

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 486
PROPOSED HOUSE COMMITTEE SUBSTITUTE S486-CSTCf-53 [v.5]
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Short Title: The Elections Security and Transparency Act.

(Public)

Sponsors:

Referred to:

March 30, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES RELATED TO ELECTION LAWS.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. CRIMINAL RECORD CHECKS FOR STATE BOARD OF ELECTIONS AND**
6 **ETHICS ENFORCEMENT**

7 SECTION 1.(a) Subpart D of Part 4 of Article 13 of Chapter 143B is amended by
8 adding a new section to read:

9 **"§ 143B-968. Criminal record checks for employees and contractors of the State Board of**
10 **Elections and Ethics Enforcement and county directors of elections.**

11 (a) As used in this section, the term:

12 (1) "Current or prospective employee" means any of the following:

- 13 a. A current or prospective permanent or temporary employee of the
14 State Board or a current or prospective county director of elections.
15 b. A current or prospective contractor with the State Board.
16 c. An employee or agent of a current or prospective contractor with the
17 State Board.
18 d. Any other individual otherwise engaged by the State Board who has
19 or will have access to elections systems or confidential elections or
20 ethics data.

21 (2) "State Board" means the State Board of Elections and Ethics Enforcement.

22 (b) The Department of Public Safety may provide to the Executive Director of the State
23 Board a current or prospective employee's criminal history from the State and National
24 Repositories of Criminal Histories. The Executive Director shall provide to the Department of
25 Public Safety, along with the request, the fingerprints of the current or prospective employee, a
26 form signed by the current or prospective employee consenting to the criminal record check and
27 use of fingerprints and other identifying information required by the State and National
28 Repositories, and any additional information required by the Department of Public Safety. The
29 fingerprints of the current or prospective employee shall be forwarded to the State Bureau of
30 Investigation for a search of the State's criminal history record file, and the State Bureau of
31 Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a
32 national criminal history record check.

33 (c) The Department of Public Safety may charge a fee to offset the cost incurred by it to
34 conduct a criminal record check under this section. The fee shall not exceed the actual cost of
35 locating, editing, researching, and retrieving the information.



1 (d) The criminal history report shall be provided to the Executive Director of the State
2 Board, who shall keep all information obtained pursuant to this section confidential to the State
3 Board. A criminal history report obtained as provided in this section is not a public record under
4 Chapter 132 of the General Statutes."

5 **SECTION 1.(b)** Subpart D of Part 4 of Article 13 of Chapter 143B is amended by
6 adding a new section to read:

7 **"§ 143B-969. Criminal record checks for employees of county boards of elections.**

8 (a) As used in this section, the term:

9 (1) "Current or prospective employee" means a current or prospective permanent
10 or temporary employee of a county board of elections.

11 (2) "State Board" means the State Board of Elections and Ethics Enforcement.

12 (b) The Department of Public Safety may provide to a county board of elections a current
13 or prospective employee's criminal history from the State and National Repositories of Criminal
14 Histories. The county board of elections shall provide to the Department of Public Safety, along
15 with the request, the fingerprints of the current or prospective employee, a form signed by the
16 current or prospective employee consenting to the criminal record check and use of fingerprints
17 and other identifying information required by the State and National Repositories, and any
18 additional information required by the Department of Public Safety. The fingerprints of the
19 current or prospective employee shall be forwarded to the State Bureau of Investigation for a
20 search of the State's criminal history record file, and the State Bureau of Investigation shall
21 forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history
22 record check.

23 (c) The Department of Public Safety may charge a fee to offset the cost incurred by it to
24 conduct a criminal record check under this section. The fee shall not exceed the actual cost of
25 locating, editing, researching, and retrieving the information.

26 (d) The criminal history report shall be provided to the county board of elections, who
27 shall keep all information obtained pursuant to this section confidential to the county board of
28 elections, the county director of elections, the State Board, and the Executive Director of the
29 State Board. A criminal history report obtained as provided in this section is not a public record
30 under Chapter 132 of the General Statutes."

31 **SECTION 1.(c)** Article 1 of Chapter 163A of the General Statutes is amended by
32 adding a new section to read:

33 **"§ 163A-7. Criminal history record checks of current and prospective employees of the**
34 **State Board and county directors of elections.**

35 (a) As used in this section, the term:

36 (1) "Current or prospective employee" means any of the following:

37 a. A current or prospective permanent or temporary employee of the
38 State Board or a current or prospective county director of elections.

39 b. An employee or agent of a current or prospective contractor with the
40 State Board.

41 c. Any other individual otherwise engaged by the State Board who has
42 or will have access to elections systems or confidential elections or
43 ethics data.

