

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023**

**SESSION LAW 2023-139  
SENATE BILL 749**

AN ACT TO REVISE THE STRUCTURES OF THE NORTH CAROLINA STATE BOARD OF ELECTIONS AND COUNTY BOARDS OF ELECTIONS, TO REVISE THE EMERGENCY POWERS OF THE EXECUTIVE DIRECTOR OF THE STATE BOARD OF ELECTIONS, TO MAKE CLARIFYING CHANGES TO SENATE BILL 512 OF THE 2023 REGULAR SESSION, TO MAKE ADDITIONAL CONFORMING AND CLARIFYING CHANGES TO IMPLEMENT PHOTO IDENTIFICATION FOR VOTING, AND TO AMEND THE TIME FOR CANDIDATES AND VACANCY APPOINTEES TO FILE STATEMENTS OF ECONOMIC INTERESTS.

The General Assembly of North Carolina enacts:

**PART I. TRANSFER OF STATE BOARD OF ELECTIONS**

**SECTION 1.1.(a)** The North Carolina State Board of Elections is transferred administratively to the Department of the Secretary of State. This transfer has all of the elements of a Type II transfer, as described in G.S. 143A-6, except that the management functions of the State Board of Elections shall not be performed under the direction and supervision of the Secretary of State.

**SECTION 1.1.(b)** G.S. 163-28 reads as rewritten:

**"§ 163-28. State Board of Elections independent agency.**

~~The State Board of Elections shall not be placed within any principal administrative department, administratively located within, and supported administratively by, the Department of the Secretary of State. The State Board shall exercise its statutory powers, duties, functions, and authority and shall have all powers and duties conferred upon the heads of principal departments under G.S. 143B-10, independently from authority of the Secretary of State."~~

**SECTION 1.1.(c)** This Part becomes effective January 1, 2024.

**PART II. RESTRUCTURE STATE BOARD OF ELECTIONS**

**SECTION 2.1.** G.S. 163-19 reads as rewritten:

**"§ 163-19. State Board of Elections; appointment; term of office; vacancies; oath of office.**

(a) There is established the State Board of Elections, which may be referred to as the "State Board" in this Chapter.

(b) ~~The State Board of Elections shall consist of five registered voters whose terms of office shall begin on May 1, 2019, and shall continue for four years, and until their successors are appointed and qualified. The Governor shall appoint the members of the State Board and likewise shall appoint their successors every four years at the expiration of each four-year term. Not more than three members of the State Board shall be members of the same political party. The Governor shall appoint the members from a list of nominees submitted to the Governor by the State party chair of each of the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board. Each party chair shall submit a list of four nominees who are affiliated with that political party.~~eight registered voters in this State who are appointed by the General Assembly as follows:



- (1) Two members appointed upon recommendation of the President Pro Tempore of the Senate.
- (2) Two members appointed upon recommendation of the Speaker of the House of Representatives.
- (3) Two members appointed upon recommendation of the minority leader of the Senate.
- (4) Two members appointed upon recommendation of the minority leader of the House of Representatives.

(b1) No later than April 1 immediately following each election of the members of the Council of State, the State party chair of each of the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board shall submit to the General Assembly a list of four nominees who are affiliated with that political party. The General Assembly shall give due consideration to the nominees provided by the party chairs. However, the General Assembly is not required to appoint members from the submitted nominees and may appoint any registered voter in the State in accordance with this section.

(b2) Members shall serve four-year terms, until a successor is appointed and qualified, beginning May 1 immediately following each election of the members of the Council of State. No person may serve more than two consecutive four-year terms.

(c) Any vacancy occurring in the State Board shall be filled by the ~~Governor, General Assembly,~~ and the person so appointed shall ~~fill~~ serve the remainder of the unexpired term. The ~~Governor shall fill the vacancy from a list of three nominees submitted to the Governor by the State party chair of the political party that nominated the vacating member as provided in subsection (b)-(b1) of this section. The section may submit, within five business days of the occurrence of the vacancy, a list of three nominees must be to fill the vacancy who are affiliated with that political party. The General Assembly may fill the vacancy in accordance with G.S. 120-121 during a regular or extra session. Notwithstanding G.S. 120-122, if the General Assembly has adjourned for more than 10 days, the vacancy shall be filled by the individual recommending the initial appointment of the vacating member in accordance with subsection (b) of this section via a letter appointing an individual to serve until the expiration of the term under subsection (b1) of this section or until the General Assembly fills the vacancy, whichever occurs first.~~

...

(e) After taking the prescribed oath, the State Board shall organize by electing one of its members chair and another secretary. If for any reason a chair is not elected within 30 days after taking the prescribed oath or within 30 days of the occurrence of a vacancy in the office of the chair, the office of the chair may be filled by legislative appointment in accordance with G.S. 120-121 as if the chair is a member of a board or commission with the appointing authority being as follows:

- (1) If the vacancy occurs in 2025 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (2) If the vacancy occurs in 2026 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (3) If the vacancy occurs in 2027 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (4) If the vacancy occurs in 2028 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.

- (5) If the vacancy occurs in 2029 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (6) If the vacancy occurs in 2030 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (7) If the vacancy occurs in 2031 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (8) If the vacancy occurs in 2032 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.

