

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 294

Short Title: Partisan Elections Act. (Public)

Sponsors: Representatives Pittman, Cleveland, Kidwell, and Speciale (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Elections and Ethics Law, if favorable, Rules, Calendar, and Operations of the House

March 7, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THAT EVERY ELECTION IN THE STATE BE HELD AS A
3 PARTISAN ELECTION.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. COUNTY BOARDS OF EDUCATION ELECTIONS**

7 **SECTION 1.1.** G.S. 115C-37 reads as rewritten:

8 "**§ 115C-37. Election of board members.**

9 (a) Method of Election. – The county boards of education shall be elected on a
10 ~~nonpartisan-partisan~~ basis at the time of the ~~primary election in 1970 and biennially thereafter.~~
11 ~~The names of the candidates shall be printed on the ballots without reference to any party~~
12 ~~affiliation and any qualified voter residing in the county shall be entitled to vote such ballots.~~
13 general election. Notwithstanding any provision of G.S. 153A-3 to the contrary, a local act shall
14 not supersede the method of partisan election provided for in this subsection. Except as otherwise
15 provided herein, the election shall be conducted according to the provisions of Subchapter III of
16 Chapter 163A of the General Statutes then governing primary elections. Statutes.

17 The terms of office of the members shall be staggered so as nearly equal to one half as
18 possible shall expire every two years.

19 ...

20 (c) City Board of Education. – The board of education for any city administrative unit
21 shall be appointed or elected as now provided by law. If the board of education is elected, it shall
22 be elected biennially on a partisan basis. Notwithstanding any provision of G.S. 160A-3 to the
23 contrary, a local act shall not supersede the method of partisan election provided for in this
24 subsection.

25 The election of the board of education for a city administrative unit shall be conducted
26 according to the provisions of Parts 1 and 2 of Article 27 of Chapter 163A of the General Statutes
27 governing partisan elections.

28 If no provision is now made by the law for the filling of vacancies ~~in the membership of for~~
29 appointed members of any city board of education, such vacancy may shall be filled by the
30 governing body of the city or town embraced by ~~said~~ the administrative unit. In the event that
31 any such vacancy is not filled in this manner within 30 days, the State Board of Education ~~may~~
32 shall fill such the vacancy.

33 ...



1 (e) Vacancies in Nominations for Membership on County Boards. – If any candidate
2 ~~nominated on a partisan basis shall die, resign, or for any reason become ineligible or disqualified~~
3 ~~between the date of his the candidate's nomination and the time for the election, such the vacancy~~
4 ~~caused thereby may shall~~ be filled by the actions of the county executive committee of the
5 political party of ~~such the~~ candidate.

6 (f) Vacancies in Office. – All vacancies in the membership of the boards of education
7 whose members are elected pursuant to the provisions of ~~subsection (a) of this section created by~~
8 death, resignation, or other causes shall be filled by appointment by the remaining members of
9 the board, of a person to serve until the next election of members of ~~such the~~ board, at which
10 time the remaining unexpired term of the office in which the vacancy occurs shall be filled by
11 election. The remaining members of the board shall consult with the executive committee of the
12 nominating political party of the member whose seat is vacant and appoint the person
13 recommended by that party executive committee, if the party executive committee makes a
14 recommendation within 30 days of the occurrence of the vacancy. Whenever only the qualified
15 voters of less than the area of the entire local school administrative unit were eligible to vote for
16 the member whose seat is vacant, the appointing authority shall accept the recommendation only
17 if the party executive committee restricted voting to committee members who represent precincts
18 all or part of which were within the territory of the vacating school board member.
19 Notwithstanding any provisions of G.S. 153A-3 or G.S. 160A-3 to the contrary, a local act may
20 not supersede the method of filling vacancies in the membership of boards of education provided
21 for in this subsection.

22 (g) Eligibility for Board Membership; Holding Other Offices. – Any person possessing
23 the qualifications for election to public office set forth in Article VI, Sec. 6 of the Constitution
24 of North Carolina shall be eligible to serve as a member of a local board of education: Provided,
25 however, that any person elected or appointed to a local board of education, and also employed
26 by that board of education, shall resign his or her employment before taking office as a member
27 of that board of education.

28 Membership on a board of education is hereby declared to be an office that, with the
29 exceptions provided above, may be held concurrently with any appointive office, pursuant to
30 Article VI, Sec. 9 of the Constitution, but any person holding an elective office shall not be
31 eligible to serve as a member of a local board of education.

