

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 55

Short Title: Change Primary Date.

(Public)

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Sponsors: Senators Horton; Allran, Ballantine, Carpenter, Clark, East, Forrester, Foxx, Garwood, Kincaid, Ledbetter, Page, and Webster.

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Referred to: Judiciary.

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February 6, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR A LATER PRIMARY DATE.

3 The General Assembly of North Carolina enacts:

4 Section 1. G.S. 163-1(b) reads as rewritten:

5 "(b) On ~~Tuesday next after the first Monday in May~~ the Tuesday after the first Monday  
6 in September preceding each general election to be held in November for the officers  
7 referred to in subsection (a) of this section, there shall be held in all election precincts  
8 within the territory for which the officers are to be elected a primary election for the  
9 purpose of nominating candidates for each political party in the State for those offices."

10 Section 2. G.S. 163-111(e) reads as rewritten:

11 "(e) Date of Second Primary; Procedures. – If a second primary is required under  
12 the provisions of this section, the appropriate board of elections, State or county, shall  
13 order that it be held ~~four~~ three weeks after the first primary.

14 There shall be no registration of voters between the dates of the first and second  
15 primaries. Persons whose qualifications to register and vote mature after the day of the  
16 first primary and before the day of the second primary may register on the day of the  
17 second primary and, when thus registered, shall be entitled to vote in the second primary.  
18 The second primary is a continuation of the first primary and any voter who files a proper  
19 and timely affidavit of transfer of precinct, under the provisions of G.S. 163-72(c), before

1 the first primary may vote in the second primary without having to refile the affidavit of  
2 transfer if he is otherwise qualified to vote in the second primary. Subject to this  
3 provision for registration, the second primary shall be held under the laws, rules, and  
4 regulations provided for the first primary."

5 Section 3. (a) G.S. 163-106(c) reads as rewritten:

6 "(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary  
7 nominations for the following offices shall file their notice of candidacy with the State  
8 Board of Elections no earlier than 12:00 noon on the ~~first Monday in January~~ second  
9 Monday in June and no later than 12:00 noon on the ~~first Monday in February~~ first Monday  
10 in July preceding the primary:

11 Governor

12 Lieutenant Governor

13 All State executive officers

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

15 Judges of the district courts

16 United States Senators

17 Members of the House of Representatives of the United States

18 District attorneys

19 Candidates seeking party primary nominations for the following offices shall file their  
20 notice of candidacy with the county board of elections no earlier than 12:00 noon on the  
21 ~~first Monday in January~~ second Monday in June and no later than 12:00 noon on the ~~first~~  
22 ~~Monday in February~~ first Monday in July preceding the primary:

23 State Senators

24 Members of the State House of Representatives

25 All county offices."

26 (b) G.S. 163-323(b) reads as rewritten:

27 "(b) Time for Filing Notice of Candidacy. – Candidates seeking election to the  
28 following offices shall file their notice of candidacy with the State Board of Elections no  
29 earlier than 12:00 noon on the ~~first Monday in January~~ second Monday in June and no later  
30 than 12:00 noon on the ~~first Monday in February~~ first Monday in July preceding the  
31 election:

32 Judges of the superior courts."

33 Section 4. G.S. 163-98 reads as rewritten:

34 **"§ 163-98. General election participation by new political party.**

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

40 For the first general election following the date on which it qualifies under G.S. 163-  
41 96, a new political party shall select its candidates by party convention. Following  
42 adjournment of the nominating convention, but not later than the ~~first day of July prior to~~  
43 ~~the general election,~~ day of the primary election under G.S. 163-1(b), the president of the

1 convention shall certify to the State Board of Elections the names of persons chosen in  
2 the convention as the new party's candidates for ~~State, congressional, and national~~ offices in  
3 the ensuing general election. The State Board of Elections shall print names thus certified  
4 on the appropriate ballots as the nominees of the new party."

