

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

S

2

SENATE BILL 10  
Judiciary I Committee Substitute Adopted 3/14/01

Short Title: Ballot Access Changes.

(Public)

Sponsors:

Referred to:

January 25, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES TO THE BALLOT ACCESS LAWS.

3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 163-96 reads as rewritten:

5 "§ 163-96. 'Political party' defined; creation of new party.

6 (a) Definition. -- A political party within the meaning of the election laws of this  
7 State shall be either:

8 (1) Any group of voters which, at the last preceding general State election,  
9 polled for its candidate for Governor, or for presidential electors, at  
10 least ten percent (10%) of the entire vote cast in the State for Governor  
11 or for presidential electors; or

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

26 (b) Petitions for New Political Party. -- Petitions for the creation of a new  
27 political party shall contain on the heading of each page of the petition in bold print or  
28 all in capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN  
29 \_\_\_\_\_ COUNTY HEREBY PETITION FOR THE FORMATION OF A NEW

1 POLITICAL PARTY TO BE NAMED \_\_\_\_\_ AND WHOSE STATE CHAIRMAN  
2 IS \_\_\_\_\_, RESIDING \_\_\_\_\_, WITH NORTH CAROLINA  
3 HEADQUARTERS AT \_\_\_\_\_ AND WHO CAN BE REACHED  
4 REACHABLE BY TELEPHONE AT \_\_\_\_\_. THE SIGNERS OF THIS PETITION  
5 INTEND TO ORGANIZE A NEW POLITICAL PARTY TO PARTICIPATE  
6 REQUEST THAT THE CANDIDATES OF THAT PARTY BE LISTED ON THE  
7 BALLOT IN THE NEXT SUCCEEDING GENERAL ELECTION. ELECTION  
8 CYCLE SPANNING THE YEARS OF \_\_\_\_\_."

9 All printing required to appear on the heading of the petition shall be in type no smaller  
10 than 10 point or in all capital letters, double spaced typewriter size. In addition to the  
11 form of the petition, the organizers and petition circulators shall inform the signers of  
12 the general purpose and intent of the new party.

13 The petitions must specify the name selected for the proposed political party. The  
14 State Board of Elections shall reject petitions for the formation of a new party if the  
15 name chosen contains any word that appears in the name of any existing political party  
16 recognized in this State or if, in the Board's opinion, the name is so similar to that of an  
17 existing political party recognized in this State as to confuse or mislead the voters at an  
18 election.

19 ~~The petitions must state the name and address of the State chairman of the proposed~~  
20 ~~new political party.~~

21 (b1) Each petition shall be presented to the chairman of the board of elections of  
22 the county in which the signatures were obtained, and it shall be the chairman's duty:

- 23 (1) To examine the signatures on the petition and place a check mark on  
24 the petition by the name of each signer who is qualified and registered  
25 to vote in his county.
- 26 (2) To attach to the petition his signed certificate
- 27 a. Stating that the signatures on the petition have been checked  
28 against the registration records and
- 29 b. Indicating the number found qualified and registered to vote in  
30 his county.
- 31 (3) To return each petition, together with the certificate required by the  
32 preceding subdivision, to the person who presented it to him for  
33 checking.

34 The group of petitioners shall submit the petitions to the chairman of the county  
35 board of elections in the county in which the signatures were obtained no later than 5:00  
36 P.M. on the fifteenth day preceding the date the petitions are due to be filed with the  
37 State Board of Elections as provided in subsection (a)(2) of this section. Provided the  
38 petitions are timely submitted, the chairman of the county board of elections shall  
39 proceed to examine and verify the signatures under the provisions of this subsection.  
40 Verification shall be completed within two weeks from the date such petitions are  
41 presented.

42 (c) Repealed by Session Laws 1983, c. 576, s. 3."