32 ~~(h) Death or Disqualification of Candidate in Nonpartisan Election. — If a candidate dies~~
33 ~~or becomes disqualified after the filing period has closed and before the election, and the ballots~~
34 ~~have not been printed, the county board of elections shall immediately reopen the filing period~~
35 ~~for five days so that additional candidates may file for election. If the ballots have been printed~~
36 ~~at the time the board of elections receives notice of the death or disqualification, the board shall~~
37 ~~reopen the filing period for three days if the board determines it will have time to reprint the~~
38 ~~ballots before the election.~~

39 ~~In the event the board of elections determines that there is not time enough to reopen the~~
40 ~~filing period for three days and to reprint the ballots, then the ballots shall not be reprinted and~~
41 ~~the name of the deceased or disqualified candidate shall remain on the ballot. Votes cast for such~~
42 ~~candidate shall not be considered and the candidates receiving the highest number of votes equal~~
43 ~~to the number of positions to be filled shall be elected.~~

44"

45 **SECTION 1.2.** G.S. 115C-37.1 is repealed.

46 **SECTION 1.3.** G.S. 115C-67 reads as rewritten:

47 **"§ 115C-67. Merger of units in same county.**

48 City school administrative units may be consolidated and merged with contiguous city school
49 administrative units and with county school administrative units upon approval by the State
50 Board of Education of a plan for consolidation and merger submitted by the boards of education
51 involved and bearing the approval of the board of county commissioners.

1 County and city boards of education desiring to consolidate and merge their school
 2 administrative units may do so by entering into a written plan which shall set forth the conditions
 3 of merger. The provisions of the plan shall be consistent with the General Statutes and shall
 4 contain, but not be limited to, the following:

5 ...
 6 (3) The establishment and maintenance of a board of education which shall
 7 administer all the public schools of the newly created unit, including:

8 ...
 9 b. The method of constituting and continuing the board of education; the
 10 manner of selection of board members, including (i) the number of
 11 members of the board, (ii) the method of their election or appointment,
 12 (iii) whether members shall be nominated, elected, or appointed from
 13 districts or at large, and (iv) the manner of determining the ~~nominee,~~
 14 ~~and (v) whether the election shall be partisan or nonpartisan; nominee;~~
 15 the length of the members' terms of office; the dates of induction into
 16 office; the organization of the board; ~~the procedure for filling~~
 17 ~~vacancies;~~ and the compensation to be paid members of the board for
 18 expenses incurred in performance of their duties. ~~To~~ Except for the
 19 requirements of election on a partisan basis and the filling of vacancies
 20 in the membership of a local board of education, to the extent that the
 21 method conflicts with G.S. 115C-35, G.S. 115C-37, or with any local
 22 act concerning any of the units being merged and consolidated, the
 23 plan of merger and consolidation shall prevail.

24"

25 **SECTION 1.4.(a)** This act shall have the effect of repealing any provisions of local
 26 or special acts relating to the nonpartisan election of a local board of education and any
 27 conflicting methods of filling vacancies in the membership of boards of education as required by
 28 G.S. 115C-37(f), as amended by this act. This act shall not affect the filling of a vacancy on a
 29 local board of education that occurs for a seat elected prior to the effective date of this act.

30 **SECTION 1.4.(b)** Any local act requiring a board of education election to be
 31 conducted in an odd-numbered year shall be held as a partisan election beginning in 2021.

32
 33 **PART II. SANITARY DISTRICT ELECTIONS**

34 **SECTION 2.1.** G.S. 130A-50(c) reads as rewritten:

35 "(c) The election shall be ~~nonpartisan and decided by simple plurality as provided in~~
 36 ~~G.S. 163A-1616~~ partisan as provided in G.S. 163A-1615 and shall be held and conducted by the
 37 county board of elections in accordance with the applicable provisions of Article 27 of Chapter
 38 163A of the General Statutes. If the district is in more than one county, then the county board of
 39 elections of the county including the largest part of the district shall conduct the election for the
 40 entire district with the assistance and full cooperation of the boards of elections in the other
 41 counties."

42
 43 **PART III. SOIL AND WATER CONSERVATION DISTRICT ELECTIONS**

44 **SECTION 3.1.** G.S. 139-6 reads as rewritten:

45 **"§ 139-6. District board of supervisors – elective members; certain duties.**

46 After the issuance of the certificate of organization of the soil and water conservation district
 47 by the Secretary of State, an election shall be held in each county of the district to elect the
 48 members of the soil and water conservation district board of supervisors as herein provided.

49 The district board of supervisors shall consist of three elective members to be elected in each
 50 county of the district, and that number of appointive members as provided in G.S. 139-7. Upon

1 the creation of a district, the first election of the members shall be held at the next succeeding
2 election for county officers.

3 All elections for members of the district board of supervisors shall be held at the same time
4 as the regular election for county officers beginning in November 1974. The election shall be
5 ~~nonpartisan and no primary election shall be held. The election partisan and~~ shall be held and
6 conducted by the county board of elections.

7 Candidates shall file their notice of candidacy on forms prescribed by the county board of
8 elections. The notice of candidacy must be filed no earlier than noon on the second Monday in
9 June and no later than noon on the first Friday in July preceding the election. The candidate shall
10 pay a filing fee of five dollars (\$5.00) at the time of filing the notice of candidacy.

