

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 607
Apr 8, 2013
HOUSE PRINCIPAL CLERK

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HOUSE DRH10228-TH-4 (03/11)

Short Title: Require Use of Paper Ballots. (Public)

Sponsors: Representatives Jones and Burr (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE USE OF PAPER BALLOTS IN ALL ELECTIONS IN NORTH
3 CAROLINA.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 163-165(1) reads as rewritten:

6 "(1) "Ballot" means an instrument on which a voter indicates a choice so that it
7 may be recorded as a vote for or against a certain candidate or referendum
8 proposal. The term "ballot" may include a paper ballot to be counted by
9 hand, a paper ballot to be counted on an electronic scanner, ~~the face of a~~
10 ~~lever voting machine, the image on a direct record electronic unit, or a~~
11 paper ballot used on any other voting system."

12 SECTION 2. G.S. 163-165 is amended by adding a new subdivision to read:

13 "(5a) "Paper ballot" means an individual paper document that bears marks made
14 by the voter by hand or through electronic means.

15 SECTION 3. G.S. 163-165.7(a) reads as rewritten:

16 "§ 163-165.7. Voting systems: powers and duties of State Board of Elections.

17 (a) Only voting systems that have been certified by the State Board of Elections in
18 accordance with the procedures and subject to the standards set forth in this section and that
19 have not been subsequently decertified shall be permitted for use in elections in this State.
20 Those certified voting systems shall be valid in any election held in the State or in any county,
21 municipality, or other electoral district in the State. Subject to all other applicable rules adopted
22 by the State Board of Elections and, with respect to federal elections, subject to all applicable
23 federal regulations governing voting systems, paper ballots marked by the voter and counted by
24 hand shall be deemed a certified voting system. The State Board of Elections shall certify
25 optical scan voting systems, optical scan with ballot markers voting systems, and direct record
26 electronic voting systems if any of those systems meet all applicable requirements of federal
27 and State law. The State Board may certify additional voting systems only if they meet the
28 requirements of the request for proposal process set forth in this section and only if they
29 generate ~~either a paper ballot or a paper record by which voters may verify their votes before~~
30 ~~casting them and~~ which provides a backup means of counting the vote that the voter casts.
31 Those voting systems may include optical scan and direct record electronic (DRE) voting
32 ~~systems.~~ systems that produce a paper ballot. In consultation with the Office of Information
33 Technology Services, the State Board shall develop the requests for proposal subject to the
34 provisions of this Chapter and other applicable State laws. Among other requirements, the
35 request for proposal shall require at least all of the following elements:



- 1 (1) That the vendor post a bond or letter of credit to cover damages resulting
2 from defects in the voting system. Damages shall include, among other
3 items, any costs of conducting a new election attributable to those defects.
- 4 (2) That the voting system comply with all federal requirements for voting
5 systems.
- 6 (3) That the voting system must have the capacity to include in voting tabulation
7 district returns the votes cast by voters outside of the voter's voting
8 tabulation district as required by G.S. 163-132.5G.
- 9 (4) With respect to electronic voting systems, that the voting system generate a
10 paper ~~record-ballot~~ of each individual vote cast, which paper ~~record-ballot~~
11 shall be maintained in a secure fashion and shall serve as a backup record for
12 purposes of any hand-to-eye count, hand-to-eye recount, or other audit.
13 Electronic systems that employ optical scan technology to count paper
14 ballots shall be deemed to satisfy this requirement.
- 15 (5) With respect to DRE voting systems, that the paper ~~record-ballot~~ generated
16 by the system be viewable by the voter before the vote is cast electronically,
17 and that the system permit the voter to correct any discrepancy between the
18 electronic vote and the paper ~~record-ballot~~ before the vote is cast.
- 19 ...
- 20 (d) Subject to the provisions of this Chapter, the State Board of Elections shall prescribe
21 rules for the adoption, handling, operation, and honest use of certified voting systems,
22 including all of the following:
- 23 (1) Procedures for county boards of elections to utilize when recommending the
24 purchase of a certified voting system for use in that county.
- 25 (2) Form of official ballot labels to be used on voting systems.
- 26 (3) Operation and manner of voting on voting systems.
- 27 (4) Instruction of precinct officials in the use of voting systems.
- 28 (5) Instruction of voters in the use of voting systems.
- 29 (6) Assistance to voters using voting systems.
- 30 (7) Duties of custodians of voting systems.
- 31 (8) Examination and testing of voting systems in a public forum in the county
32 before and after use in an election.
- 33 (9) Notwithstanding G.S. 132-1.2, procedures for the review and examination of
34 any information placed in escrow by a vendor pursuant to G.S. 163-165.9A
35 by only the following persons:
- 36 a. State Board of Elections.
- 37 b. Office of Information Technology Services.
- 38 c. The State chairs of each political party recognized under
39 G.S. 163-96.
- 40 d. The purchasing county.
- 41 Each person listed in sub-subdivisions a. through d. of this subdivision may
42 designate up to three persons as that person's agents to review and examine
43 the information. No person shall designate under this subdivision a business
44 competitor of the vendor whose proprietary information is being reviewed
45 and examined. For purposes of this review and examination, any designees
46 under this subdivision and the State party chairs shall be treated as public
47 officials under G.S. 132-2.
- 48 (10) With respect to electronic voting systems, procedures to maintain the
49 integrity of both the electronic vote count and the paper ~~record-ballot~~. Those
50 procedures shall at a minimum include procedures to protect against the
51 alteration of the paper ~~record-ballot~~ after a machine vote has been recorded