44 (2) "Criminal history" means a State or federal history of conviction of a crime,
45 whether a misdemeanor or felony, that bears upon a current or prospective
46 employee's fitness for employment by the State Board. The crimes include,
47 but are not limited to, criminal offenses as set forth in any of the following
48 Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and
49 Issuing Monetary Substitutes; Article 5A, Endangering Executive and
50 Legislative, and Court Officers; Article 6, Homicide; Article 7B, Rape and
51 Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and

1 Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or
2 Incendiary Device or Material; Article 14, Burglary and Other
3 Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny;
4 Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses
5 and Cheats; Article 19A, Obtaining Property or Services by False or
6 Fraudulent Use of Credit Device or Other Means; Article 19B, Financial
7 Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article
8 26, Offenses Against Public Morality and Decency; Article 26A, Adult
9 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,
10 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against
11 the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies;
12 Article 39, Protection of Minors; Article 40, Protection of the Family; Article
13 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes
14 also include possession or sale of drugs in violation of the North Carolina
15 Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes,
16 and alcohol-related offenses such as sale to underage persons in violation of
17 G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through
18 G.S. 20-138.5.

19 (b) A criminal history record check shall be required of all current or prospective
20 permanent or temporary employees of the State Board and all current or prospective county
21 directors of elections, which shall be conducted by the Department of Public Safety as provided
22 in G.S. 143B-968. The criminal history report shall be provided to the Executive Director, who
23 shall keep all information obtained pursuant to this section confidential to the State Board, as
24 provided in G.S. 143B-968(d). A criminal history report provided under this subsection is not a
25 public record under Chapter 132 of the General Statutes.

26 (c) If the current or prospective employee's verified criminal history record check reveals
27 one or more convictions listed in subdivision (2) of subsection (a) of this section, the conviction
28 shall constitute just cause for not selecting the person for employment, or for dismissing the
29 person from current employment. The conviction shall not automatically prohibit employment;
30 however, the following factors shall be considered, if readily ascertainable, in determining
31 whether employment shall be denied or the employee shall be dismissed:

- 32 (1) The level and seriousness of the crime.
- 33 (2) The date of the crime.
- 34 (3) The age of the current or prospective employee at the time of the conviction.
- 35 (4) The circumstances surrounding the commission of the crime, if known.
- 36 (5) The nexus between the criminal conduct of the current or prospective
37 employee and job duties of the employee.
- 38 (6) The prison, jail, probation, parole, rehabilitation, and employment records of
39 the current or prospective employee since the date the crime was committed.
- 40 (7) The current or prospective employee's candor in disclosing the circumstances
41 surrounding the conviction.
- 42 (8) The subsequent commission by the current or prospective employee of a crime
43 listed in subdivision (2) of subsection (a) of this section.

44 (d) A prospective employee may be denied employment or a current employee may be
45 dismissed from employment for refusal to consent to a criminal history record check or to submit
46 fingerprints or to provide other identifying information required by the State or National
47 Repositories of Criminal Histories. Any such refusal shall constitute just cause for the
48 employment denial or the dismissal from employment.

49 (e) A conditional offer of employment or appointment may be extended pending the
50 results of a criminal history record check authorized by this section.

1 (f) A county board of elections shall require a criminal history record check of all current
2 or prospective employees of the county board of elections, as defined in G.S. 163A-778(a)(1),
3 who have or will have access to the statewide computerized voter registration system maintained
4 under G.S. 163A-874 and for any additional position or function as the State Board may
5 designate. The county director of elections shall provide the criminal history record of all current
6 or prospective employees of the county board of elections required by this subsection or in
7 designated positions to the Executive Director and State Board."

8 **SECTION 1.(d)** Part 2 of Article 16 of Chapter 163A of the General Statutes is
9 amended by adding a new section to read:

10 **"§ 163A-778. Criminal history record checks of current and prospective employees of**
11 **county boards of elections.**

12 (a) As used in this section, the term:

13 (1) "Current or prospective employee" means a current or prospective permanent
14 or temporary employee of a county board of elections who has or will have
15 access to the statewide computerized voter registration system maintained
16 under G.S. 163A-874 or has a position or function designated by the State
17 Board as provided in G.S. 163A-7(f).