11 Beginning with the election to be held in November 1974, the two candidates receiving the
12 highest number of votes shall be elected for a term of four years, and the candidate receiving the
13 next highest number of votes shall be elected for a term of two years; thereafter, as their terms
14 expire, their successors shall be elected for terms of four years. If the position of district
15 supervisor is not filled by failure to elect, then the office shall be deemed vacant upon the
16 expiration of the term of the incumbent, and the office shall be filled as provided in G.S. 139-7.

17 The persons elected in 1974 and thereafter shall take office on the first Monday in December
18 following their election.

19 The terms of the present members of the soil and water conservation districts, both elective
20 and appointive members, are hereby extended to or terminated on the first Monday in December
21 1974.

22 All qualified voters of the district shall be eligible to vote in the election. Except as provided
23 in this Chapter, the election shall be held in accordance with the applicable provisions of Article
24 27 of Chapter 163A of the General Statutes.

25 The district board of supervisors, after the appointment of the appointive members has been
26 made, shall select from its members a chairman, a vice-chairman and a secretary. It shall be the
27 duty of the district board of supervisors to perform those powers, duties, and authority conferred
28 upon supervisors under this Chapter; to develop annual county and district goals and plans for
29 soil conservation work therein; to request agencies, whose duties are such as to render assistance
30 in soil and water conservation, to set forth in writing what assistance they may have available in
31 the county and district."
32

33 PART IV. MUNICIPAL ELECTIONS

34 **SECTION 4.1.** G.S. 160A-23.1(d) reads as rewritten:

35 "(d) If the council adopts the resolution provided for in subsection (a) of this section and
36 does not adopt the changes, or does adopt the changes, but approval under the Voting Rights Act
37 of 1965, as amended, is required, and notice of such approval is not received, by the end of the
38 third day before the opening of the filing period, the municipal election shall be rescheduled as
39 provided in this subsection and current officeholders shall hold over until their successors are
40 elected and qualified. ~~For cities using the:~~ Pursuant to G.S. 163A-1615, the primary shall be held
41 on the primary election date for county officers in the second year following a federal decennial
42 census; the second primary, if necessary, shall be held on the second primary election date for
43 county officers in that year; and the general election shall be held on the general election date for
44 county officers in that year.

45 (1) ~~Partisan primary and election method under G.S. 163A-1615, the primary~~
46 ~~shall be held on the primary election date for county officers in the second~~
47 ~~year following a federal decennial census, the second primary, if necessary,~~
48 ~~shall be held on the second primary election date for county officers in that~~
49 ~~year, and the general election shall be held on the general election date for~~
50 ~~county officers in that year.~~

- 1 (2) ~~Nonpartisan primary and election method under G.S. 163A-1618, the primary~~
 2 ~~shall be held on the primary election date for county officers in the second~~
 3 ~~year following a federal decennial census, and the election shall be held on~~
 4 ~~the date for the second primary for county officers in that year.~~
- 5 (3) ~~Nonpartisan plurality election method under G.S. 163A-1616, the election~~
 6 ~~shall be held on the primary election date for county officers in the second~~
 7 ~~year following a federal decennial census.~~
- 8 (4) ~~Election and runoff method under G.S. 163A-1617, the election shall be held~~
 9 ~~on the primary election date for county officers in the second year following~~
 10 ~~a federal decennial census, and the runoffs, if necessary, shall be held on the~~
 11 ~~date for the second primary for county officers in that year.~~

12 The organizational meeting of the new council may be held at any time after the results of
 13 the election have been officially determined and published, but not later than the time and date
 14 of the first regular meeting of the council in November of the second year following a federal
 15 decennial census, except in the case of partisan municipal elections, when the organizational
 16 meeting shall be held not later than the time and date of the first regular meeting of the council
 17 in December of the second year following a federal decennial census."

18 **SECTION 4.2.** G.S. 160A-101 reads as rewritten:

19 **"§ 160A-101. Optional forms.**

20 Any city may change its name or alter its form of government by adopting any one or
 21 combination of the options prescribed by this section:

- 22 ...
- 23 (6) Mode of election of the council:
 24 ...
 25 e. The city shall be divided into single-member electoral districts;
 26 council members shall be apportioned to the districts so that each
 27 member represents the same number of persons as nearly as possible,
 28 except for members apportioned to the city at large, if any; ~~in a~~
 29 ~~nonpartisan primary, the qualified voters of each district shall~~
 30 ~~nominate two candidates who reside in the district, and the qualified~~
 31 ~~voters of the entire city shall nominate two candidates for each seat~~
 32 ~~apportioned to the city at large, if any; and all candidates shall be~~
 33 ~~elected by all the qualified voters of the city.~~

34 If either of options b, c, d or e is adopted, the council shall divide the city
 35 into the requisite number of single-member electoral districts according to the
 36 apportionment plan adopted, and shall cause a map of the districts so laid out
 37 to be drawn up and filed as provided by G.S. 160A-22 and 160A-23. No more
 38 than one half of the council may be apportioned to the city at large. An
 39 initiative petition may specify the number of single-member electoral districts
 40 to be laid out, but the drawing of district boundaries and apportionment of
 41 members to the districts shall be done in all cases by the council.