5 Section 5. G.S. 163-122(a) reads as rewritten:

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

9 (1) If the office is a statewide office, file written petitions with the State  
10 Board of Elections supporting his candidacy for a specified office.  
11 These petitions must be filed with the State Board of Elections on or  
12 before 12:00 noon on the last Friday in ~~June~~August preceding the  
13 general election and must be signed by qualified voters of the State  
14 equal in number to two percent (2%) of the total number of registered  
15 voters in the State as reflected by the most recent statistical report issued  
16 by the State Board of Elections. Each petition shall be presented to the  
17 chairman of the board of elections of the county in which the signatures  
18 were obtained. The chairman shall examine the names on the petition  
19 and place a check mark on the petition by the name of each signer who  
20 is qualified and registered to vote in his county and shall attach to the  
21 petition his signed certificate. Said certificates shall state that the  
22 signatures on the petition have been checked against the registration  
23 records and shall indicate the number of signers to be qualified and  
24 registered to vote in his county. The chairman shall return each petition,  
25 together with the certificate required in this section, to the person who  
26 presented it to him for checking. Verification by the chairman of the  
27 county board of elections shall be completed within two weeks from the  
28 date such petitions are presented and a fee of five cents (5¢) for each  
29 name appearing on the petition has been received.

30 (2) If the office is a district office comprised of two or more counties, file  
31 written petitions with the State Board of Elections supporting his  
32 candidacy for a specified office. These petitions must be filed with the  
33 State Board of Elections on or before 12:00 noon on the last Friday in  
34 ~~June~~August preceding the general election and must be signed by  
35 qualified voters of the district equal in number to four percent (4%) of  
36 the total number of registered voters in the district as reflected by the  
37 latest statistical report issued by the State Board of Elections. Each  
38 petition shall be presented to the chairman of the board of elections of  
39 the county in which the signatures were obtained. The chairman shall  
40 examine the names on the petition and the procedure for certification  
41 shall be the same as specified in (1) above.

42 (3) If the office is a county office or a single county legislative district, file  
43 written petitions with the chairman or director of the county board of

1 elections supporting his candidacy for a specified county office. These  
2 petitions must be filed with the county board of elections on or before  
3 12:00 noon on the last Friday in ~~June~~ August preceding the general  
4 election and must be signed by qualified voters of the county equal in  
5 number to four percent (4%) of the total number of registered voters in  
6 the county as reflected by the most recent statistical report issued by the  
7 State Board of Elections, except if the office is for a district consisting  
8 of less than the entire county and only the voters in that district vote for  
9 that office, the petitions must be signed by qualified voters of the district  
10 equal in number to four percent (4%) of the total number of voters in the  
11 district according to the most recent figures certified by the State Board  
12 of Elections. Each petition shall be presented to the chairman or  
13 director of the county board of elections. The chairman shall examine,  
14 or cause to be examined, the names on the petition and the procedure for  
15 certification shall be the same as specified in (1) above.

- 16 (4) If the office is a partisan municipal office, file written petitions with the  
17 chairman or director of the county board of elections in the county  
18 wherein the municipality is located supporting his candidacy for a  
19 specified municipal office. These petitions must be filed with the  
20 county board of elections on or before the time and date specified in  
21 G.S. 163-296 and must be signed by the number of qualified voters  
22 specified in G.S. 163-296. The procedure for certification shall be the  
23 same as specified in (1) above.

24 Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the  
25 board of elections with which the petitions and affidavit have been timely filed shall  
26 cause the unaffiliated candidate's name to be printed on the general election ballots in  
27 accordance with G.S. 163-140.