18 (2) "Criminal history" means a State or federal history of conviction of a crime,
19 whether a misdemeanor or felony, that bears upon a current or prospective
20 employee's fitness for employment by a county board of elections. The crimes
21 include, but are not limited to, criminal offenses as set forth in any of the
22 following Articles of Chapter 14 of the General Statutes: Article 5,
23 Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering
24 Executive and Legislative, and Court Officers; Article 6, Homicide; Article
25 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping
26 and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive
27 or Incendiary Device or Material; Article 14, Burglary and Other
28 Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny;
29 Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses
30 and Cheats; Article 19A, Obtaining Property or Services by False or
31 Fraudulent Use of Credit Device or Other Means; Article 19B, Financial
32 Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article
33 26, Offenses Against Public Morality and Decency; Article 26A, Adult
34 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,
35 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against
36 the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies;
37 Article 39, Protection of Minors; Article 40, Protection of the Family; Article
38 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes
39 also include possession or sale of drugs in violation of the North Carolina
40 Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes,
41 and alcohol-related offenses such as sale to underage persons in violation of
42 G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through
43 G.S. 20-138.5.

44 (b) The county board of elections shall require a criminal history record check of all
45 current or prospective employees, which shall be conducted by the Department of Public Safety
46 as provided in G.S. 143B-969. The criminal history report shall be provided to the county board
47 of elections. A county board of elections shall provide the criminal history record of all
48 current or prospective employees required by G.S. 163A-7 to the Executive Director and the
49 State Board. The criminal history report shall be kept confidential as provided in
50 G.S. 143B-969(d) and is not a public record under Chapter 132 of the General Statutes.

1 (c) If the current or prospective employee's verified criminal history record check reveals
2 one or more convictions listed in subdivision (2) of subsection (a) of this section, the conviction
3 shall constitute just cause for not selecting the person for employment, or for dismissing the
4 person from current employment. The conviction shall not automatically prohibit employment;
5 however, the following factors shall be considered, if readily ascertainable, by the county board
6 of elections in determining whether employment shall be denied or the employee shall be
7 dismissed:

- 8 (1) The level and seriousness of the crime.
- 9 (2) The date of the crime.
- 10 (3) The age of the current or prospective employee at the time of the conviction.
- 11 (4) The circumstances surrounding the commission of the crime, if known.
- 12 (5) The nexus between the criminal conduct of the current or prospective
13 employee and job duties of the employee.
- 14 (6) The prison, jail, probation, parole, rehabilitation, and employment records of
15 the current or prospective employee since the date the crime was committed.
- 16 (7) The current or prospective employee's candor in disclosing the circumstances
17 surrounding the conviction.
- 18 (8) The subsequent commission by the current or prospective employee of a crime
19 listed in subdivision (2) of subsection (a) of this section.
- 20 (9) The recommendation of the State Board or the Executive Director, if provided.

21 (c) The county board of elections may deny employment to or dismiss from employment
22 a current or prospective employee who refuses to consent to a criminal history record check or
23 to submit fingerprints or to provide other identifying information required by the State or
24 National Repositories of Criminal Histories. Any such refusal shall constitute just cause for the
25 employment denial or the dismissal from employment.

26 (d) The county board of elections may extend a conditional offer of employment or
27 appointment pending the results of a criminal history record check authorized by this section."

28 **SECTION 1.(e)** G.S. 163A-774(b) reads as rewritten:

29 "(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county
30 board of elections stating that the nominee for director of elections is submitted for appointment
31 upon majority selection by the county board of elections the Executive Director shall issue a
32 letter of appointment of such nominee to the chairman of the county board of elections within 10
33 days after receipt of the ~~nomination-nomination~~, unless good cause exists to decline the
34 appointment. The Executive Director may delay the issuance of appointment for a reasonable
35 time if necessary to obtain a criminal history records check sought under G.S. 143B-968. The
36 Executive Director shall apply the standards provided in G.S. 163A-7 in determining whether a
37 nominee with a criminal history shall be selected. If the Executive Director determines a nominee
38 shall not be selected and does not issue a letter of appointment, the decision of the Executive
39 Director of the State Board shall be final unless the decision is, within ten days from the official
40 date on which it was made, deferred by the State Board. If the State Board defers the decision,
41 then the State Board shall make a final decision on appointment of the director of elections and
42 may direct the Executive Director to issue a letter of appointment. Thereafter, If an Executive
43 Director issues a letter of appointment, the county board of elections shall enter in its official
44 minutes the specified duties, responsibilities and designated authority assigned to the director by
45 the county board of elections. The specified duties and responsibilities shall include adherence
46 to the duties delegated to the county board of elections pursuant to G.S. 163A-769. A copy of the
47 specified duties, responsibilities and designated authority assigned to the director shall be filed
48 with the State Board. In the event the Executive Director is recused due to an actual or apparent
49 conflict of interest from rendering a decision under this section, the chair and vice-chair of the
50 State Board shall designate a member of staff to fulfill those duties."