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**SECTION 2.2.** G.S. 163-20 reads as rewritten:

**"§ 163-20. Meetings of Board; quorum; minutes.**

(a) Call of meeting. – The State Board of ~~Elections~~ shall meet at the call of the ~~chairman~~ chair whenever necessary to discharge the duties and functions imposed upon it by this Chapter. The ~~chairman~~ chair shall call a meeting of the State Board upon the written application or applications of any ~~two~~ three members thereof. If there is no ~~chairman~~ chair, or if the ~~chairman~~ chair does not call a meeting within three days after receiving a written request or requests from ~~two~~ three members, any ~~three~~ six members of the State Board shall have power to call a meeting of the State Board, and any duties imposed or powers conferred on the State Board by this Chapter may be performed or exercised at that meeting, although the time for performing or exercising the ~~same prescribed duties imposed or powers conferred~~ by this Chapter may have expired.

(b) Place of Meeting. – Except as provided in ~~subsection (e), below,~~ subsection (c) of this section, the State Board of ~~Elections~~ shall meet in its offices in the City of Raleigh, or at another place in the City of Raleigh to be designated by the ~~chairman~~ chair. However, subject to the limitation imposed by ~~subsection (e), below,~~ (c) of this section, upon the prior written request of ~~any four~~ five members, the State Board of ~~Elections~~ shall meet at any other place in the State designated by the ~~four~~ five members.

(c) Meetings to Investigate Alleged Violations of This Chapter. – When called upon to investigate or hear sworn alleged violations of this Chapter, the State Board of ~~Elections~~ shall meet and hear the matter in the county in which the violations are alleged to have occurred.

(d) Quorum. – A majority of the members constitutes a quorum for the transaction of business by the State Board of ~~Elections~~. ~~If any member of the Board fails to attend a meeting, and by reason thereof there is no quorum, the members present shall adjourn from day to day for not more than three days, by the end of which time, if there is no quorum, the Governor may summarily remove any member failing to attend and appoint his successor.~~ Board.

(e) Minutes. – The State Board of ~~Elections~~ shall keep minutes recording all proceedings and findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in the office of the State Board in the City of Raleigh."

**SECTION 2.3.** G.S. 163-22 reads as rewritten:

**"§ 163-22. Powers and duties of State Board of Elections.**

(a) The State Board of ~~Elections~~ shall have general supervision over the primaries and elections in the State, and it shall have authority to make such reasonable rules and regulations with respect to the conduct of primaries and elections as it may deem advisable so long as they do not conflict with any provisions of this Chapter.

(b) From time to time, the State Board shall publish and furnish to the county boards of elections and other election officials a sufficient number of indexed copies of all election laws and State Board rules and regulations then in force. It shall also publish, issue, and distribute to the electorate such materials explanatory of primary and election laws and procedures as the State Board shall deem necessary.

(c) ~~The State Board of Elections shall appoint, in the manner provided by law, all members of the county boards of elections and advise them the county boards of elections~~ as to the proper methods of conducting primaries and elections. The State Board shall require ~~such all~~ reports from the county boards of elections and election officers as ~~are~~ provided by law, or as are deemed necessary by the State Board, and shall compel observance of the requirements of the election laws by county boards of elections and other election officers. In performing these duties, the State Board shall have the right to hear and act on complaints arising by petition or otherwise, on the failure or neglect of a county board of elections to comply with any part of the election laws imposing duties upon ~~such a board~~ county board of elections. The State Board ~~of Elections~~ shall have power to remove from office any member of a county board of elections for incompetency, neglect or failure to perform duties, fraud, or for any other satisfactory cause. Before exercising this power, the State Board shall notify the county board of elections member affected and give that member an opportunity to be heard. ~~When any county board member shall be removed by the State Board of Elections, the vacancy occurring shall be filled by the State Board of Elections.~~

(d) ~~The State Board of Elections~~ shall investigate when necessary or advisable, the administration of election laws, frauds and irregularities in elections in any county and municipality and special district, and shall report violations of the election laws to the Attorney General or district attorney or prosecutor of the district for further investigation and prosecution.

(e) ~~The State Board of Elections~~ shall determine, in the manner provided by law, the form and content of ballots, instruction sheets, pollbooks, tally sheets, abstract and return forms, certificates of election, and other forms to be used in primaries and elections. The State Board shall furnish to the county boards of elections the registration application forms required pursuant to G.S. 163-82.3. ~~The State Board of Elections~~ shall direct the county boards of elections to purchase a sufficient quantity of all forms attendant to the registration and elections process. In addition, the State Board shall provide a source of supply from which the county boards of elections may purchase the quantity of pollbooks needed for the execution of its responsibilities. In the preparation of ballots, pollbooks, abstract and return forms, and all other forms, the State Board ~~of Elections~~ may call to its aid the Attorney General of the State, and it shall be the duty of the Attorney General to advise and aid in the preparation of these books, ballots and forms.

(f) ~~The State Board of Elections~~ shall prepare, print, and distribute to the county boards of elections all ballots for use in any primary or election held in the State which the law provides shall be printed and furnished by the State to the counties. The State Board shall instruct the county boards of elections as to the printing of county and local ballots.

(g) ~~The State Board of Elections~~ shall certify to the appropriate county boards of elections the names of candidates for district offices who have filed notice of candidacy with the State Board and whose names are required to be printed on county ballots.

(h) ~~It shall be the duty of the~~ The State Board of Elections to shall tabulate the primary and election returns, ~~to~~ declare the results, and ~~to~~ prepare abstracts of the votes cast in each county in the State for offices which, according to law, shall be tabulated by the State Board.

(i) ~~The State Board of Elections~~ shall make recommendations to the ~~Governor and~~ legislature relative to the conduct and administration of the primaries and elections in the State as it may deem advisable.

(j) Notwithstanding the provisions of any other section of this Chapter, the State Board ~~of Elections is empowered to~~ shall have access to any ballot boxes and their contents, any voting machines and ~~their~~ its contents, any registration records, pollbooks, voter authorization cards or voter lists, any lists of absentee voters, any lists of presidential registrants under the Voting Rights Act of 1965 as amended, and any other voting equipment or similar records, books or lists in any precinct, county, municipality or electoral district over whose elections it has jurisdiction or for whose elections it has responsibility.