- 42 (7) Elections:
 43 Municipal primaries and elections shall be conducted on a partisan basis
 44 as provided in G.S. 163A-1615.
 45 a. ~~Partisan.—Municipal primaries and elections shall be conducted on a~~
 46 ~~partisan basis as provided in G.S. 163A-1615.~~
 47 b. ~~Nonpartisan Plurality.—Municipal elections shall be conducted as~~
 48 ~~provided in G.S. 163A-1616.~~
 49 e. ~~Nonpartisan Election and Runoff Election.—Municipal elections and~~
 50 ~~runoff elections shall be conducted as provided in G.S. 163A-1617.~~

d. ~~Nonpartisan Primary and Election. Municipal primaries and elections shall be conducted as provided in G.S. 163A-1618.~~

...."

SECTION 4.3. Article 27 of Chapter 163A of the General Statutes reads as rewritten:

"Article 27.

"Municipal Elections.

"Part 1. Municipal Election Procedure.

"§ 163A-1585. Time of municipal primaries and elections.

(a) Primaries and elections for offices filled by election of the people in cities, towns, incorporated villages, and special districts shall be held in 1973 and every two or four years thereafter ~~as provided by municipal charter on the following days:~~ thereafter on a partisan basis. The election shall be held on Tuesday after the first Monday in November, the first primary shall be held on the second Tuesday after Labor Day, and the second primary, if required, shall be held on the fourth Tuesday before the election.

(1) ~~If the election is nonpartisan and decided by simple plurality, the election shall be held on Tuesday after the first Monday in November.~~

(2) ~~If the election is partisan, the election shall be held on Tuesday after the first Monday in November, the first primary shall be held on the second Tuesday after Labor Day, and the second primary, if required, shall be held on the fourth Tuesday before the election.~~

(3) ~~If the election is nonpartisan and the nonpartisan primary method of election is used, the election shall be held on Tuesday after the first Monday in November and the nonpartisan primary shall be held on the fourth Tuesday before the election.~~

(4) ~~If the election is nonpartisan and the election and runoff election method of election is used, the election shall be held on the fourth Tuesday before the Tuesday after the first Monday in November, and the runoff election, if required, shall be held on Tuesday after the first Monday in November.~~

(b) Officers of sanitary districts elected in 1970 shall hold office until the first Monday in December, 1973, notwithstanding G.S. 130-126. Beginning in 1973, sanitary district elections shall be held at the times provided in this section or in G.S. 130A-50(b1).

...

~~"§ 163A-1588. Voting in nonpartisan primary.~~

~~Any person who will become qualified by age to register and vote in the general election for which a nonpartisan primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such a person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163A-865(d) prior to the primary.~~

...

"§ 163A-1599. ~~Alternative methods~~ Method of determining the results of municipal elections.

(a) Each city, town, village, and special district in this State shall ~~operate under one of the following alternative methods of nominating candidates for and determining the results of its elections:~~ nominate candidates for and determine the results of its elections on a partisan basis in accordance with G.S. 163A-1615. Notwithstanding any provision of G.S. 160A-3 to the contrary, a local act shall not supersede the method of partisan election provided for in this subsection.

(1) ~~The partisan primary and election method set out in G.S. 163A-1615.~~

(2) ~~The nonpartisan primary and election method set out in G.S. 163A-1618.~~

(3) ~~The nonpartisan plurality method set out in G.S. 163A-1616.~~

(4) ~~The nonpartisan election and runoff election method set out in G.S. 163A-1617.~~

(b) ~~Each city whose charter provides for partisan municipal elections as of January 1, 1972, shall operate under the partisan primary and election method until such time as its charter is amended to provide for nonpartisan elections. Each city, town, village, and special district whose elections are by charter or general law nonpartisan may select the nonpartisan primary and election method, the nonpartisan plurality method, or the nonpartisan election and runoff election method by resolution of the municipal governing board adopted and filed with the State Board not later than 5:00 P.M. Monday, January 31, 1972, except that a city whose charter provides for a nonpartisan primary as of January 1, 1972, may not select the plurality method unless its charter is so amended. If the municipal governing board does not exercise its option to select another choice before that time, the municipality shall operate under the method specified in the following table:~~

Cities, towns and villages of less than 5,000	Plurality
Cities, towns and villages of 5,000 or more	Election and Runoff Election
Special districts	Plurality