PART II. 2018 JUDICIAL ELECTIONS BALLOT INFORMATION

SECTION 2.(a) The General Assembly finds that both chambers of the General Assembly have carefully examined judicial redistricting and the forms of judicial selection, with multiple committees considering various proposals of selection and new judicial district maps. The General Assembly finds that, to allow for more time to thoughtfully consider these changes, the General Assembly enacted S.L. 2017-214, the Electoral Freedom Act of 2017, which, among other items, provided for a one time cancellation of partisan primaries for the offices of district court judge, superior court judge, judges of the Court of Appeals, and Supreme Court justices for the 2018 election cycle. The General Assembly finds that all elections for judges in 2018 were to be treated uniformly under S.L. 2017-214, the Electoral Freedom Act of 2017, while those changes were considered.

The General Assembly notes that election to these offices will be held under a plurality election system, with candidates running under a political party label on the ballot, without having gone through a party primary. The General Assembly finds that ballot language above the sections of election ballots regarding these impacted offices setting forth that the listed party affiliation is only the self-identified party of a candidate at the time of filing will aid voters' understanding of the 2018 judicial races.

SECTION 2.(b) For the 2018 general election, the State Board of Elections and Ethics Enforcement shall, notwithstanding G.S. 163A-1114(b)(2), list the following judicial offices at the end of all partisan offices listed on the general election ballot:

Justices of the Supreme Court.

Judges of the Court of Appeals.

Judges of the superior courts.

Judges of the district courts.

SECTION 2.(c) Notwithstanding G.S. 163A-1112, immediately prior to the placement of the judicial offices listed in subsection (b) of this section on the ballot, the following information shall be printed:

"No primaries for judicial office were held in 2018. The information listed by each of the following candidates' names indicates only the candidates' party affiliation or unaffiliated status on their voter registration at the time they filed to run for office."

SECTION 2.(d) Except as provided in this section, ballot order for the judicial offices listed in subsection (b) of this section shall be as provided in Section 4.(j) of S.L. 2017-214.

SECTION 2.(e) This section is effective when it becomes law and applies to the 2018 general election.

PART III. OTHER ELECTION CHANGES

SECTION 3.1. G.S. 150B-45 reads as rewritten:

"§ 150B-45. Procedure for seeking review; waiver.

(a) Procedure. – To obtain judicial review of a final decision under this Article, the person seeking review must file a petition within 30 days after the person is served with a written copy of the decision. The petition must be filed as follows:

(1) Contested tax cases. – A petition for review of a final decision in a contested tax case arising under G.S. 105-241.15 must be filed in the Superior Court of Wake County.

(2) Other final decisions. – A petition for review of any other final decision under this Article must be filed in the superior court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, in the county where the contested case which resulted in the final decision was filed.

1 (b) Waiver. – A person who fails to file a petition within the required time waives the
2 right to judicial review under this Article. For good cause shown, however, the superior court
3 may accept an untimely petition.

4 (c) Judicial Review for State Board of Elections and Ethics Enforcement. – For a stay
5 entered pursuant to G.S. 150B-33(b)(6), the State Board of Elections and Ethics Enforcement
6 may obtain judicial review of the temporary restraining order or preliminary injunction in the
7 superior court of the county designated in subsection (a) of this section."

8 **SECTION 3.2.(a)** G.S. 163A-741 is amended by adding a new subsection to read:

9 "(j1) Notwithstanding G.S. 153A-98 or any other provision of law, all officers,
10 employees, and agents of a county board of elections are required to give to
11 the State Board, upon request, all information, documents, and data within
12 their possession, or ascertainable from their records, including any internal
13 investigation or personnel documentation; and are required to make available,
14 upon request pursuant to an investigation under subsection (d) of this section,
15 any county board employee for interview and to produce any equipment,
16 hardware, or software for inspection. These requirements are mandatory and
17 shall be timely complied with as specified in a request made by any two
18 members of the State Board."

19 **SECTION 3.2.(b)** G.S. 153A-98 is amended by adding a new subsection to read:

20 "(c5) Notwithstanding the requirements of this section, information shall be
21 provided to the State Board of Elections and Ethics Enforcement from
22 employee personnel records as provided in G.S. 163A-741."

23 **SECTION 3.3.** G.S. 163A-775 is amended by adding a new subsection to read:

24 "(e) In the event the Executive Director is recused due to an actual or apparent conflict of
25 interest from rendering a decision under this section, the chair and vice-chair of the State Board
26 shall designate a member of staff to fulfill those duties."