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

31 Section 6. G.S. 163-123(c) reads as rewritten:

32 "(c) Petitions for Write-in Candidacy. – An applicant for write-in candidacy shall:

- 33 (1) If the office is a statewide office, file written petitions with the State  
34 Board of Elections supporting his candidacy for a specified office.  
35 These petitions shall be filed on or before noon ~~on the 90th day before the~~  
36 ~~general election~~ the day of the primary under G.S. 163-1(b). They shall  
37 be signed by 500 qualified voters of the State. Before being filed with  
38 the State Board of Elections, each petition shall be presented to the  
39 board of elections of the county in which the signatures were obtained.  
40 A petition presented to a county board of elections shall contain only  
41 names of voters registered in that county. The chairman of the county  
42 board of elections shall examine the names on the petition and place a  
43 check mark by the name of each signer who is qualified and registered

1 to vote in his county. The chairman of the county board shall attach to  
2 the petition his signed certificate. On his certificate the chairman shall  
3 state that the signatures on the petition have been checked against the  
4 registration records and shall indicate the number of signers who are  
5 qualified and registered to vote in his county and eligible to vote for that  
6 office. The chairman shall return each petition, together with the  
7 certificate required in this section, to the person who presented it to him  
8 for checking. The chairman of the county board shall complete the  
9 verification within two weeks from the date the petition is presented. At  
10 the time of submitting the petition, a fee of five cents (5¢) shall be paid  
11 for each name appearing on the petition.

12 (2) If the office is a district office comprising all or part of two or more  
13 counties, file written petitions with the State Board of Elections  
14 supporting his candidacy for a specified office. These petitions must be  
15 filed with the State Board of Elections on or before noon on the ~~90th day~~  
16 ~~before the general election day~~ of the primary under G.S. 163-1(b) and  
17 must be signed by 250 qualified voters. Before being filed with the State  
18 Board of Elections, each petition shall be presented to the board of  
19 elections of the county in which the signatures were obtained. A petition  
20 presented to a county board of elections shall contain only names of  
21 voters registered in that county who are eligible to vote for that office.  
22 The chairman of the county board shall examine the names on the  
23 petition and the procedure for certification shall be the same as specified  
24 in subdivision (1).

25 (3) If the office is a county office, or is a school administrative unit office  
26 elected on a partisan basis, or is a legislative district consisting of a  
27 single county or a portion of a county, file written petitions with the  
28 county board of elections supporting his candidacy for a specified  
29 office. A petition presented to a county board of elections shall contain  
30 only names of voters registered in that county. These petitions must be  
31 filed on or before noon on the ~~90th day before the general election day of~~  
32 ~~the primary under G.S. 163-1(b)~~ and must be signed by 100 qualified  
33 voters who are eligible to vote for the office, unless fewer than 5,000  
34 persons are eligible to vote for the office as shown by the most recent  
35 records of the appropriate board of elections. If fewer than 5,000  
36 persons are eligible to vote for the office, an applicant's petition must be  
37 signed by not less than one percent (1%) of those registered voters.  
38 Before being filed with the county board of elections, each petition shall  
39 be presented to the county board of elections for examination. The  
40 chairman of the county board of elections shall examine the names on  
41 the petition and the procedure for certification shall be the same as  
42 specified in subdivision (1)."

43 Section 7. G.S. 163-114 reads as rewritten:



1 State or county, charged with the duty of printing the ballots on which the name is to  
2 appear. If at the time a nomination is made under this section the general election ballots  
3 have already been printed, the provisions of G.S. 163-139 shall apply. ~~If any person~~  
4 ~~nominated as a candidate of a political party vacates such nomination and such vacancy arises~~  
5 ~~from a cause other than death and the vacancy in nomination occurs more than 120 days before~~  
6 ~~the general election, the vacancy in nomination may be filled under this section only if the~~  
7 ~~appropriate executive committee certifies the name of the nominee in accordance with this~~  
8 ~~paragraph at least 75 days before the general election.~~

9 In a county which is partly in a multi-county superior court district, in choosing that  
10 county's member or members of the superior court district executive committee for the  
11 multi-county district, only the county convention delegates or county executive  
12 committee members who reside within the area of the county which is within that multi-  
13 county district may vote.