~~After January 31, 1972, each city, town and village may change its method of election from one to another of the methods set out in subsection (a) by act of the General Assembly or in the manner provided by law for amendment of its charter.~~

~~"Part 2. Conduct of Municipal Elections.~~

~~"§ 163A-1615. Partisan primaries and elections.~~

~~The nomination of In nominating candidates for office in cities, towns, villages, and special districts whose elections are districts, elections shall be conducted on a partisan basis shall be and governed by the provisions of this Subchapter applicable to the nomination of county officers, and the terms "county board of elections," "chairman of the county board of elections," "county officers," and similar terms shall be construed with respect to municipal elections to mean the appropriate municipal officers and candidates, except that:~~

~~...~~

~~"§ 163A-1616. Determination of election results in cities using the plurality method.~~

~~In conducting nonpartisan elections and using the plurality method, elections shall be determined in accordance with the following rules:~~

- (1) ~~When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared elected.~~
- (2) ~~When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared elected.~~
- (3) ~~If two or more candidates receiving the highest number of votes each receive the same number of votes, the board of elections shall determine the winner by lot.~~

~~"§ 163A-1617. Determination of election results in cities using the election and runoff election method.~~

(a) ~~Except as otherwise provided in this section, nonpartisan municipal elections in cities using the election and runoff election method shall be determined by a majority of the votes cast. A majority within the meaning of this section shall be determined as follows:~~

- (1) ~~When more than one person is seeking election to a single office, the majority shall be ascertained by dividing the total vote cast for all candidates by two. Any excess of the sum so ascertained shall be a majority, and the candidate who obtains a majority shall be declared elected.~~

- 1 (2) When more persons are seeking election to two or more offices (constituting
2 a group) than there are offices to be filled, the majority shall be ascertained by
3 dividing the total vote cast for all candidates by the number of offices to be
4 filled, and by dividing the result by two. Any excess of the sum so ascertained
5 shall be a majority, and the candidates who obtain a majority shall be declared
6 elected. If more candidates obtain a majority than there are offices to be filled,
7 those having the highest vote (equal to the number of offices to be filled) shall
8 be declared elected.
- 9 (b) If no candidate for a single office receives a majority of the votes cast, or if an
10 insufficient number of candidates receives a majority of the votes cast for a group of offices, a
11 runoff election shall be held as herein provided:
- 12 (1) If no candidate for a single office receives a majority of the votes cast, the
13 candidate receiving the highest number of votes shall be declared elected
14 unless the candidate receiving the second highest number of votes requests a
15 runoff election in accordance with subsection (c) of this section. In the runoff
16 election only the names of the two candidates who received the highest and
17 next highest number of votes shall be printed on the ballot. No space for
18 write in votes shall be included on the ballot for the runoff election.
- 19 (2) If candidates for two or more offices (constituting a group) are to be selected
20 and aspirants for some or all of the positions within the group do not receive
21 a majority of the votes, those candidates equal in number to the positions
22 remaining to be filled and having the highest number of votes shall be declared
23 elected unless some one or all of the candidates equal in number to the
24 positions remaining to be filled and having the second highest number of votes
25 shall request a runoff election in accordance with subsection (c) of this section.
26 In the runoff election to elect candidates for the positions in the group
27 remaining to be filled, the names of all those candidates receiving the highest
28 number of votes and demanding a runoff election shall be printed on the ballot.
29 No space for write in votes shall be included on the ballot for the runoff
30 election.
- 31 (c) The canvass of the first election shall be held on the seventh day after the election. A
32 candidate entitled to a runoff election may do so by filing a written request for a runoff election
33 with the board of elections no later than 12:00 noon on the Thursday after the result of the first
34 election has been officially declared. In accepting the filing of complaints concerning the conduct
35 of an election, a board of elections shall be subject to the rules concerning Sundays and holidays
36 set forth in G.S. 103-5.
- 37 (d) Tie votes; how determined:
- 38 (1) If there is a tie for the highest number of votes in a first election, the board of
39 elections shall conduct a recount and declare the results. If the recount shows
40 a tie vote, a runoff election between the two shall be held unless one of the
41 candidates, within three days after the result of the recount has been officially
42 declared, files a written notice of withdrawal with the board of elections.
43 Should that be done, the remaining candidate shall be declared elected.
- 44 (2) If one candidate receives the highest number of votes cast in a first election,
45 but short of a majority, and there is a tie between two or more of the other
46 candidates receiving the second highest number of votes, the board of
47 elections shall declare the candidate having the highest number of votes to be
48 elected, unless all but one of the tied candidates give written notice of
49 withdrawal to the board of elections within three days after the result of the
50 first election has been officially declared. If all but one of the tied candidates
51 withdraw within the prescribed three-day period, and the remaining candidate

1 demands a runoff election in accordance with subsection (c) of this section, a
2 runoff election shall be held between the candidate who received the highest
3 vote and the remaining candidate who received the second highest vote.