27 **SECTION 3.4.** G.S. 163A-953 reads as rewritten:

28 "**§ 163A-953. General election participation by new political party.**

29 In the first general election following the date on which a new political party qualifies under
30 the provisions of G.S. 163A-950, it shall be entitled to have the names of its candidates for
31 national, State, congressional, and local offices printed on the official ballots upon paying a filing
32 fee equal to that provided for candidates for the office in G.S. 163A-979 or upon complying with
33 the alternative available to candidates for the office in G.S. 163A-980.

34 For the first general election following the date on which it qualifies under G.S. 163A-950, a
35 new political party shall select its candidates by party convention. An individual whose name
36 appeared on the ballot in a primary election preliminary to the general election shall not be
37 eligible to have that individual's name placed on the general election ballot as a candidate for the
38 new political party for the same office in that year. Following adjournment of the nominating
39 convention, but not later than the first day of July prior to the general election, the president of
40 the convention shall certify to the State Board the names of persons chosen in the convention as
41 the new party's candidates in the ensuing general election. Any candidate nominated by a new
42 party shall be affiliated with the party at the time of certification to the State Board. The
43 requirement of affiliation with the party will be met if the candidate submits at or before the time
44 of certification as a candidate an application to change party affiliation to that party. The State
45 Board shall print names thus certified on the appropriate ballots as the nominees of the new party.
46 The State Board shall send to each county board of elections the list of any new party candidates
47 so that the county board can add those names to the appropriate ballot."

48 **SECTION 3.5.** G.S. 163A-1095(11) reads as rewritten:

49 "(11) "Voting system" means a system of casting and tabulating ballots. The term
50 includes systems of paper ballots counted by hand as well as systems utilizing

1 mechanical and electronic voting equipment. The term does not include any
2 system developed or maintained by the State Board."

3 **SECTION 3.6.** G.S. 163A-1114(b)(4) reads as rewritten:

4 "(4) When offices are in the same class, they shall be listed in alphabetical order
5 by office name, or in numerical or alphabetical order by district name.
6 Governor and Lieutenant Governor, in that order, shall be listed before other
7 Council of State offices. The Supreme Court shall be listed before the Court
8 of Appeals. Judicial offices and district attorney shall be listed, in that order,
9 after other offices in the same class. Mayor shall be listed before other
10 citywide offices. Chair of a board, where elected separately, shall be listed
11 before other board seats having the same electorate. Chief Justice shall be
12 listed before Associate Justices."

13 **SECTION 3.7.(a)** G.S. 163A-1115(c) reads as rewritten:

14 "(c) Only electronic poll books or ballot duplication systems that have been certified by
15 the State Board in accordance with procedures and subject to standards adopted by the State
16 ~~Board~~ Board, or which have been developed or maintained by the State Board, shall be permitted
17 for use in elections in this State. Among other requirements as set by the State Board, the
18 certification requirements shall require that a vendor meet at least all of the following elements:

19 (1) That the vendor post a bond or letter of credit to cover damages resulting from
20 defects in the electronic poll book or ballot duplication system. Damages may
21 include, among other items, any costs of conducting a new election
22 attributable to those defects.

23 (2) That the vendor provide access to all of any information required to be placed
24 in escrow by a vendor pursuant to G.S. 163A-1118 for review and
25 examination by the State Board; the Department of Information Technology;
26 the State chairs of each political party recognized under G.S. 163A-950; the
27 purchasing county; and designees as provided in subdivision (9) of subsection
28 (f) of this section.

29 (3) That the vendor must quote a statewide uniform price for each unit of the
30 equipment.

31 (4) That the vendor must separately agree with the purchasing county that if it is
32 granted a contract to provide software for an electronic poll books or ballot
33 duplication system but fails to debug, modify, repair, or update the software
34 as agreed or in the event of the vendor having bankruptcy filed for or against
35 it, the source code described in G.S. 163A-1118(a) shall be turned over to the
36 purchasing county by the escrow agent chosen under G.S. 163A-1118(a)(1)
37 for the purposes of continuing use of the software for the period of the contract
38 and for permitting access to the persons described in subdivision (2) of this
39 subsection for the purpose of reviewing the source code."

40 **SECTION 3.7.(b).** G.S. 163A-1118 is amended by adding a new subsection to read:

41 "(c) Definitions. – For the purposes of this section, the term "voting system" shall include
42 an electronic poll book or a ballot duplication system."

43 **SECTION 3.8.(a).** G.S. 163A-1115 is amended by adding the following new
44 subsections to read:

45 "(h) Neither certification of electronic poll books, ballot duplication systems, or voting
46 systems under this section shall constitute a license under Chapter 150B of the General Statutes.