1 and procedures to prevent removal by the voter from the voting enclosure of
2 any ~~paper record or copy of an~~ individually voted paper ballot or of any
3 other device or item whose removal from the voting enclosure could permit
4 compromise of the integrity of either the machine count or the paper
5 ~~record~~ballot.

6"

7 **SECTION 4.** G.S. 163-166.7(c) reads as rewritten:

8 "(c) The State Board of Elections shall promulgate rules for the process of voting. Those
9 rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality,
10 and the convenience and privacy of the voter. Those rules, at a minimum, shall include
11 procedures to ensure that all the following occur:

- 12 (1) The voting system remains secure throughout the period voting is being
13 conducted.
- 14 (2) Only properly voted official ballots ~~or paper records of individual voted~~
15 ~~ballots~~ are introduced into the voting system.
- 16 (3) Except as provided by G.S. 163-166.9, no official ballots leave the voting
17 enclosure during the time voting is being conducted there. The rules shall
18 also provide that during that time no one shall remove from the voting
19 enclosure any paper record or copy of an individually voted ballot or of any
20 other device or item whose removal from the voting enclosure could permit
21 compromise of the integrity of either the machine count or the paper record.
- 22 (4) All improperly voted official ballots ~~or paper records of individual voted~~
23 ~~ballots~~ are returned to the precinct officials and marked as spoiled.
- 24 (5) Voters leave the voting place promptly after voting.
- 25 (6) Voters not clearly eligible to vote in the precinct but who seek to vote there
26 are given proper assistance in voting a provisional official ballot or guidance
27 to another voting place where they are eligible to vote.
- 28 (7) Information gleaned through the voting process that would be helpful to the
29 accurate maintenance of the voter registration records is recorded and
30 delivered to the county board of elections.
- 31 (8) The registration records are kept secure. The State Board of Elections shall
32 permit the use of electronic registration records in the voting place in lieu of
33 or in addition to a paper pollbook or other registration record.
- 34 (9) Party observers are given access as provided by G.S. 163-45 to current
35 information about which voters have voted.
- 36 (10) The voter, before voting, shall sign that voter's name on the pollbook, other
37 voting record, or voter authorization document. If the voter is unable to sign,
38 a precinct official shall enter the person's name on the same document before
39 the voter votes."

40 **SECTION 5.** G.S. 163-182.1(b)(1) reads as rewritten:

- 41 "(1) Provide for a sample hand-to-eye count of the paper ballots ~~or paper records~~
42 of a statewide ballot item in every county. The presidential ballot item shall
43 be the subject of the sampling in a presidential election. If there is no
44 statewide ballot item, the State Board shall provide a process for selecting
45 district or local ballot items to adequately sample the electorate. The State
46 Board shall approve in an open meeting the procedure for randomly
47 selecting the sample precincts for each election. The random selection of
48 precincts for any county shall be done publicly after the initial count of
49 election returns for that county is publicly released or 24 hours after the polls
50 close on election day, whichever is earlier. The sample chosen by the State
51 Board shall be of one or more full precincts, full counts of mailed absentee