43 **SECTION 2.** G.S. 163-97 reads as rewritten:

1 **"§ 163-97. Termination of ballot status as political party.**

2 When any political party fails to poll for its candidate for governor, or for  
3 presidential electors, at least ten percent (10%) of the entire vote cast in the State for  
4 governor or for presidential electors at a general election, it shall cease to be included on  
5 the ballot as a political party within the meaning of the primary and general election  
6 laws and all other provisions of this Chapter. party."

7 **SECTION 3.** G.S. 163-97.1 reads as rewritten:

8 **"§ 163-97.1. Voters affiliated with expired political party. party after loss of ballot**  
9 **status.**

10 ~~The State Board of Elections shall be authorized to promulgate appropriate~~  
11 ~~procedures to order the county boards of elections to change the registration affiliation~~  
12 ~~of all voters who are recorded on the voter registration books as being affiliated with a~~  
13 ~~political party which has lost its legal status as provided in G.S. 163-97. The State~~  
14 ~~Board of Elections shall not implement the authority contained in this section earlier~~  
15 ~~than 90 days following the certification of the election in which the political party failed~~  
16 ~~to continue its legal status as provided in G.S. 163-97. All voters affiliated with such~~  
17 ~~expired political party shall be changed to "unaffiliated" designation by the State Board's~~  
18 ~~order and all such registrants shall be entitled to declare a political party affiliation as~~  
19 ~~provided in G.S. 163-74(b). Any voter registered with a political party shall be allowed~~  
20 ~~to retain that affiliation even if that party loses its ballot status under the provisions of~~  
21 ~~G.S. 163-97. Within 90 days after a party loses its ballot status, the county board of~~  
22 ~~elections shall notify each voter affiliated with that party of the legal consequences of~~  
23 ~~continued affiliation with the party, including potential inability to vote in any party~~  
24 ~~primary."~~

25 **SECTION 4.** G.S. 163-98 reads as rewritten:

26 **"§ 163-98. General election participation by new political party.**

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

32 For the first general election following the date on which it qualifies under G.S.  
33 163-96, a new political party shall select its candidates by party convention. Following  
34 adjournment of the nominating convention, but not later than the ~~first day of July~~ 90th  
35 day prior to the general election, the president of the convention shall certify to the State  
36 Board of Elections the names of persons chosen in the convention as the new party's  
37 candidates for ~~State, congressional, and national~~ offices in the ensuing general election.  
38 The State Board of Elections shall ~~print~~ print, or direct the appropriate board of  
39 elections to print, the names thus certified on the appropriate ballots as the nominees of  
40 the new party."

41 **SECTION 5.** G.S. 163-122 reads as rewritten:

42 **"§ 163-122. Unaffiliated candidates nominated by petition.**

1 (a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. --  
2 Any qualified voter who seeks to have his name printed on the general election ballot as  
3 an unaffiliated candidate shall:

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

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

1 the procedure for certification and deadline for submission to the  
2 county 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  
7 12:00 noon on the last Friday in ~~June~~ July preceding the general  
8 election and must be signed by qualified voters of the county equal in  
9 number to four percent (4%) of the total number of ~~registered voters in~~  
10 ~~the county as reflected by the most recent statistical report issued by~~  
11 ~~the State Board of Elections, voters who voted in the county in the~~  
12 most recent general election for Governor, except if the office is for a  
13 district consisting of less than the entire county and only the voters in  
14 that district vote for that office, the petitions must be signed by  
15 qualified voters of the district equal in number to four percent (4%) of  
16 the total number of voters ~~in the district according to the most recent~~  
17 ~~figures certified by the State Board of Elections, who voted in the~~  
18 district in the most recent general election for Governor. Each petition  
19 shall be presented to the chairman or director of the county board of  
20 elections. The chairman shall examine, or cause to be examined, the  
21 names on the petition and the procedure for certification shall be the  
22 same as specified in (1) above.