47 (i) The State Board in writing may decertify or otherwise halt the use of electronic poll
48 books in North Carolina. Any such action is appealable only to the Superior Court of Wake
49 County.

50 (j) No voting system used in any election in this State shall be connected to a network,
51 and any feature allowing connection to a network shall be disabled. Prohibited network

1 connections include the Internet, intranet, fax, telephone line, networks established via modem,
2 or any other wired or wireless connection."

3 **SECTION 3.8.(b).** G.S. 150B-2(3) reads as rewritten:

4 "(3) "License" means any certificate, permit or other evidence, by whatever name
5 called, of a right or privilege to engage in any activity, except licenses issued
6 under Chapter 20 and Subchapter I of Chapter 105 of the General ~~Statutes~~
7 Statutes, and occupational licenses, licenses, and certifications of electronic
8 poll books, ballot duplication systems, or voting systems under
9 G.S. 163A-1115."

10 **SECTION 3.9.(a)** G.S. 163A-1388(a) reads as rewritten:

11 (a) Class 2 Misdemeanors. — Any person who shall, in connection with any primary or
12 election in this State, do any of the acts and things declared in this subsection to be unlawful,
13 shall be guilty of a Class 2 misdemeanor. It shall be ~~unlawful;unlawful to do any of the following:~~

14 (1) For any person to fail, as an officer or as a judge or chief judge of a primary
15 or election, or as a member of any board of elections, to prepare the books,
16 ballots, and return blanks which it is ~~his-the person's~~ duty under the law to
17 prepare, or to distribute the same as required by law, or to perform any other
18 duty imposed upon ~~him-that person~~ within the time and in the manner required
19 by ~~law;law~~.

20 (2) For any member, director, or employee of a board of elections to alter a voter
21 registration application or other voter registration record without either the
22 written authorization of the applicant or voter or the written authorization of
23 the State ~~Board;Board~~.

24 (3) For any person to continue or attempt to act as a judge or chief judge of a
25 primary or election, or as a member of any board of elections, after having
26 been legally removed from such position and after having been given notice
27 of such ~~removal;removal~~.

28 (4) For any person to break up or by force or violence to stay or interfere with the
29 holding of any primary or election, to interfere with the possession of any
30 ballot box, election book, ballot, or return sheet by those entitled to possession
31 of the same under the law, or to interfere in any manner with the performance
32 of any duty imposed by law upon any election officer or member of any board
33 of ~~elections;elections~~.

34 (5) For any person to be guilty of any boisterous conduct so as to disturb any
35 member of any election board or any chief judge or judge of election in the
36 performance of ~~his-that person's~~ duties as imposed by ~~law;law~~.

37 (6) For any person to bet or wager any money or other thing of value on any
38 ~~election;election~~.

39 (7) For any person, directly or indirectly, to discharge or threaten to discharge
40 from employment, or otherwise intimidate or oppose any legally qualified
41 voter on account of any vote such voter may cast or consider or intend to cast,
42 or not to cast, or which ~~he-that voter~~ may have failed to ~~cast;cast~~.

43 (8) For any person to publish in a newspaper or pamphlet or otherwise, any charge
44 derogatory to any candidate or calculated to affect the candidate's chances of
45 nomination or election, unless such publication be signed by the party giving
46 publicity to and being responsible for such ~~charge;charge~~.

47 (9) For any person to publish or cause to be circulated derogatory reports with
48 reference to any candidate in any primary or election, knowing such report to
49 be false or in reckless disregard of its truth or falsity, when such report is
50 calculated or intended to affect the chances of such candidate for nomination
51 or ~~election;election~~.

- 1 (10) For any person to give or promise, in return for political support or influence,
2 any political appointment or support for political ~~office;~~office.
- 3 (11) For any ~~chairman~~chair of a county board of elections or other returning officer
4 to fail or neglect, willfully or of malice, to perform any duty, act, matter or
5 thing required or directed in the time, manner and form in which said duty,
6 matter or thing is required to be performed in relation to any primary, general
7 or special election and the returns ~~thereof;~~thereof.
- 8 (12) For any clerk of the superior court to refuse to make and give to any person
9 applying in writing for the same a duly certified copy of the returns of any
10 primary or election or of a tabulated statement to a primary or election, the
11 returns of which are by law deposited in his office, upon the tender of the fees
12 ~~therefor;~~therefor.
- 13 (13) For any person willfully and knowingly to impose upon any blind or illiterate
14 voter a ballot in any primary or election contrary to the wish or desire of such
15 voter, by falsely representing to such voter that the ballot proposed to ~~him~~the
16 voter is such as ~~he desires;~~ or the voter desires.
- 17 (14) Except as authorized by G.S. 163A-878, for any person to provide false
18 information, or sign the name of any other person, to a written report under
19 ~~G.S. 163A-878; [or]~~G.S. 163A-878.
- 20 (15) For any person to be compensated based on the number of forms submitted
21 for assisting persons in registering to vote.
- 22 (16) For any person who is not an elections official or who is not otherwise
23 authorized by law to duplicate any form described in G.S. 163A-862 or to
24 otherwise record from that form a registrant's signature, full or partial social
25 security number, date of birth, the identity of the public agency at which the
26 registrant registered under G.S. 163A-884, any electronic mail address
27 submitted under Part 2 of Article 17 of this Chapter, or drivers license
28 number."