1 ballots, full counts of one or more one-stop early voting sites, or a
2 combination. The size of the sample of each category shall be chosen to
3 produce a statistically significant result and shall be chosen after
4 consultation with a statistician. The actual units shall be chosen at random.
5 In the event of a material discrepancy between the electronic or mechanical
6 count and a hand-to-eye count, the hand-to-eye count shall control, except
7 where paper ballots ~~or records~~ have been lost or destroyed or where there is
8 another reasonable basis to conclude that the hand-to-eye count is not the
9 true count. If the discrepancy between the hand-to-eye count and the
10 mechanical or electronic count is significant, a complete hand-to-eye count
11 shall be conducted."

12 **SECTION 6.** G.S. 163-182.2(b)(1a) reads as rewritten:

13 "(1a) For optical scan and direct record electronic voting systems, and for any
14 other voting systems in which ballots are counted other than on paper by
15 hand and eye, those rules shall provide for a sample hand-to-eye count of the
16 paper ballots ~~or paper records~~ of a sampling of a statewide ballot item in
17 every county. The presidential ballot item shall be the subject of the
18 sampling in a presidential election. If there is no statewide ballot item, the
19 State Board shall provide a process for selecting district or local ballot items
20 to adequately sample the electorate. The State Board shall approve in an
21 open meeting the procedure for randomly selecting the sample precincts for
22 each election. The random selection of precincts for any county shall be
23 done publicly after the initial count of election returns for that county is
24 publicly released or 24 hours after the polls close on election day, whichever
25 is earlier. The sample chosen by the State Board shall be of one or more full
26 precincts, full counts of mailed absentee ballots, and full counts of one or
27 more one-stop early voting sites. The size of the sample of each category
28 shall be chosen to produce a statistically significant result and shall be
29 chosen after consultation with a statistician. The actual units shall be chosen
30 at random. In the event of a material discrepancy between the electronic or
31 mechanical count and a hand-to-eye count, the hand-to-eye count shall
32 control, except where paper ballots ~~or records~~ have been lost or destroyed or
33 where there is another reasonable basis to conclude that the hand-to-eye
34 count is not the true count. If the discrepancy between the hand-to-eye count
35 and the mechanical or electronic count is significant, a complete hand-to-eye
36 count shall be conducted. The sample count need not be done on election
37 night."

38 **SECTION 7.** G.S. 163-227.2(e1) reads as rewritten:

39 "(e1) If a county uses a voting system with retrievable ballots, that county's board of
40 elections may by resolution elect to conduct one-stop absentee voting according to the
41 provisions of this subsection. In a county in which the board has opted to do so, a one-stop
42 voter shall cast the ballot and then shall deposit the ballot in the ballot box or voting system in
43 the same manner as if such box or system was in use in a precinct on election day. At the end of
44 each business day, or at any time when there will be no employee or officer of the board of
45 elections on the premises, the ballot box or system shall be secured in accordance with a plan
46 approved by the State Board of Elections, which shall include that no additional ballots have
47 been placed in the box or system. Any county board desiring to conduct one-stop voting
48 according to this subsection shall submit a plan for doing so to the State Board of Elections.
49 The State Board shall adopt standards for conducting one-stop voting under this subsection and
50 shall approve any county plan that adheres to its standards. The county board shall adhere to its
51 State Board-approved plan. The plan shall provide that each one-stop ballot shall have a ballot

1 number on it in accordance with G.S. 163-230.1(a2), or shall have an equivalent identifier to
2 allow for retrievability. ~~The standards shall address retrievability in one-stop voting on direct~~
3 ~~record electronic equipment where no paper ballot is used."~~

4 **SECTION 8.** Any direct record electronic (DRE) voting systems currently certified
5 by the State Board of Elections which do not use paper ballots shall be decertified and shall not
6 be used in any election held on or after January 1, 2014. Decertification of a DRE voting
7 system that does not use paper ballots may not be appealed to the Superior Court of Wake
8 County pursuant to G.S. 163-165.7(b).

9 **SECTION 9.** Section 8 is effective when it becomes law. The remainder of this act
10 becomes effective January 1, 2014, and applies to elections held on or after that date.