4 (e) Runoff elections shall be held on the date fixed in G.S. 163A-1585(a)(4). Persons
5 whose registrations become valid between the date of the first election and the runoff election
6 shall be entitled to vote in the runoff election, but in all other respects the runoff election shall be
7 held under the laws, rules, and regulations provided for the first election.

8 (f) A second runoff election shall not be held. The candidates receiving the highest
9 number of votes in a runoff election shall be elected. If in a runoff election there is a tie for the
10 highest number of votes between two candidates, the board of elections shall determine the
11 winner by lot.

12 **~~§ 163A-1618. Determination of election results in cities using nonpartisan primaries.~~**

13 (a) ~~In cities whose elections are nonpartisan and who use the nonpartisan primary and
14 election method, there shall be a primary to narrow the field of candidates to two candidates for
15 each position to be filled if, when the filing period closes, there are more than two candidates for
16 a single office or the number of candidates for a group of offices exceeds twice the number of
17 positions to be filled. If only one or two candidates file for a single office, no primary shall be
18 held for that office and the candidates shall be declared nominated. If the number of candidates
19 for a group of offices does not exceed twice the number of positions to be filled, no primary shall
20 be held for those offices and the candidates shall be declared nominated.~~

21 (b) ~~In the primary, the two candidates for a single office receiving the highest number of
22 votes, and those candidates for a group of offices receiving the highest number of votes, equal to
23 twice the number of positions to be filled, shall be declared nominated. In both the primary and
24 election, a voter should not mark more names for any office than there are positions to be filled
25 by election. If two or more candidates receiving the highest number of votes each received the
26 same number of votes, the board of elections shall determine their relative ranking by lot, and
27 shall declare the nominees accordingly. The canvass of the primary shall be held on the seventh
28 day following the primary. In accepting the filing of complaints concerning the conduct of an
29 election, a board of elections shall be subject to the rules concerning Sundays and holidays set
30 forth in G.S. 103-5.~~

31 (c) ~~In the election, the names of those candidates declared nominated without a primary
32 and those candidates nominated in the primary shall be placed on the ballot. The candidate for a
33 single office receiving the highest number of votes shall be elected. Those candidates for a group
34 of offices receiving the highest number of votes, equal in number to the number of positions to
35 be filled, shall be elected. If two candidates receiving the highest number of votes each received
36 the same number of votes, the board of elections shall determine the winner by lot.~~

37 **~~§ 163A-1619. Death of candidates or elected officers.~~**

38 ...

39 (b) If a candidate for political party nomination for office dies, becomes disqualified, or
40 withdraws before the primary but after the ballots have been printed, the provisions of
41 G.S. 163A-985 shall govern.

42 If a candidate for nomination in a nonpartisan municipal primary dies, becomes disqualified,
43 or withdraws before the primary but after the ballots have been printed, the board of elections
44 shall determine whether or not there is time to reprint the ballots. If the board determines that
45 there is not enough time to reprint the ballots, the deceased or disqualified candidate's name shall
46 remain on the ballots. If he receives enough votes for nomination, such votes shall be disregarded
47 and the candidate receiving the next highest number of votes below the number necessary for
48 nomination shall be declared nominated. If the death or disqualification of the candidate leaves
49 only two candidates for each office to be filled, the nonpartisan primary shall not be held and all
50 candidates shall be declared nominees.

1 If a nominee for political party nomination dies, becomes disqualified, or withdraws after the
 2 primary and before election day, the provisions of G.S. 163A-987 shall govern.

3 ~~If a candidate in a nonpartisan election dies, becomes disqualified, or withdraws before~~
 4 ~~election day and after the ballots have been printed, the board of elections shall determine~~
 5 ~~whether there is enough time to reprint the ballots. If there is not enough time to reprint the~~
 6 ~~ballots, and should the deceased or disqualified candidate receive enough votes to be elected, the~~
 7 ~~board of elections shall declare the office vacant, and it shall be filled as provided by law.~~

8 ...
 9 **~~§ 163A-1620. Notice of candidacy and filing fee in nonpartisan municipal elections.~~**

10 (a) ~~Each person offering himself as a candidate for election to any municipal office in~~
 11 ~~municipalities whose elections are nonpartisan shall do so by filing a notice of candidacy with~~
 12 ~~the board of elections in the following form, inserting the words in parentheses when appropriate:~~

13 "Date _____;
 14 I hereby file notice that I am a candidate for election to the office of
 15 _____ (at large) (for the _____ Ward) in the regular municipal
 16 election to be held in _____ on _____, _____

17
 18 (municipality)

19 Signed _____

20 (Name of Candidate)