29 **SECTION 3.9.(b).** This section is effective December 1, 2018, and applies to
30 offenses committed on or after that date.

31 **SECTION 3.10.** G.S. 163A-1412(a) reads as rewritten:

32 "(a) Each ~~candidate,~~candidate who has received funds or made payments or given consent
33 for anyone else to receive funds or transfer anything of value for the purpose of bringing about
34 that individual's nomination or election for office, political committee, and referendum
35 committee shall appoint a treasurer and, under verification, report the name and address of the
36 treasurer to the Board. Only an individual who resides in North Carolina shall be appointed as a
37 treasurer. A candidate may appoint himself or herself or any other individual, including any
38 relative except his or her spouse, as ~~his~~the candidate's treasurer, and, upon failure to file report
39 designating a treasurer, the candidate shall be concluded to have appointed himself or herself as
40 treasurer and shall be required to personally fulfill the duties and responsibilities imposed upon
41 the appointed treasurer and subject to the penalties and sanctions hereinafter provided."

42 **SECTION 3.11.(a)** S.L. 2013-281, Sec. 30.8, as amended by S.L. 2015-103, Sec.
43 6.(a), reads as rewritten:

44 "**SECTION 30.8.** Any direct record electronic (DRE) voting systems currently certified by
45 the State Board of Elections and Ethics Enforcement which do not use paper ballots shall be
46 decertified and shall not be used in any election held on or after ~~September 1, 2019, for counties~~
47 ~~that use direct record electronic voting machines on election day as of January 1, 2015, and~~
48 ~~January 1, 2018, for all other counties.~~December 1, 2019. Decertification of a DRE voting system
49 that does not use paper ballots may not be appealed to the Superior Court of Wake County
50 pursuant to ~~G.S. 163-165.7(b).~~G.S. 163A-1115(d)."

1 **SECTION 3.11.(b)** S.L. 2013-281, Sec. 30.9, as amended by S.L. 2015-103, Sec.
2 6.(b), reads as rewritten:

3 "**SECTION 30.9.** This Part becomes effective ~~September 1, 2019,~~December 1, 2019, for
4 counties that use direct record electronic voting ~~machines on election day as of January 1, 2015.~~
5 ~~This Part becomes effective for all other counties January 1, 2018,~~machines."
6

7 **PART IV. TECHNICAL CHANGES TO G.S. 163A-2.**

8 **SECTION 4.** G.S. 163A-2 is rewritten to read:

9 **"§ 163A-2. Membership.**

10 (a) The State Board shall consist of nine individuals registered to vote in North Carolina,
11 appointed by the Governor, as follows:

- 12 (1) Four individuals registered with the political party with the highest number of
13 registered affiliates in the State, from a list of six nominees submitted by the
14 State party chairs of that party.
- 15 (2) Four individuals registered with the political party with the second highest
16 number of registered affiliates in the State, from a list of six nominees
17 submitted by the State party chairs of that party.
- 18 (3) One individual not registered with either the political party with the largest
19 number of registered affiliates in the State or of the political party with the
20 second-largest number of registered affiliates in the State, from a list of two
21 nominees selected by the other eight members of the State Board.

22 The number of registered affiliates shall be as reflected by the latest registration statistics
23 published by the State Board. The Governor shall make all appointments promptly upon receipt
24 of the list of nominees from each nominating entity and in no instance shall appoint later than 30
25 days after receipt of the list.

26 (b) Within 14 days of appointment by the Governor of the eight members appointed under
27 subdivisions (1) and (2) of subsection (a) of this section, the eight members shall hold an initial
28 appointment selection meeting for the sole purpose of selecting two nominees who meet the
29 qualifications for appointment under subdivision (3) of subsection (a) of this section and shall
30 promptly submit those names to the Governor. No additional actions, other than the oath of office,
31 shall be taken by the eight members appointed under subdivisions (1) and (2) of subsection (a)
32 of this section at the appointment selection meeting.