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

(k) Notwithstanding the provisions contained in Article 20 or Article 21A of ~~Chapter 163~~ this Chapter, the State Board of Elections shall be authorized, by resolution adopted prior to the printing of the primary ballots, to reduce the time by which absentee ballots are required to be printed and distributed for the primary election from 50 days to 45 days. This authority shall not be authorized for absentee ballots to be voted in the general election, except if the law requires ballots to be available for mailing 60 days before the general election, and ~~they~~ the absentee ballots are not ready by that date, the State Board of Elections shall allow the counties to mail ~~them~~ absentee ballots out as soon as ~~they~~ the absentee ballots are available.

(l) Notwithstanding any other provision of law, in order to obtain judicial review of any decision of the State Board of Elections rendered in the performance of its duties or in the exercise of its powers under this Chapter, the person seeking review must file ~~his~~ a petition in the Superior Court of Wake County.

(m) The State Board of Elections shall provide specific training to county boards of elections regarding rules for registering students.

(n) The State Board of Elections shall promulgate minimum requirements for the number of pollbooks, voting machines and curbside ballots to be available at each precinct, such that more ~~of such~~ will be available at general elections and a sufficient number will be available to allow voting without excessive delay. The State Board of Elections shall provide for a training and screening program for chief judges and judges. The State Board shall provide additional testing of voting machines to ensure that they operate properly even with complicated ballots.

(o) The State Board of Elections shall require counties with voting systems to have sufficient personnel available on election day with technical expertise to ~~make repairs in such~~ repair equipment, to investigate election day problems, and to assist in curbside voting.

(o1) The State Board of Elections shall include in all forms prepared by the State Board a prominent statement that submitting fraudulently or falsely completed declarations is a Class I felony under ~~Chapter 163 of the General Statutes.~~ this Chapter.

(p) ~~The~~ Except as provided in G.S. 163-27, the State Board of Elections may assign responsibility for enumerated administrative matters to the Executive Director by resolution, if that resolution provides a process for the State Board to review any administrative decision made by the Executive Director.

(q) Nothing in this Chapter shall grant authority to the State Board of Elections to alter, amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted by the General Assembly.

(r) Nothing in this Chapter shall grant authority to the State Board of Elections to alter, amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of local government other than a plan imposed by a court, a plan enacted by the General Assembly, or a plan adopted by the appropriate unit of local government under statutory or local act authority."

**SECTION 2.4.** G.S. 163-25 reads as rewritten:

**"§ 163-25. Authority of State Board to assist in litigation.**

(a) ~~The State Board of Elections~~ shall possess authority to assist any county board of elections in any matter in which litigation is contemplated or has been initiated, provided, the county board of elections in such county petitions, by majority resolution, for such assistance from the State Board of Elections and, provided further, that the State Board of Elections determines, in its sole discretion by majority vote, to assist in any such matter. It is further stipulated that the State Board of Elections shall not be authorized under this provision to enter into any litigation in assistance to counties, except in those instances where the uniform administration of this Chapter has been, or would be threatened.

(b) The Attorney General shall provide the State Board of Elections with legal assistance in execution of its authority under this section or, in the Attorney General's discretion, recommend that private counsel be employed.

(c) If the Attorney General recommends employment of private counsel, the State Board may employ counsel with the approval of the ~~Governor-General Assembly.~~"

**SECTION 2.5.** G.S. 163-27 reads as rewritten:

**"§ 163-27. Executive Director to be appointed by State Board.**

(a) The State Board shall appoint an Executive Director for a term of two years with compensation to be determined by the Office of State Human Resources.

(b) ~~The term of office for the Executive Director shall serve beginning~~ begins May 15 after the first meeting held after new appointments to the State Board are made, of the year after each even-year election, unless removed for cause, until a successor is appointed. ~~cause.~~ If for any reason the position of Executive Director is not filled by June 15 of the year after each even-year election or within 30 days of the occurrence of a vacancy in the position of Executive Director, the position of Executive Director may be filled by legislative appointment in accordance with G.S. 120-121 as if the Executive Director is a member of a board or commission with the appointing authority being as follows:

- (1) If the vacancy occurs in 2025 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (2) If the vacancy occurs in 2026 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (3) If the vacancy occurs in 2027 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (4) If the vacancy occurs in 2028 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (5) If the vacancy occurs in 2029 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (6) If the vacancy occurs in 2030 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (7) If the vacancy occurs in 2031 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (8) If the vacancy occurs in 2032 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.

(c) The Executive Director shall be responsible for staffing, administration, and execution of the State Board's decisions and orders and shall perform such other responsibilities as may be assigned by the State Board.

(d) The Executive Director shall be the chief State elections official."

**SECTION 2.6.** This Part becomes effective January 1, 2024, and appointments may be made accordingly. The eight members of the State Board of Elections appointed in accordance

with G.S. 163-19, as amended by this act, shall serve until May 1, 2029. Any member so appointed shall be eligible to serve one additional full consecutive term in accordance with G.S. 163-19, as amended by this act.

### **PART III. EMERGENCY POWERS**

**SECTION 3.1.** G.S. 163-27.1 reads as rewritten:

**"§ 163-27.1. Emergency powers.**

(a) The ~~Executive Director, as chief State elections official, State Board, in an open meeting,~~ may exercise emergency powers to conduct an election in a district where the normal schedule for the election is disrupted by any of the following:

- (1) A natural disaster.
- (2) Extremely inclement weather.
- (3) An armed conflict involving Armed Forces of the United States, or mobilization of those forces, including North Carolina National Guard and reserve components of the Armed Forces of the United States.