21 Witness: _____

22 For the Board of Elections"

23 ~~The notice of candidacy shall be either signed in the presence of the chairman or secretary of the~~
 24 ~~board of elections or the director of elections of that county, or signed and acknowledged before~~
 25 ~~an officer authorized to take acknowledgments who shall certify the notice under seal. An~~
 26 ~~acknowledged and certified notice may be mailed to the board of elections. The candidate shall~~
 27 ~~sign the notice of candidacy with his legal name and, in his discretion, any nickname by which~~
 28 ~~he is commonly known, in the form that he wishes it to appear upon the ballot but substantially~~
 29 ~~as follows: "Richard D. (Dick) Roe." A candidate may also, in lieu of his legal first name and~~
 30 ~~legal middle initial or middle name (if any) sign his nickname, provided that he appends to the~~
 31 ~~notice of candidacy an affidavit that he has been commonly known by that nickname for at least~~
 32 ~~five years prior to the date of making the affidavit, and notwithstanding the previous sentence, if~~
 33 ~~the candidate has used his nickname in lieu of first and middle names as permitted by this~~
 34 ~~sentence, unless another candidate for the same office who files a notice of candidacy has the~~
 35 ~~same last name, the nickname shall be printed on the ballot immediately before the candidate's~~
 36 ~~surname but shall not be enclosed by parentheses. If another candidate for the same office who~~
 37 ~~filed a notice of candidacy has the same last name, then the candidate's name shall be printed on~~
 38 ~~the ballot in accordance with the next sentence of this subsection. The candidate shall also include~~
 39 ~~with the affidavit the way his name (as permitted by law) should be listed on the ballot if another~~
 40 ~~candidate with the same last name files a notice of candidacy for that office.~~

41 (b) ~~Only persons who are registered to vote in the municipality shall be permitted to file~~
 42 ~~notice of candidacy for election to municipal office. The board of elections shall inspect the voter~~
 43 ~~registration lists immediately upon receipt of the notice of candidacy and shall cancel the notice~~
 44 ~~of candidacy of any candidate who is not eligible to vote in the election. The board shall give~~
 45 ~~notice of cancellation to any candidate whose notice of candidacy has been cancelled under this~~
 46 ~~subsection by mail or by having the notice served on him by the county sheriff.~~

47 (c) ~~Candidates seeking municipal office shall file their notices of candidacy with the~~
 48 ~~board of elections no earlier than 12:00 noon on the first Friday in July and no later than 12:00~~
 49 ~~noon on the third Friday in July preceding the election, except:~~

50 (1) ~~In the year following a federal decennial census, candidates seeking municipal~~
 51 ~~office in any city which elects members of its governing board on a district~~

1 basis, or requires that candidates reside in a district in order to run, shall file
2 their notices of candidacy with the board of elections no earlier than 12:00
3 noon on the fourth Monday in July and no later than 12:00 noon on the second
4 Friday in August preceding the election; and

- 5 (2) In the second year following a federal decennial census, if the election is held
6 then under G.S. 160A-23.1, candidates seeking municipal office shall file
7 their notices of candidacy with the board of elections at the same time as
8 notices of candidacy for county officers are required to be filed under
9 G.S. 163A-972, 163A-973, 163A-974, 163A-975, 163A-976, 163A-977, and
10 163A-978.

11 Notices of candidacy which are mailed must be received by the board of elections before the
12 filing deadline regardless of the time they were deposited in the mails.

13 (d) Any person may withdraw his notice of candidacy at any time prior to the close of
14 business on the third business day prior to the filing deadline prescribed in subsection (c), and
15 shall be entitled to a refund of his filing fee if he does so.

16 (e) The filing fee for the primary or election shall be fixed by the governing board not
17 later than the day before candidates are permitted to begin filing notices of candidacy. There shall
18 be a minimum filing fee of five dollars (\$5.00). The governing board shall have the authority to
19 set the filing fee at not less than five dollars (\$5.00) nor more than one percent (1%) of the annual
20 salary of the office sought unless one percent (1%) of the annual salary of the office sought is
21 less than five dollars (\$5.00), in which case the minimum filing fee of five dollars (\$5.00) will
22 be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.

23 (f) No person may file a notice of candidacy for more than one municipal office at the
24 same election. If a person has filed a notice of candidacy for one office with the board of elections
25 under this section, then a notice of candidacy may not later be filed for any other municipal office
26 for the election unless the notice of candidacy for the first office is withdrawn first.

27 **~~§ 163A-1621. Sole candidates to be voted upon in nonpartisan municipal elections.~~**

28 Each candidate for municipal office in nonpartisan municipal elections shall be voted upon,
29 even though only one candidate has filed or has been nominated for a given office, in order that
30 the voters may have the opportunity to cast write-in votes under the general election laws.