33 (c) Beginning on May 1 of the odd-numbered year, members shall serve for two-year
34 terms.

35 (d) Members may be removed from the State Board by the Governor, acting in the
36 Governor's discretion. Vacancies created on the State Board by removal from office by the
37 Governor shall be filled in accordance with subsection (e) of this section.

38 (e) Any vacancy occurring on the State Board shall be filled by an individual meeting the
39 same appointment criteria under subsection (a) of this section as the vacating member. Any
40 vacancy occurring in the State Board shall be filled by the Governor, and the person so appointed
41 shall fill the unexpired term. The Governor shall fill vacancies as follows:

- 42 (1) For a vacancy for an appointment under subdivision (1) or (2) of subsection
43 (a) of this section, the Governor shall fill the vacancy from a list of two names
44 submitted by the State party chair of the political party with which the vacating
45 member was affiliated if that list is submitted within 30 days of the occurrence
46 of the vacancy.
- 47 (2) For a vacancy for an appointment under subdivision (3) of subsection (a) of
48 this section, the Governor shall fill the vacancy from a list of two names
49 submitted by the remaining members of the State Board if that list is submitted
50 within 30 days of the occurrence of the vacancy. The State Board shall hold a

1 meeting within 21 days of the occurrence of the vacancy for the purpose of
2 selecting two nominees for submission to the Governor to fill the vacancy.

3 (f) At the first meeting held after any new appointments are made, the members of the
4 State Board shall take the following oath:

5 "I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United
6 States; that I will be faithful and bear true allegiance to the State of North Carolina and to the
7 constitutional powers and authorities which are or may be established for the government thereof;
8 that I will endeavor to support, maintain, and defend the Constitution of said State; and that I will
9 well and truly execute the duties of the office of member of the Bipartisan State Board of
10 Elections and Ethics Enforcement according to the best of my knowledge and ability, according
11 to law, so help me God."

12 (g) At the first meeting held after the appointment of the member under subdivision (3)
13 of subsection (a) of this section, the State Board shall organize by electing one of its members
14 chair and one of its members vice-chair, each to serve a two-year term as such. In 2017 and every
15 four years thereafter, the chair shall be a member of the political party with the highest number
16 of registered affiliates, as reflected by the latest registration statistics published by the State
17 Board, and the vice-chair a member of the political party with the second highest number of
18 registered affiliates. In 2019 and every four years thereafter, the chair shall be a member of the
19 political party with the second highest number of registered affiliates, as reflected by the latest
20 registration statistics published by the State Board, and the vice-chair a member of the political
21 party with the highest number of registered affiliates.

22 (h) At the first meeting held after the appointment under subdivision (3) of subsection (a)
23 of this section, the State Board shall elect one of its members as secretary, to serve a two-year
24 term as such.

25 (i) No person shall be eligible to serve as a member of the State Board who meets any of
26 the following criteria:

- 27 (1) Holds any elective or appointive office under the government of the United
28 States, the State of North Carolina, or any political subdivision thereof.
- 29 (2) Holds any office in a political party or organization.
- 30 (3) Is a candidate for nomination or election to any office.
- 31 (4) Is a campaign manager or treasurer of any candidate in a primary or election.
- 32 (5) Has served two full consecutive terms.

33 (j) No person while serving on the State Board shall do any of the following:

- 34 (1) Make a reportable contribution to a candidate for a public office over which
35 the State Board would have jurisdiction or authority.
- 36 (2) Register as a lobbyist under Article 8 of this Chapter.
- 37 (3) Make written or oral statements intended for general distribution or
38 dissemination to the public at large supporting or opposing the nomination or
39 election of one or more clearly identified candidates for public office.
- 40 (4) Make written or oral statements intended for general distribution or
41 dissemination to the public at large supporting or opposing the passage of one
42 or more clearly identified referendum or ballot issue proposals.
- 43 (5) Solicit contributions for a candidate, political committee, or referendum
44 committee.

45 (k) State Board members shall receive per diem, subsistence, and travel, as provided in
46 G.S. 138-5 and G.S. 138-6."
47

48 PART V. SEVERABILITY CLAUSE

49 SECTION 5. If any section or provision of this act is declared unconstitutional or
50 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
51 the part so declared to be unconstitutional or invalid.

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PART VI. EFFECTIVE DATE

SECTION 6. Except as otherwise provided herein, this act is effective when it becomes law and applies to elections held on or after that date.