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

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

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

38 (b) Form of Petition. -- Petitions requesting an unaffiliated candidate to be placed  
39 on the general election ballot shall contain on the heading of each page of the petition in  
40 bold print or in all capital letters the words: "THE UNDERSIGNED REGISTERED  
41 VOTERS IN \_\_\_\_\_ COUNTY HEREBY PETITION ON BEHALF OF  
42 \_\_\_\_\_ AS AN UNAFFILIATED CANDIDATE IN THE NEXT  
43 GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT

1 ~~SUBJECT~~ THIS CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT  
2 UPON COMPLIANCE WITH THE PROVISIONS CONTAINED IN G.S. 163-122."

3 (c) This section does not apply to elections under Article 25 of this Chapter."

4 **SECTION 6.** G.S. 163-209 reads as rewritten:

5 **"§ 163-209. Names of presidential electors not printed on ballots.**

6 The names of candidates for electors of President and Vice-President nominated by  
7 any political party recognized in this State under G.S. 163-96, or nominated under G.S.  
8 163-1(c) by a candidate for President of the United States who has qualified to have his  
9 name printed on the general election ballot as an unaffiliated candidate under G.S.  
10 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot.  
11 ~~In the case of the unaffiliated candidate, the~~ The names of candidates for electors and of  
12 candidates for President and Vice President ~~must~~ shall be filed with the Secretary of  
13 State no later than 12:00 noon on the ~~first Friday in August.~~ 90th day before the general  
14 election, or two days after that political party's national convention, whichever is later,  
15 but in no event later than August 20. In place of ~~their~~ the electors' names, in accordance  
16 with the provisions of G.S. 163-140 there shall be printed on the ballot the names of the  
17 candidates for President and Vice-President of each political party recognized in this  
18 State, and the name of any candidate for President who has qualified to have his name  
19 printed on the general election ballot under G.S. 163-122. A candidate for President  
20 who has qualified for the general election ballot as an unaffiliated candidate under G.S.  
21 163-122 ~~shall, no later than 12:00 noon on the first Friday in August, shall file with the~~  
22 State Board of Elections the name of a candidate for ~~Vice President, whose Vice~~  
23 President no later than 12:00 noon on the 90th day before the general election, or two  
24 days after that political party's national convention, whichever is later, but in no event  
25 later than August 20. That vice presidential candidate's name shall also be printed on the  
26 ballot. A vote for the candidates named on the ballot shall be a vote for the electors of  
27 the party or unaffiliated candidate by which those candidates were nominated and  
28 whose names have been filed with the Secretary of State."

29 **SECTION 7.** G.S. 163-123 reads as rewritten:

30 **"§ 163-123. Declaration of intent and petitions for write-in candidates in partisan**  
31 **elections.**

32 (a) Procedure for Qualifying as a Write-In Candidate. -- Any qualified voter who  
33 seeks to have write-in votes for him counted in a general election shall file a declaration  
34 of intent in accordance with subsection (b) of this section and petition(s) in accordance  
35 with subsection (c) of this section.

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

- 39 (1) Applicant's name,
- 40 (2) Applicant's residential address,
- 41 (3) Declaration of applicant's intent to be a write-in candidate,
- 42 (4) Title of the office sought,
- 43 (5) Date of the election,