In exercising those emergency powers, the ~~Executive Director State Board~~ shall avoid unnecessary conflict with the provisions of this Chapter. The ~~Executive Director State Board~~ shall adopt rules describing the emergency powers and the situations in which the emergency powers will be exercised.

(b) Nothing in this Chapter shall grant authority to the State Board of Elections to alter, amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted by the General Assembly.

(c) Nothing in this Chapter shall grant authority to the State Board of Elections to alter, amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of local government other than a plan imposed by a court, a plan enacted by the General Assembly, or a plan adopted by the appropriate unit of local government under statutory or local act authority.

(d) Under no circumstances shall the ~~Executive Director or the State Board of Elections~~ have the authority to do any of the following:

- (1) Deliver absentee ballots to an eligible voter who did not submit a valid written request form for absentee ballots as provided in G.S. 163-230.1 and G.S. 163-230.2.
- (2) Order an election to be conducted using all mail-in absentee ballots.
- (3) Delegate its authority under this section to the Executive Director or any other individual."

### **PART IV. COUNTY BOARDS OF ELECTIONS**

**SECTION 4.1.** G.S. 163-30 reads as rewritten:

**"§ 163-30. County boards of elections; appointments; terms of office; qualifications; vacancies; oath of office; instructional meetings.**

(a) In every county of the State there shall be a county board of elections, to consist of ~~five-four~~ persons of good moral character who are registered voters in the county in which they are to act. Members of county boards of elections shall be appointed by the ~~State Board of Elections General Assembly for a two-year term of office that begins on the last Tuesday in June, and every two years thereafter, and their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. Four members of county boards of elections shall be appointed by the State Board on the last Tuesday in June and every two years thereafter, and their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. One member of the county boards of elections shall be appointed by the Governor to be the chair of~~

~~the county board on the last Tuesday in June and every two years thereafter, and that member's term of office shall continue for two years from the specified date of appointment and until a successor is appointed and qualified. Of the appointments to each county board of elections by the State Board, two members each shall belong to the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board. June of each odd-numbered year, as follows:~~

- ~~(1) One member appointed upon recommendation of the President Pro Tempore of the Senate.~~
- ~~(2) One member appointed upon recommendation of the Speaker of the House of Representatives.~~
- ~~(3) One member appointed upon recommendation of the minority leader of the Senate.~~
- ~~(4) One member appointed upon recommendation of the minority leader of the House of Representatives.~~

(b) No person shall be eligible to serve as a member of a county board of elections who meets any of the following criteria:

- (1) Holds any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof.
- (2) Holds any office in a state, congressional district, county or precinct political party or organization. Provided, however, that the position of delegate to a political party convention shall not be considered an office for the purpose of this subdivision.
- (3) Is a campaign manager or treasurer of any candidate or political party in a primary or election.
- (4) Is a candidate for nomination or election.
- (5) Is the wife, husband, son, son in law, daughter, daughter in law, mother, mother in law, father, father in law, sister, sister in law, brother, brother in law, aunt, uncle, niece, or nephew of any candidate for nomination or election. Upon any member of the board of elections becoming ineligible, that member's seat shall be declared vacant. This subdivision only applies if the county board of elections is conducting the election for which the relative is a candidate.

~~(c) The No later than April 1 of each odd-numbered year, the State chair of the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board shall each have the right to recommend to the State Board three two registered voters in each county for appointment to the board of elections for that county. If such recommendations are received by the State Board 15 or more days before the last Tuesday in June 2019, and each two years thereafter, it shall be the duty of the State Board to appoint the county boards from the names thus recommended.~~

(c1) At the first meeting in July of each year, the county board of elections shall organize by electing one member of that county board of elections to serve a one-year term as chair of the county board of elections. If for any reason a chair is not elected within 15 days after the first meeting in July or within 30 days of the occurrence of a vacancy, the office of chair may be filled by legislative appointment in accordance with G.S. 120-121 as if the chair is a member of a board or commission with the appointing authority being as follows:

- (1) If the vacancy occurs in 2025 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (2) If the vacancy occurs in 2026 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.



- (3) If the vacancy occurs in 2027 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (4) If the vacancy occurs in 2028 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (5) If the vacancy occurs in 2029 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (6) If the vacancy occurs in 2030 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.
- (7) If the vacancy occurs in 2031 and every eight years thereafter, the appointment is made upon the recommendation of the Speaker of the House of Representatives.
- (8) If the vacancy occurs in 2032 and every eight years thereafter, the appointment is made upon the recommendation of the President Pro Tempore of the Senate.

(d) ~~Whenever a vacancy occurs in the membership of a county board of elections for any cause-cause,~~ the State chair of the political party of the vacating member shall have the right to recommend two registered voters of the affected county ~~for such office, and it shall be the duty of the State Board to fill the vacancy from the names thus recommended to fill the vacancy.~~ The General Assembly may fill the vacancy in accordance with G.S. 120-121 during a regular or extra session. Notwithstanding G.S. 120-122, if the General Assembly has adjourned for more than 10 days, the vacancy shall be filled by the individual recommending the appointment of the vacating member in accordance with subsection (a) of this section via a letter appointing an individual to serve until the expiration of the term under subsection (a) of this section or until the General Assembly fills the vacancy, whichever occurs first.

...."

**SECTION 4.2.** G.S. 163-35 is amended by adding a new subsection to read:

"(b1) If the county board of elections is unable to agree on a name of the person the county board recommends to fill a vacancy in the position of county director of elections, the Executive Director of the State Board shall designate a person qualified to serve as acting county director of elections until the county board of elections nominates a person in accordance with this section."

