes to GS 163-182.1. Also removes language related to entering a challenge.

Amends GS 163-182.2, concerning the initial counting of official ballots, as follows. Requires that the initial count of ballots cast both on election day and under Part 5 (early voting) to be counted according to the specified principles. Requires that if ballots cast under Part 5 are counted electronically, the count must commence at the time the polls close; if those ballots are paper ballots counted manually, then the count must commence at the same time as mail-in absentee ballots. Requires the State Board to approve in an open meeting the procedure for random selection (was, randomly selecting sample precincts) for each election. Makes conforming and technical changes.

Amends GS 163-182.6 to require the county board of elections to have a separate count on the abstract of the ballot items for ballots cast under Part 5 (early voting). Makes technical changes.

Amends GS 163-182.7A, additional provisions for hand-to-eye recounts, by making conforming and technical changes.

Amends proposed GS 163-182.15(b) by making the State Board's annual report on revisions made to any voter's voter history records due by October 1.

Amends GS 163-226.3 by making conforming and technical changes.

Deletes the proposed changes to GS 163-227.6 that would have allocated the precinct officials, as specified, at each one-stop voting site other than the county board of elections office.

Further amends GS 163-227.10 by making a technical change.

Amends GS 163-228 by removing the provision related to the confidentiality of the official register for each early one-stop absentee ballot. Makes additional conforming and technical changes.

Further amends GS 163-229 by making a clarifying change.

Further amends GS 163-230.1 by deleting from the proposed conditions under which deficiencies in a container-return envelope are considered curable deficiencies: (1) the container-return envelope is not witnessed and (2) any other requirement (other than the three already listed) in executing the container-return envelope under State or federal law. Specifies that the identification of the two persons witnessing the casting of the absentee ballot is not a curable deficiency. No longer requires at meetings during which the county board of elections passes upon applications for absentee ballots that the board allow the public to observe the actual applications for absentee ballots. Makes additional conforming, clarifying, and technical changes.

Further amends GS 163-230.2 by making clarifying and technical changes.

Amends GS 163-231, concerning voting absentee ballots and transmitting them to the county board of elections, by providing that for the purposes of the statute, "delivered in person" includes physically handing the voted absentee ballot to an election official at an early voting site during any time that early voting site is open for voting, but does not include depositing the voted absentee ballot in a drop box or other location designated for the return of voted absentee ballots. Requires that the voted absentee ballots delivered to the early voting site be kept securely and delivered by election officials at that early voting site to the county board of elections office for processing. Makes additional conforming and technical changes. Deletes additional proposed changes to GS 163-231 that would have required county boards of elections to use verification software to check the signatures of voters noted on executed absentee ballots before those ballots are accepted by the county boards.

Deletes proposed GS 163-231.1, which would have required a two-factor authentication process for executed absentee ballots transmitted by mail to a county board of elections that must be used before an executed absentee ballot is opened and counted by elections officials.

Amends GS 163-232 by making technical changes.

Amends proposed GS 163-232.2, concerning information that must be reported on absentee ballots, by requiring reporting during each day of the early voting period (was one-stop voting period). Makes conforming changes.

Further amends GS 163-234 by adding that absentee ballots not received pursuant to all requirements of GS 163-231 (Voting absentee ballots and transmitting them to the county board of elections) must not be deemed valid and must not be counted. Requires a person who is acting as an official witness to the counting of absentee ballots for a political party that does that have a member of the county board of elections present to include his or her printed name and signature on the absentee ballot abstract, along with the name of who designated him or her to attend (was sign on the absentee ballot abstract as an observer). Makes additional conforming changes by removing provisions related to one-stop absentee ballots and makes technical changes.

Amends GS 163-237 by making conforming changes.

Amends GS 163-258.29 to provide that a covered voter (as defined) under Article 21A, Uniform Military and Overseas Voters Act, is allowed to vote during early voting (was, vote an absentee ballot under provisions related to one-stop voting) if the voter has not already voted an absentee ballot that has been returned to the board of elections and if the voter will not be in the country on the day of the primary or election. Makes conforming changes.

Further amends GS 163-274(b) to make it a Class 1 misdemeanor for any person other than the State Board or a county board of elections, or their employees, to affix any identifier for the purpose of tracking the form on any absentee ballot request form (was, affix or print a barcode on any absentee ballot request form). Makes additional clarifying changes.

Deletes the proposed change to GS 163-275, concerning specified felonies, that required violations to be investigated by the State Bureau of Investigation.

Amends GS 163-278 by adding that the State Board and county board of elections must cooperate with the State Bureau of Investigation at all times in investigations of violations of Article 22 (Corrupt Practices and Other Offenses Against the Elective Franchise) and must provide any information requested by the State Bureau of Investigation. Requires the State Board to give the district attorney a copy of any investigations of violations of Article 22. Makes additional organizational and technical changes.