- 1 (6) Date of the declaration,  
2 (7) Applicant's signature.
- 3 (c) Petitions for Write-in Candidacy. -- An applicant for write-in candidacy shall:  
4 (1) If the office is a ~~statewide office,~~ President, Vice President,  
5 Presidential elector, or another office elected statewide, file written  
6 petitions with the State Board of Elections supporting his candidacy  
7 for a specified office. These petitions shall be filed on or before noon  
8 on the 90th day before the general election. They shall be signed by  
9 500 qualified voters of the State. No later than 5:00 p.m. on the  
10 fifteenth day preceding the date the petitions are due to be filed with  
11 the State Board of Elections, each petition shall be presented to the  
12 board of elections of the county in which the signatures were obtained.  
13 A petition presented to a county board of elections shall contain only  
14 names of voters registered in that county. Provided the petitions are  
15 timely submitted, the chairman of the county board of elections shall  
16 examine the names on the petition and place a check mark by the name  
17 of each signer who is qualified and registered to vote in his county.  
18 The chairman of the county board shall attach to the petition his signed  
19 certificate. On his certificate the chairman shall state that the  
20 signatures on the petition have been checked against the registration  
21 records and shall indicate the number of signers who are qualified and  
22 registered to vote in his county and eligible to vote for that office. The  
23 chairman shall return each petition, together with the certificate  
24 required in this section, to the person who presented it to him for  
25 checking. The chairman of the county board shall complete the  
26 verification within two weeks from the date the petition is presented.
- 27 (2) If the office is a district office comprising all or part of two or more  
28 counties, file written petitions with the State Board of Elections  
29 supporting his candidacy for a specified office. These petitions must be  
30 filed with the State Board of Elections on or before noon on the 90th  
31 day before the general election and must be signed by 250 qualified  
32 voters. Before being filed with the State Board of Elections, each  
33 petition shall be presented to the board of elections of the county in  
34 which the signatures were obtained. A petition presented to a county  
35 board of elections shall contain only names of voters registered in that  
36 county who are eligible to vote for that office. The chairman of the  
37 county board shall examine the names on the petition and the  
38 procedure for certification shall be the same as specified in subdivision  
39 (1).
- 40 (3) If the office is a county office, or is a school administrative unit office  
41 elected on a partisan basis, or is a legislative district consisting of a  
42 single county or a portion of a county, file written petitions with the  
43 county board of elections supporting his candidacy for a specified

1 office. A petition presented to a county board of elections shall contain  
2 only names of voters registered in that county. These petitions must be  
3 filed on or before noon on the 90th day before the general election and  
4 must be signed by 100 qualified voters who are eligible to vote for the  
5 office, unless fewer than 5,000 persons are eligible to vote for the  
6 office as shown by the most recent records of the appropriate board of  
7 elections. If fewer than 5,000 persons are eligible to vote for the office,  
8 an applicant's petition must be signed by not less than one percent  
9 (1%) of those registered voters. Before being filed with the county  
10 board of elections, each petition shall be presented to the county board  
11 of elections for examination. The chairman of the county board of  
12 elections shall examine the names on the petition and the procedure for  
13 certification shall be the same as specified in subdivision (1).

14 (d) Form of Petition. -- Petitions requesting the qualification of a write-in  
15 candidate in a general election shall contain on the heading of each page of the petition  
16 in bold print or in capital letters the words: "THE UNDERSIGNED REGISTERED  
17 VOTERS IN \_\_\_\_\_ COUNTY HEREBY PETITION ON BEHALF OF  
18 \_\_\_\_\_ AS A WRITE-IN CANDIDATE IN THE NEXT GENERAL  
19 ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT  
20 CANDIDATE BE PLACED ON THE LIST OF QUALIFIED WRITE-IN  
21 CANDIDATES WHOSE VOTES ARE TO BE COUNTED AND RECORDED IN  
22 ACCORDANCE WITH G.S. 163-123."

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

26 (f) Counting and Recording of Votes. -- If a qualified voter has complied with  
27 the provisions of subsections (a), (b), and (c) and is not excluded by subsection (e), the  
28 board of elections with which petition has been filed shall count votes for him according  
29 to the procedures set out in G.S. 163-170(5), and the appropriate board of elections shall  
30 record those votes on the official abstract. Write-in votes for names other than those of  
31 qualified write-in candidates shall not be counted for any purpose and shall not be  
32 recorded on the abstract.

33 (g) Municipal and Nonpartisan Elections Excluded. -- This section does not  
34 apply to municipal elections conducted under Subchapter IX of Chapter 163 of the  
35 General Statutes, and does not apply to nonpartisan elections."

36 **SECTION 8.** This act becomes effective with respect to elections held on  
37 and after January 1, 2002.