**SECTION 4.3.(a)** G.S. 163-27.2 reads as rewritten:

"§ 163-27.2. **Criminal history record checks of current and prospective employees of the State Board and county directors of elections.**

(a) As used in this section, the term "current or prospective employee" means any of the following:

- (1) A current or prospective permanent or temporary employee of the State Board or a current or prospective county director of elections.
- (2) An employee or agent of a current or prospective contractor with the State Board.
- (3) Any other individual otherwise engaged by the State Board who has or will have the capability to update, modify, or change elections systems or confidential elections or ethics data.

(b) A criminal history record check shall be required of all current or prospective permanent or temporary employees of the State Board and all current or prospective county directors of elections, which shall be conducted by the Department of Public Safety as provided in ~~G.S. 143B-968. The criminal history report shall be provided to the Executive Director, who shall keep all information obtained pursuant to this section confidential to the State Board, as provided in G.S. 143B-968(d).~~ G.S. 143B-969. A criminal history record check report provided

~~under this subsection received in accordance with G.S. 143B-969~~ is not a public record under Chapter 132 of the General Statutes.

(c) If the current or prospective employee's verified criminal history record check reveals one or more convictions, the conviction shall constitute just cause for not selecting the person for employment or for dismissing the person from current employment. The conviction shall not automatically prohibit employment.

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

...."

**SECTION 4.3.(b)** G.S. 163-37.1 reads as rewritten:

**"§ 163-37.1. Criminal history record checks of current and prospective employees of county boards of elections.**

(a) As used in this section, the term "current or prospective employee" means a current or prospective permanent or temporary employee of a county board of elections who has or will have access to the statewide computerized voter registration system maintained under G.S. 163-82.11 or has a position or function designated by the State Board as provided in G.S. 163-27.2.

(b) The county board of elections shall require a criminal history record check of all current or prospective employees, which shall be conducted by the Department of Public Safety as provided in ~~G.S. 143B-969~~. ~~The criminal history report shall be provided to the county board of elections. A county board of elections shall provide the criminal history record of all current or prospective employees required by G.S. 163-27.2 to the Executive Director and the State Board. The G.S. 143B-970. A criminal history record check report shall be kept confidential as provided in G.S. 143B-969(d) and~~ received in accordance with G.S. 143B-970 is not a public record under Chapter 132 of the General Statutes.

...."

**SECTION 4.3.(c)** G.S. 143B-969 reads as rewritten:

**"§ 143B-969. Criminal record checks for employees and contractors of the State Board of Elections and county directors of elections.**

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

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

- a. ~~A current or prospective permanent or temporary employee of the State Board or a current or prospective county director of elections.~~Board, other than the Executive Director.
- b. A current or prospective contractor with the State Board.
- c. An employee or agent of a current or prospective contractor with the State Board.
- d. Any other individual otherwise engaged by the State Board who has or will have the capability to update, modify, or change elections systems or confidential elections or ethics data.

(2) "State Board" means the State Board of Elections.

(b) The Department of Public Safety may provide to the Executive Director of the State Board a current or prospective employee's criminal history from the State and National Repositories of Criminal Histories. The Department of Public Safety may provide the criminal history record check report regarding any prospective appointee for the position of Executive Director to the chair of the State Board in accordance with G.S. 163-27(a) or to the chair or chairs of each standing committee handling the legislation regarding the appointment of the Executive Director in accordance with G.S. 163-27(b). The Executive Director shall provide to the

Department of Public Safety, along with the request, the fingerprints of the current or prospective employee, a form signed by the current or prospective employee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The fingerprints of the current or prospective employee shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

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

(d) ~~The~~ Except for criminal history reports on prospective appointees for the position of Executive Director pursuant to subsection (b) of this section, the criminal history report shall be provided to the Executive Director of the State Board, who shall keep all information obtained pursuant to this section confidential to the State Board. The criminal history reports on prospective appointees for the position of Executive Director shall be kept confidential by the recipient under subsection (b) of this section. A criminal history report obtained as provided in this section is not a public record under Chapter 132 of the General Statutes."

**SECTION 4.4.** This Part becomes effective January 1, 2024, and appointments may be made accordingly. The four members of each county board of elections appointed in accordance with G.S. 163-30, as amended by this act, shall serve until the last Tuesday in June of 2027.

## **PART V. CONFORMING STATUTORY CHANGES**

**SECTION 5.1.** G.S. 163-182.6 reads as rewritten:

### **"§ 163-182.6. Abstracts.**

(a) Abstracts to Be Prepared by County Board of Elections. – As soon as the county canvass has been completed, the county board of elections shall prepare abstracts of all the ballot items in a form prescribed by the State ~~Board of Elections.~~ Board. The county board of elections shall prepare those abstracts in triplicate originals. The county board shall retain one of the triplicate originals, and shall distribute one each to the clerk of superior court for the county and the State ~~Board of Elections.~~ Board. The State Highway Patrol may, upon request of the State ~~Board of Elections.~~ Board, be responsible for the delivery of the abstracts from each county to the State ~~Board of Elections.~~ Board. The State Board of Elections shall ~~forward~~ provide the original abstract it receives to the Secretary of State.

(b) Composite Abstracts to Be Prepared by the State ~~Board of Elections.~~ Board. – As soon as the State canvass has been completed, the State Board shall prepare composite abstracts of all those ballot items. ~~The State Board~~ shall prepare those composite abstracts in duplicate originals. ~~The State Board~~ shall retain one of the originals and ~~shall send~~ the other original ~~to~~ shall be kept by the Secretary of State.

...."

