



SENATE BILL 656: Electoral Freedom Act of 2017.

2017-2018 General Assembly

Committee:		Date:	November 16, 2017
Introduced by:		Prepared by:	Jessica Sammons
Analysis of:	S.L. 2017-214		Staff Attorney

OVERVIEW: *S.L. 2017-214 does the following:*

- *Amends the qualifications for a group of voters to be recognized as a political party.*
- *Lowers the number of signatures required on petitions for unaffiliated candidates to be included on the general election ballot for the following offices:*
 - *Statewide office.*
 - *District office, other than General Assembly seat.*
 - *Partisan municipal office.*
- *Changes the deadline for filing petitions for unaffiliated candidates.*
- *Lowers the threshold for a substantial plurality in primary elections to 30% of the vote.*
- *Eliminates primaries for all justices and judges of the Courts in 2018.*

This act becomes effective January 1, 2018, and applies to primaries and elections held on or after that date.

Section 1 – Political Parties

CURRENT LAW: Under G.S. 163-96, a group of voters is recognized as a political party if that group:

- 1) Received 2% of the vote cast in the State for Governor or President in the most recent election.
- 2) Filed a petition with the State Board to form a new party with signatures from qualified and registered voters equal to 2% of the vote for Governor in the most recent election, with at least 200 signatures from registered voters from each of four congressional districts. Petitions must be submitted to the State Board prior to noon on June 1 preceding the first general State election in which the new political party desires to participate.

In the 2016 general election, there were 4,769,640 ballots cast for Governor. Two percent of the vote is equal to 95,393 signatures needed.

G.S. 163-98 provides for general election participation of a newly qualified political party but requires the party's candidates to be selected by nominating convention for the first general election after the new party's qualification.

Political parties receive certain access and privileges, including:

- G.S. 163-99: Allows political parties access to schools and public building for political meetings.

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- G.S. 163-41: Permits party chair to recommend precinct officials.
- G.S. 163-82.13: Provides free copy of statewide computerized voter registration file to party.
- G.S. 163-165.5: Places political party nominees prior to unaffiliated candidates on general ballot.

A political party is terminated when it fails to obtain 2% of the vote for Governor.

BILL ANALYSIS: Section 1 of this act lowers the number of signatures required on the petition to form a new political party to 0.25% of the vote for Governor in the most recent election, with at least 200 signatures from registered voters from each of at least three congressional districts.

Section 1 of this act also authorizes a party to participate in the presidential election process if the party provides documentation no later than 120 days preceding the North Carolina presidential preference primary that the party was included on the general election ballot in 70% of the states in the prior Presidential election.

Section 2 – Unaffiliated Candidates

CURRENT LAW & BILL ANALYSIS: G.S. 163-122 permits qualified voters to have their name printed on the general election ballot as an unaffiliated candidate by filing a petition with the appropriate board of elections. The following chart summarizes the number of signatures required on the filed petition under current law and Section 2 of this act:

	Current Law	Section 2 of S.L. 2017-214
Statewide office	2% of the vote for Governor in most recent election, with 200 signatures from each of 4 congressional districts	1.5% of the vote for Governor in the most recent election, with 200 signatures from each of at least 3 congressional districts
District office	4% of the total number of registered voters in the district	1.5% of the total number of registered voters in the district (except for General Assembly seats lying in more than one county, which will require signatures of 4% of the voters of the district)
County office or single county legislative office	4% of the total number of registered voters in the county	<i>No change</i>
Partisan municipal office	4% of the total number of registered voters in that municipality	1.5% of the total number of registered voters in that municipality
Superior Court or District Court Judge	2% of the total number of registered voters in the district	<i>No change</i>

Under current law, except for partisan municipal office, the petition is due by noon on the second Wednesday prior to the primary election. For partisan municipal office, the petition is due by noon on the Friday before the 7th Saturday before the election.

Section 2 of this act changes back the deadline for filing the petition for all offices except for partisan municipal office to the last Friday in June preceding the general election, in compliance with the holding in *Greaves v. State Bd. of Elections of North Carolina*.

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Section 3 – Primary Determination

CURRENT LAW: G.S. 163-111 requires that nominations in primary elections be determined by a substantial plurality. If no candidate receives a substantial plurality, a second primary may be requested by the candidate receiving the second highest number of votes. A substantial plurality is currently defined as more than 40% of the total vote cast for all candidates.

BILL ANALYSIS: Section 3 of this act lowers the threshold for a substantial plurality to more than 30% of the vote.

Section 4 – Elimination of Primaries for Judicial Offices and District Attorneys

CURRENT LAW: Partisan primaries are held in May of the even-numbered year, with filing in February for all candidates. G.S. 163-106.

Prior to 1996, election of the judges and justices of the courts in North Carolina was conducted in a partisan manner. From 1996-2004, elections of judges and justices became nonpartisan. Effective with the 2018 elections, election of the judges and justices of the courts in North Carolina will again be conducted in a partisan manner.

BILL ANALYSIS: Section 4 of this act eliminates the primary election for the Judges and Justices of the State courts for the 2018 election only. Justices of the Supreme Court and judges of the Court of Appeals, superior courts, and district courts will be elected in the November 2018 general election, with a filing period of June 18, 2018 to June 29, 2018.

In 2018 only, there will not be a party primary for these races, but a candidate's party designation or unaffiliated status will be indicated on the general election ballot. Offices will be placed on the general election ballot with other partisan offices, placed in order by random selection, using a process selected by the State Board of Elections and Ethics Enforcement.

Winners for each race will be determined by plurality, with the candidate receiving the highest number of votes declared elected.

EFFECTIVE DATE: This act becomes effective January 1, 2018, and applies to primaries and elections held on or after that date.

*This summary was substantially contributed to by Kara McCraw and Erika Churchill, Staff Attorneys.