

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 89
HOUSE BILL 344

AN ACT TO AMEND THE AUTOMATIC RECOUNT LAW SO THAT CANDIDATES OTHER THAN THE "NEXT HIGHEST" CANDIDATE MAY CALL FOR A RECOUNT IF THEY RECEIVED VOTES WITHIN THE STATUTORY RANGE FROM VICTORY, SO THAT NO RECOUNT IS REQUIRED IN A STATEWIDE RACE IF THE PETITIONER IS LESS THAN THE LESSER OF ONE-HALF PERCENT OR TEN THOUSAND VOTES BEHIND, AND SO THAT A MULTI-COUNTY CANDIDATE MUST REQUEST A RECOUNT EIGHT DAYS AFTER THE ELECTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 163-179.1 reads as rewritten:

"§ 163-179.1. Mandatory recounts.

(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

- (1) Has received the number of votes necessary to be declared nominated for an office in a primary election with a majority; or
- (2) Has received the number of votes necessary to be declared nominated for an office in a second primary election

and the number of votes received by ~~the candidate receiving the next highest number of votes but not declared nominated under G.S. 163-179~~ any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the county board of elections shall, before declaring the person nominated, order a recount of the primary if ~~the candidate having the next highest number of votes~~ a candidate whose votes fell within one percent (1%) of a successful candidate shall, by noon on the second day (Saturdays and Sundays excepted) following the canvass, request in writing such a recount.

(b) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who has been declared elected to an office in a general election and the number of votes received by ~~the candidate receiving the next highest number of votes but not declared elected under G.S. 163-179~~ any candidate in the race shall be not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, or where there is a tie vote between those candidates, the county board of elections shall, before issuing a certificate of election, order a recount of the election if ~~the candidate having the next highest number of votes~~ a

candidate whose votes fell within one percent (1%) of a successful candidate (or in the case of a tie, either candidate) shall, by noon on the second day (Saturdays and Sundays excepted) following the canvass, request in writing such a recount.

(c) The recount shall be conducted under the supervision of the county board of elections.

(d) This section applies to offices other than those covered by G.S. 163-192.1; except that it does not apply to elections conducted under Subchapter IX of this Chapter."

Sec. 2. G.S. 163-192.1 reads as rewritten:

"§ 163-192.1. Mandatory recounts.

(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

- (1) Has received the number of votes necessary to be declared nominated for an office in a primary election with a majority; or
- (2) Received the number of votes necessary to be declared nominated for an office in a second primary election

and the number of votes received by the candidate receiving the next highest number of votes but not declared nominated under G.S. 163-192 any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the State Board of Elections shall, before declaring the person nominated, order a recount of the primary if the candidate having the next highest number of votes a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the second eighth day (Saturdays and Sundays ~~excepted~~ included) following the canvass election, request in writing such a recount. Provided, however, that in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is at least one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. Provided further that if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(b) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who has been declared elected to an office in a general election and the number of votes received by ~~the candidate receiving the next highest number of votes but not declared elected under G.S. 163-192 any other candidate in the race~~ shall be not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, or where there is a tie vote between those candidates, the State Board of Elections shall, before certifying the result to the Secretary of State under G.S. 163-193, order a recount of the election if ~~the candidate having the next highest number of votes a candidate whose votes, according to a tally of~~

the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate (or in the case of a tie, either candidate) shall, by noon on the second-eighth day (Saturdays and Sundays ~~excepted~~-included) following the canvass election, request in writing such a recount. Provided, however, that in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is at least one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. Provided further that if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(c) The recount shall be conducted under the supervision of the State Board of Elections.

(d) This section applies to the offices listed in G.S. 163-192."

Sec. 3. This act shall become effective with respect to all elections held on or after January 1, 1990.

In the General Assembly read three times and ratified this the 5th day of May, 1989.