Amends GS 143B-919 as follows. Removes proposed language that would have required that the State Bureau of Investigation be involved in any investigation involving the commission or attempted commission of a crime under GS Chapter 163. Requires the State Bureau of Investigation to investigate all cases arising from fraud in connection with elections in North Carolina (was, only when requested to do so by the State Board).

Amends GS 163-278.69, concerning the Judicial Voter Guide, by amending distribution timing to base it on early voting period dates instead of one-stop voting and making additional conforming changes.

Amends GS 163-302 to allow mail-in absentee voting and early voting (was, absentee voting only) in any municipal election, including a primary or general election or referendum, upon resolution of the municipal governing body. Makes conforming changes and specifies throughout the statute that absentee voting is mail-in.

Amends GS 163-32(b) concerning the placement of political signs in a highway right-of-way, by referring to early voting instead of one-stop early voting and making additional conforming changes.

Amends GS 143-166.42 to provide that payment to retired officers employed by a local government in service to a county board of elections during the hours of early voting does not result in a cessation or suspension of their retirement benefits.

Above provisions are effective January 1, 2024, applicable to elections held on or after that date.

Further amends GS 9-3 by making a clarifying change.

Amends proposed GS 9-6.2, concerning reports of excusals from jury duty based on disqualification, as follows. Requires the clerk of superior court, at least semiannually, to communicate information regarding requests to be excused from jury duty on the basis that the person is not a US citizen (was, if a person is disqualified from jury duty because the person is not a US citizen) to the State Board. Previously, this communication was not a public record. Now specifies that the list is a public record, subject to GS 163-82.10(a1) (concerning personal identifying information). Makes additional clarifying changes.

Further amends new GS 163-82.14(c1) concerning the process for removing noncitizens from the voter rolls by amending the documents that a voter may use as evidence to rebut the presumption in the preliminary hearing that the person is not a US citizen to include any federal documentation of citizenship or evidence that the voter did not request to be excused from jury duty on the basis of citizenship (was, birth certificate, citizenship naturalization, or other federal documentation of citizenship). Makes additional clarifying and technical changes to the statute.

Deletes the provision setting out the requirements for any notice given to a voter before an election regarding the photo id requirement and replaces it with the following. Requires the State Board of Elections and county boards of elections to conduct a robust public education effort regarding the photo id requirement to vote. Requires websites of the State Board of Elections and each county board of elections to include a prominent notice or icon linking to a notice regarding the photo id requirement to vote. Sets out the content of notice. Expires December 31, 2024.

Changes the due date of the Department of Information Technology's study on the feasibility of replacing the statewide voter registration system to March 1, 2024 (was, December 1, 2023).

Amends the ways in which the State Board must educate the public on the changes to the deadlines for returning completed applications and marked mail-in absentee ballots by including the information in any mailing to North Carolina residential addresses of registered voters, including any mailing sent regarding the implementation of photo ID to vote, in 2023 and 2024 (was, required mailing information regarding the deadline to North Carolina residential addresses of registered voters, in the

same manner as the Judicial Voter Guide, prior to the municipal election in 2023, prior to the primary in 2024, and prior to the general election in 2024).

Makes organizational changes to the act. Makes additional technical and clarifying changes.

Intro. by Hise, P. Newton, Daniel.

GS 9, GS 18B, GS 143, GS 143B, GS 163

[View summary](#)

Alcoholic Beverage Control, Courts/Judiciary, Court System, Administrative Office of the Courts, Criminal Justice, Criminal Law and Procedure, Government, Elections, State Agencies, State Board of Elections, Local Government

ACTIONS ON BILLS

PUBLIC BILLS

H 323: RETAIN ADULT DEVEL. VOC. REHAB. PROGRAMS. (NEW)

Senate: Withdrawn From Com

Senate: Placed On Cal For 08/16/2023

H 422: UNFAIR REAL ESTATE AGREEMENTS ACT.

Senate: Reptd Fav

H 447: CLARIFY MOTOR VEHICLE DEALER LAWS.

House: Withdrawn From Com

House: Placed On Cal For 08/16/2023

S 176: CONSUM. IN CRISIS PROTECT. ACT./ESOPs MIN. BUS. (NEW)

Senate: Withdrawn From Com

Senate: Placed On Cal For 08/16/2023

S 452: NC DEPARTMENT OF INSURANCE OMNIBUS .-AB

House: Conferees Changed

S 747: ELECTIONS LAW CHANGES.

House: Reptd Fav Com Substitute

House: Re-ref Com On Rules, Calendar, and Operations of the House

LOCAL BILLS

S 9: LOCAL OMNIBUS CHANGES. (NEW)

Senate: Withdrawn From Com

Senate: Placed On Cal For 08/16/2023

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