14 In a county not all of which is located in one congressional district, in choosing the  
15 congressional district executive committee member or members from that area of the  
16 county, only the county convention delegates or county executive committee members  
17 who reside within the area of the county which is within the congressional district may  
18 vote.

19 In a county which is partly in a multi-county senatorial district or which is partly in a  
20 multi-county House of Representatives district, in choosing that county's member or  
21 members of the senatorial district executive committee or House of Representatives  
22 district executive committee for the multi-county district, only the county convention  
23 delegates or county executive committee members who reside within the area of the  
24 county which is within that multi-county district may vote."

25 Section 8. Article 20 of Chapter 163 of the General Statutes is amended by  
26 adding a new section to read:

27 **"§ 163-226.4. Special deadlines for general election.**

28 Notwithstanding any other provision of this Article or Article 21 of this Chapter, the  
29 State Board of Elections shall provide that absentee ballots shall be available for the  
30 primary or general election at the earliest time practicable and may provide an alternative  
31 schedule for meetings of the county board of elections under G.S. 163-230 to  
32 accommodate the revised schedule."

33 Section 9. G.S. 163-179.1(a) reads as rewritten:

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

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

40 and the number of votes received by any candidate in the race is not more than one  
41 percent (1%) of the total votes which were cast for that office, except in multi-seat races  
42 one percent (1%) of the total votes cast for those two candidates, the county board of  
43 elections shall, before declaring the person nominated, order a recount of the primary if a

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

4 Section 10. G.S. 163-192.1(a) reads as rewritten:

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

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

11 and the number of votes received by any candidate in the race is not more than one  
12 percent (1%) of the total votes which were cast for that office, except in multi-seat races  
13 one percent (1%) of the total votes cast for those two candidates, the State Board of  
14 Elections shall, before declaring the person nominated, order a recount of the primary if a  
15 candidate whose votes, according to a tally of the canvasses made under Article 15 of this  
16 Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the  
17 ~~eighth~~ sixth day (Saturdays and Sundays included) following the election, request in  
18 writing such a recount. Provided, however, that in a statewide contest, no candidate shall  
19 be entitled to an automatic recount under this section unless the difference is at least one-  
20 half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. Provided  
21 further that if the canvass made under this Article determines that a candidate who was  
22 not originally thought to be within the percentage entitling him to a recount based on the  
23 tally of canvasses made under Article 15 of this Chapter is in fact within the percentage  
24 entitling him to a recount, the Executive Secretary-Director of the State Board of  
25 Elections shall immediately notify the candidate and the candidate shall be entitled to a  
26 recount if he so requests within ~~48~~ 24 hours of notification."

27 Section 11. If any members of any county board of education are elected at the  
28 primary election and take office under a local act in July after the primary, they shall  
29 instead take office on the same day in October after the primary, and the terms of any  
30 such member which would otherwise expire in July of 1998 or July of 2000 are extended  
31 accordingly.

32 Section 12. G.S. 163-111(c) reads as rewritten:

33 "(c) Procedure for Requesting Second Primary. –

- 34 (1) A candidate who is apparently entitled to demand a second primary,  
35 according to the unofficial results, for one of the offices listed below,  
36 and desiring to do so, shall file a request for a second primary in writing  
37 or by telegram with the Executive Secretary-Director of the State Board  
38 of Elections no later than 12:00 noon on the ~~seventh~~ sixth day (including  
39 Saturdays and Sundays) following the date on which the primary was  
40 conducted, and such request shall be subject to the certification of the  
41 official results by the State Board of Elections. If the vote certification  
42 by the State Board of Elections determines that a candidate who was not  
43 originally thought to be eligible to call for a second primary is in fact



1 eligible to call for a second primary, the Executive Secretary-Director of  
2 the State Board of Elections shall immediately notify such candidate  
3 and permit him to exercise any options available to him within a ~~48-hour~~  
4 24-hour period following the notification:

5 Governor,  
6 Lieutenant Governor,  
7 All State executive officers,  
8 Justices, Judges, or District Attorneys of the General Court of  
9 Justice,  
10 United States Senators,  
11 Members of the United States House of Representatives,  
12 State Senators in multi-county senatorial districts, and  
13 Members of the State House of Representatives in multi-county  
14 representative districts.