**SECTION 5.2.** G.S. 163-182.13 reads as rewritten:

### **"§ 163-182.13. New elections.**

(a) When State Board May Order New Election. – The State Board ~~of Elections~~ may order a new election, upon agreement of at least ~~four~~ five of its members, in the case of any one or more of the following:

- (1) Ineligible voters sufficient in number to change the outcome of the election were allowed to vote in the election, and it is not possible from examination of the official ballots to determine how those ineligible voters voted and to correct the totals.

- (2) Eligible voters sufficient in number to change the outcome of the election were improperly prevented from voting.
- (3) Other irregularities affected a sufficient number of votes to change the outcome of the election.
- (4) Irregularities or improprieties occurred to such an extent that they taint the results of the entire election and cast doubt on its fairness.

...

(e) Which Candidates to Be on Official Ballot. – All the candidates who were listed on the official ballot in the original election shall be listed in the same order on the official ballot for the new election, except in either of the following:

- (1) If a candidate dies or otherwise becomes ineligible between the time of the original election and the new election, that candidate may be replaced in the same manner as if the vacancy occurred before the original election.
- (2) If the election is for a multiseat office, and the irregularities could not have affected the election of one or more of the candidates, the new election, upon agreement of at least ~~four~~ five members of the State Board, may be held among only those candidates whose election could have been affected by the irregularities.

...."

**SECTION 5.3.** G.S. 163-182.15(c) reads as rewritten:

"(c) Copy ~~to~~ for Secretary of State. – ~~The State Board of Elections shall provide to the Secretary of State a copy of each certificate of nomination or election, or certificate of the results of a referendum, issued by it. The Secretary of State shall keep a copy of each certificate of nomination or election, or each certificate of results of a referendum, issued by the State Board. The Secretary of State shall keep the certificates in a form readily accessible and useful to the public.~~"

**SECTION 5.4.** G.S. 163-182.17(d)(8) reads as rewritten:

"(8) Retain one original of the composite abstract and ~~deliver to~~ provide the Secretary of State with the other original composite abstract of the results of ballot items within the jurisdiction of the State ~~Board of Elections.~~ Board. G.S. 163-182.6."

**SECTION 5.5.** G.S. 163-213.4 reads as rewritten:

**"§ 163-213.4. Nomination by State Board of Elections.**

(a) No later than 90 days preceding the North Carolina presidential preference primary, the chair of each political party shall submit to the State Board ~~of Elections~~ a list of its presidential candidates to be placed on the presidential preference primary ballot. The list must be comprised of candidates whose candidacy is generally advocated and recognized in the news media throughout the United States or in North Carolina, unless any such candidate executes and files with the chair of the political party an affidavit stating without qualification that the candidate is not and does not intend to become a candidate for nomination in the North Carolina Presidential Preference Primary Election. The State Board ~~of Elections~~ shall prepare and publish a list of the names of the presidential candidates submitted.

(b) The State Board ~~of Elections~~ shall convene in Raleigh on the first Tuesday in January preceding the presidential preference primary election, unless the first Tuesday in January is the first day of that month, in which case the State Board shall meet on January 2. At the meeting required by this section, the State Board ~~of Elections~~ shall nominate as presidential primary candidates all candidates affiliated with a political party, recognized pursuant to the provisions of Article 9 of this Chapter, who have been submitted to the State ~~Board of Elections.~~ Board. Additionally, the State ~~Board of Elections,~~ Board, by vote of at least ~~three~~ five of its members in the affirmative, may nominate as a presidential primary candidate any other person affiliated with

a political party that it finds is generally advocated and recognized in the news media throughout the United States or in North Carolina as candidates for the nomination by that party.

(c) ~~Immediately upon completion of these requirements, adjourning the meeting as required by subsection (b) of this section,~~ the State Board shall release to the news media all such nominees selected. Provided, however, nothing shall prohibit the partial selection of nominees prior to the meeting required by ~~this subsection (b) of this section, if all provisions herein have been complied with,~~ provided the State Board has complied with the requirements of this section."

**SECTION 5.6.** G.S. 163-258.30 reads as rewritten:

**"§ 163-258.30. Regulations of State Board of Elections.**

(a) The State Board of Elections shall adopt rules and regulations to carry out the intent and purpose of G.S. 163-258.28 and G.S. 163-258.29 and to ensure that a proper list of persons voting under said sections shall be maintained by the boards of elections, and to ensure proper registration records.

(b) The State Board of Elections shall be the single office responsible for providing information concerning voter registration and absentee voting procedures to be used by covered voters as to all elections and procedures relating to the use of federal write-in absentee ballots. Unless otherwise required by law, the State Board of Elections shall be responsible for maintaining contact and cooperation with the Federal Voting Assistance Program, the United States Department of Defense, and other federal entities that deal with military and overseas voting. The State Board of Elections shall, as needed, make recommendations concerning military and overseas citizen voting to the General Assembly, the Governor, Assembly and other State officials."

**SECTION 5.7.** This Part becomes effective January 1, 2024.

## **PART VI. TECHNICAL AND CLARIFYING CHANGES**

**SECTION 6.1.(a)** If Senate Bill 512, 2023 Regular Session, becomes law, then:

- (1) The changes made to subdivisions (5) and (9) of G.S. 143B-283(a1) by Section 2.1(a) of that act, are effective when that act becomes law, at which point the terms of members serving on the Environmental Management Commission pursuant to those subdivisions by appointment of the Governor shall terminate, and the Commissioner of Agriculture's power to appoint members pursuant to those subdivisions shall arise.
- (2) The Environmental Management Commission shall elect a chair and vice-chair pursuant to G.S. 143B-284, as amended by Section 2.1(b) of that act, no later than 90 days after the date that both members to be appointed by the Commissioner of Agriculture pursuant to G.S. 143B-283(a1), as amended by Section 2.1(a) of that act, have been initially appointed by the Commissioner.