31 **~~§ 163A-1622. Failure of candidates to file; death of a candidate before election.~~**

32 (a) If in a nonpartisan municipal election, when the filing period expires, candidates have
33 not filed for all offices to be filled, the board of elections may extend the filing period for five
34 days.

35 ...

36 **~~§ 163A-1623. Municipal and special district elections; application of this Subchapter~~**
37 **~~163.163A.~~**

38 ...

39 **~~§ 163A-1624. Nomination by petition.~~**

40 ~~In cities conducting partisan elections, any~~ Any qualified voter who seeks to have ~~his~~ the
41 qualified voter's name printed on the regular municipal election ballot as an unaffiliated candidate
42 may do so in the manner provided in G.S. 163A-1005, except that the petitions and affidavits
43 shall be filed not later than 12:00 noon on the Friday preceding the seventh Saturday before the
44 election, and the petitions shall be signed by a number of qualified voters of the municipality
45 equal to at least one and a half percent (1.5%) of the whole number of voters qualified to vote in
46 the municipal election according to the voter registration records of the State Board as of January
47 1 of the year in which the general municipal election is held. A person whose name appeared on
48 the ballot in a primary election is not eligible to have his name placed on the regular municipal
49 election ballot as an unaffiliated candidate for the same office in that year. The Board of Elections
50 shall examine and verify the signatures on the petition, and shall certify only the names of signers
51 who are found to be qualified registered voters in the municipality. Provided that in the case

1 where a qualified voter seeks to have his name printed on the regular municipal election ballot
2 as an unaffiliated candidate for election from an election district within the municipality, the
3 petition shall be signed by one and a half percent (1.5%) of the voters qualified to vote for that
4 office.

5 ...

6 **"§ 163A-1626. Municipal primaries and elections.**

7 The phrases "county board of elections," and "chairman of the board of elections" as used in
8 this Part, with respect to all municipal primaries and elections, shall mean the county board of
9 elections and its chairman in all municipalities. The words "general election," as used in this Part,
10 shall include regular municipal elections, ~~runoff elections, and nonpartisan primaries,~~ except
11 where specific provision is made for municipal ~~elections and nonpartisan primaries elections.~~

12 **"§ 163A-1627. Ballots; municipal primaries and elections.**

13 (a) The ballots printed for use in general and special elections under the provisions of this
14 Part shall contain:

- 15 (1) The names of all candidates who have been put in nomination in accordance
16 with the provisions of this Subchapter by any political party recognized in this
17 ~~State, or, in nonpartisan municipal elections, the names of all candidates who~~
18 ~~have filed notices of candidacy or who have been nominated in a nonpartisan~~
19 ~~primary.~~State.

20 ...

21 (e) The rules contained in G.S. 163A-1166 and G.S. 163A-1169 for counting primary
22 ballots shall be followed in counting ballots in municipal ~~primaries and nonpartisan primaries.~~

23 ...

24 (g) The county board of elections shall, in addition to the requirements contained in
25 G.S. 163A-1172 canvass the results ~~in a nonpartisan municipal primary, election or runoff~~
26 ~~election, and~~ in a special district election, the number of legal votes cast in each precinct for each
27 candidate, the name of each person voted for, and the total number of votes cast in the
28 municipality or special district for each person for each different office."

29 **SECTION 4.4.(a)** This act shall have the effect of repealing any provisions of local
30 or special acts relating to the nonpartisan municipal elections. This act shall not affect the filling
31 of a vacancy in a municipal election that occurs for a seat elected prior to the effective date of
32 this act.

33 **SECTION 4.4.(b)** Any local act requiring a municipal election to be conducted in
34 an odd-numbered year shall be held as a partisan election beginning in 2021.

35
36 **PART V. OTHER CONFORMING STATUTORY CHANGES**

37 **SECTION 5.1.** G.S. 163A-980(d) is repealed.

38 **SECTION 5.2.** G.S. 163A-1114(b)(3) is repealed.

39 **SECTION 5.3.** G.S. 163A-1411(80) reads as rewritten:

40 **"§ 163A-1411. Definitions.**

41 When used in this Article:

42 ...

- 43 (80) The term "public office" means any office filled by election by the people on
44 a statewide, county, municipal or district basis, and this Article shall be
45 applicable to such elective ~~offices whether the election therefor is partisan or~~
46 ~~nonpartisan offices.~~

47"

48 **SECTION 5.4.** G.S. 163A-1499 is repealed.

49
50 **PART VI. APPLICATION OF THIS ACT**

1 **SECTION 6.1.** In applying this act, a candidate's party affiliation or unaffiliated
2 status shall be based on the party affiliation or unaffiliated status under which the candidate
3 registered at the general election immediately preceding the candidate's filing for office pursuant
4 to this act.

5

6 **PART VII. EFFECTIVE DATE**

7 **SECTION 7.1.** This act is effective with respect to primaries and elections held on
8 or after January 1, 2020.