- 15 (2) A candidate who is apparently entitled to demand a second primary,  
16 according to the unofficial results, for one of the offices listed below  
17 and desiring to do so, shall file a request for a second primary in writing  
18 or by telegram with the chairman or director of the county board of  
19 elections no later than 12:00 noon on the ~~seventh-sixth~~ day (including  
20 Saturdays and Sundays) following the date on which the primary was  
21 conducted, and such request shall be subject to the certification of the  
22 official results by the county board of elections:

23 State Senators in single-county senatorial districts,  
24 Members of the State House of Representatives in single-county  
25 representative districts, and  
26 All county officers.

- 27 (3) Immediately upon receipt of a request for a second primary the  
28 appropriate board of elections, State or county, shall notify all  
29 candidates entitled to participate in the second primary, by telephone  
30 followed by written notice, that a second primary has been requested  
31 and of the date of the second primary."

32 Section 13. G.S. 163-111(d) reads as rewritten:

33 "(d) Tie Votes; How Determined. –

- 34 (1) In the event of a tie for the highest number of votes in a first primary  
35 between two candidates for party nomination for a single county, or  
36 single-county legislative district office, the board of elections of the  
37 county in which the two candidates were voted for shall conduct a  
38 recount and declare the results. If the recount shows a tie vote, a second  
39 primary shall be held on the date prescribed in subsection (e) of this  
40 section between the two candidates having an equal vote, unless one of  
41 the aspirants, within ~~three days~~ one day after the result of the recount has  
42 been officially declared, files a written notice of withdrawal with the  
43 board of elections with which he filed notice of candidacy. Should that

1 be done, the remaining aspirant shall be declared the nominee. In the  
2 event of a tie for the highest number of votes in a first primary among  
3 more than two candidates for party nomination for one of the offices  
4 mentioned in this subdivision, no recount shall be held, but all of the  
5 tied candidates shall be entered in a second primary.

6 (2) In the event of a tie for the highest number of votes in a first primary  
7 between two candidates for a State office, for United States Senator, or  
8 for any district office (including State Senator in a multi-county  
9 senatorial district and member of the State House of Representatives in  
10 a multi-county representative district), no recount shall be held solely by  
11 reason of the tie, but the two candidates having an equal vote shall be  
12 entered in a second primary to be held on the date prescribed in  
13 subsection (e) of this section, unless one of the two candidates files a  
14 written notice of withdrawal with the State Board of Elections within  
15 ~~three days~~ one day after the result of the first primary has been officially  
16 declared and published. Should that be done, the remaining aspirant  
17 shall be declared the nominee. In the event of a tie for the highest  
18 number of votes in a first primary among more than two candidates for  
19 party nomination for one of the offices mentioned in this subdivision, no  
20 recount shall be held, but all of the tied candidates shall be entered in a  
21 second primary.

22 (3) In the event one candidate receives the highest number of votes cast in a  
23 first primary, but short of a substantial plurality, and two or more of the  
24 other candidates receive the second highest number of votes cast in an  
25 equal number, the proper board of elections shall declare the candidate  
26 having the highest vote to be the party nominee, unless all but one of the  
27 tied candidates give written notice of withdrawal to the proper board of  
28 elections within ~~three days~~ one day after the result of the first primary  
29 has been officially declared. If all but one of the tied candidates  
30 withdraw within the prescribed ~~three-day~~ period, and the remaining  
31 candidate demands a second primary in accordance with the provisions  
32 of subsection (c) of this section, a second primary shall be held between  
33 the candidate who received the highest vote and the remaining candidate  
34 who received the second highest vote."

35 Section 14. This act becomes effective January 1, 1998.