**SECTION 6.1.(b)** If Senate Bill 512, 2023 Regular Session, becomes law, then Section 12.1(d) of that act reads as rewritten:

**"SECTION 12.1.(d)** Notwithstanding G.S. 116-31.5, as enacted by this section, members elected to the North Carolina State University Board of Trustees as of the effective date of this section shall serve the remainder of their terms and the General Assembly shall appoint two additional members of the North Carolina State University Board of Trustees to terms beginning on the date of appointment and expiring June 30, 2027. In accordance with G.S. 120-121, one appointment shall be upon the recommendation of the President Pro Tempore of the Senate and one appointment shall be upon the recommendation of the Speaker of the House of Representatives. ~~A term served~~ A member appointed to a term expiring June 30, 2027, pursuant to this subsection shall not count as a full four-year term under G.S. 116-31(g)."

**SECTION 6.1.(c)** If Senate Bill 512, 2023 Regular Session, becomes law, then Section 12.1(e) of that act reads as rewritten:

**"SECTION 12.1.(e)** Notwithstanding G.S. 116-31.7, as enacted by this section, members elected to the University of North Carolina at Chapel Hill Board of Trustees as of the effective date of this section shall serve the remainder of their terms and the General Assembly shall appoint two additional members of the University of North Carolina at Chapel Hill Board of Trustees to terms beginning on the date of appointment and expiring June 30, 2027. In accordance with G.S. 120-121, one appointment shall be upon the recommendation of the President Pro Tempore of the Senate and one appointment shall be upon the recommendation of the Speaker of the House of Representatives. ~~A term served~~ A member appointed to a term expiring June 30, 2027, pursuant to this subsection shall not count as a full four-year term under G.S. 116-31(g)."

**SECTION 6.2.** If Senate Bill 512, 2023 Regular Session, becomes law, then the Board of Transportation shall elect a chair and vice-chair pursuant to G.S. 143B-350(e), as amended by Section 4.1(a) of that act, no later than 90 days after the date that all members to be appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives pursuant to G.S. 143B-350(b)(1), as amended by Section 4.1(a) of that act, have been initially appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

**SECTION 6.3.** If Senate Bill 512, 2023 Regular Session, becomes law, then the Coastal Resources Commission shall elect a chair and vice-chair pursuant to G.S. 113A-104(i), as amended by Section 5.1(a) of that act, no later than 90 days after the date that all members to be appointed by the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Commissioner of Insurance, pursuant to the new subdivisions of G.S. 113A-104(b1), as amended by Section 5.1(a) of that act, have been initially appointed.

**SECTION 6.4.** If Senate Bill 512, 2023 Regular Session, becomes law, then the North Carolina Railroad Board of Directors shall elect a chair pursuant to G.S. 124-15(a), as amended by Section 7.1(a) of that act, no later than 90 days after the date that the member to be appointed by the State Treasurer pursuant to G.S. 124-15(a), as amended by Section 7.1(a) of that act, has been initially appointed by the Treasurer.

**SECTION 6.5.** G.S. 163-230.1(g)(2) reads as rewritten:

- "(2) A process for a voter without acceptable photocopies of forms of readable identification under subdivision (1) of this subsection to complete an alternative affidavit in accordance with G.S. 163-166.16(d)(1), (d)(2), or (d)(3) that includes inability to attach a physical copy of the voter's identification with the ~~written request~~ returned application and voted ballots as a reasonable impediment to compliance with the identification ~~requirement~~. ~~If a reasonable impediment under this subdivision states inability to attach a physical copy of the voter's identification with the written request, requirement, provided the reasonable impediment shall include~~ includes one of the following:
- a. The number of the voter's North Carolina drivers license issued under Article 2 of Chapter 20 of the General Statutes, including a learner's permit or a provisional license.
  - b. The number of the voter's special identification card for nonoperators issued under G.S. 20-37.7.
  - c. The last four digits of the voter's social security number."

**SECTION 6.6.** G.S. 20-30(6) reads as rewritten:

- "(6) To make a color photocopy or otherwise make a color reproduction of a drivers license, learner's permit, or special identification card, unless such color photocopy or other color reproduction was authorized by the Commissioner or is made to comply with ~~G.S. 163-230.2~~ G.S. 163-230.1. It shall be lawful to make a black and white photocopy of a drivers license, learner's permit, or special identification card or otherwise make a black and

white reproduction of a drivers license, learner's permit, or special identification card. This subdivision does not apply to: (i) a lender that is licensed or otherwise authorized to engage in the lending business in this State; (ii) a licensed motor vehicle dealer creating, storing, or receiving, in the ordinary course of business, a color image of a drivers license, learner's permit, or special identification card of a borrower or loan applicant; or (iii) a federally insured depository institution or its affiliates creating, storing, or receiving, in the ordinary course of business, a color image of a drivers license, learner's permit, or special identification card of a consumer."

**SECTION 6.7.(a)** G.S. 163-82.8A(c) reads as rewritten:

"(c) County boards of elections or the State Board shall maintain a secure database containing the photographs of registered voters taken for the purpose of issuing voter photo identification cards."

**SECTION 6.7.(b)** G.S. 163-82.10(a1) reads as rewritten:

"(a1) Personal Identifying Information. – Full or partial social security ~~numbers, numbers;~~ dates of ~~birth, birth;~~ the identity of the public agency at which the voter registered under ~~G.S. 163-82.20, G.S. 163-82.20;~~ any electronic mail address submitted under this Article, Article 20, or Article 21A of this ~~Chapter, Chapter;~~ photographs for voter photo identification under G.S. 163-82.8A; photocopies of identification for ~~voting, voting;~~ and drivers license numbers, whether held by the State Board or a county board of elections, are confidential and shall not be considered public records and subject to disclosure to the general public under Chapter 132 of the General Statutes. Cumulative data based on those items of information may be publicly disclosed as long as information about any individual cannot be discerned from the disclosed data. Disclosure of information in violation of this subsection shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of information in violation of this subsection as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable."

**SECTION 6.8.** Notwithstanding any provision of S.L. 2022-74 or the Committee Report described in Section 43.2 of that act to the contrary, the sum of five million dollars (\$5,000,000) in nonrecurring funds appropriated in S.L. 2021-180 for the 2021-2022 fiscal year to the State Board of Elections for a mobile voting program to assist individuals in need of photo identification for in-person voting is expanded to allow the State Board of Elections to use those funds for any photo identification implementation efforts and to implement the requirements of Senate Bill 747, 2023 Regular Session, if that bill becomes law. These funds shall not revert on June 30, 2023, but shall remain available until expended.

**SECTION 6.9.(a)** G.S. 138A-22 reads as rewritten:

**"§ 138A-22. Statement of economic interest; filing required.**

...

(b1) Notwithstanding subsection (a) of this section, covered persons subject to this Chapter who are appointed to fill a vacancy in elective office may file a statement of economic interest within 30 days after appointment to elective office.

...

(f) A candidate for an office subject to this Article shall file the statement of economic interest with the Commission ~~within 10 days of the filing deadline for the office the candidate seeks. no earlier than the first business day in January and no later than 45 days before the primary.~~ An individual nominated under G.S. 163-114 shall file the statement within three days following the individual's nomination, or not later than the day preceding the general election, whichever occurs first. An individual seeking to qualify as an unaffiliated candidate under G.S. 163-122 shall file the statement of economic interest within three days of filing the petition required under that section. An individual seeking to have write-in votes counted for that individual in a general election shall file a statement of economic interest within three days of

the time the candidate files a declaration of intent under G.S. 163-123. A candidate of a new party chosen by convention shall file a statement of economic interest within three days of the time that the president of the convention certifies the names of its candidates to the State Board of Elections under G.S. 163-98.

...

(h) The State Board of Elections shall provide for notification of the statement of economic interest requirements of this Article to be given to any candidate filing for nomination or election to those offices subject to this Article and to any nominee under G.S. 163-114. Each year, the Commission shall publish the date by which the statement of economic interest is to be filed. In the year candidates file for office, the State Board of Elections shall notify candidates filing for offices subject to this Article of the date published by the Commission.

(i) Within 10 days of the filing deadline for office of a covered person, the executive director of the State Board of Elections shall send to the ~~State Ethics~~ Commission a list of the names and addresses of each candidate who has filed as a candidate for office as a covered person. Within five days of an individual otherwise qualifying to be on the ballot, the State Board of Elections shall send notice of that qualification to the ~~State Ethics~~ Commission.

...."

**SECTION 6.9.(b)** This section is effective when it becomes law and applies to statements of economic interest filed on or after that date.

## **PART VII. SEVERABILITY CLAUSE**

**SECTION 7.1.** If any provision of this act or its application to any person, group of persons, or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application and, to this end, the provisions of this act are severable.

## **PART VIII. EFFECTIVE DATE**

**SECTION 8.1.** Notwithstanding G.S. 163-19(e), as amended by this act, if a chair is not elected by January 10, 2024, or within 30 days of the occurrence of a vacancy in the office of the chair in 2024, the office of the chair may be filled by legislative appointment in accordance with G.S. 120-121 as if the chair is a member of a board or commission by the President Pro Tempore of the Senate.

**SECTION 8.2.** Notwithstanding G.S. 163-30(c1), as amended by this act, if a chair is not elected by January 10, 2024, or within 30 days of the occurrence of a vacancy in 2024, the office of the chair may be filled by legislative appointment in accordance with G.S. 120-121 as if the chair is a member of a board or commission by the President Pro Tempore of the Senate.

**SECTION 8.3.** Notwithstanding G.S. 163-27(b), as amended by this act, if an Executive Director is not selected by January 10, 2024, or within 30 days of the occurrence of a vacancy in 2024, the position of Executive Director may be filled by legislative appointment in accordance with G.S. 120-121 as if the chair is a member of a board or commission by the President Pro Tempore of the Senate.

**SECTION 8.4.** For the 2024 presidential preference primary only, the following shall apply:

- (1) Notwithstanding G.S. 163-213.4, the State Board of Elections shall meet on December 19, 2023, to perform its duties under G.S. 163-213.4.
- (2) Notwithstanding G.S. 163-213.5, petitions shall be presented to the county board of elections no later than December 4, 2023, and filed with the State Board of Elections no later than December 18, 2023.
- (3) The December 19, 2023, meeting of the State Board of Elections required by this section shall be deemed to be the January 2024 meeting required by G.S. 163-213.4, as amended by Section 5.5 of this act.



(4) No petitions filed under G.S. 163-213.5 after December 18, 2023, may be considered by the State Board of Elections.

**SECTION 8.5.** Except as otherwise provided, this act is effective when it becomes law.  
In the General Assembly read three times and ratified this the 22<sup>nd</sup> day of September, 2023.

s/ Phil Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

VETO Roy Cooper  
Governor

Became law notwithstanding the objections of the Governor at 1:42 p.m. this 10<sup>th</sup> day of October, 2023.

s/ Mr. James White  
House Principal Clerk