



SENATE BILL 656: Electoral Freedom Act of 2017.

2017-2018 General Assembly

Committee:		Date:	October 4, 2017
Introduced by:	Sen. Brock	Prepared by:	Kara McCraw* Staff Attorney
Analysis of:	Conference Committee Substitute (S656-CCSTC-3)		

OVERVIEW: *The CCS for Senate Bill 656 would:*

- ***Amend the qualifications for a group of voters to be recognized as a political party.***
 - *Compared to the 4th edition, the CCS lowers the percentage of states in which the party was included on the general election ballot from 80% to 70% to establish party recognition in NC.*
- ***Lower the number of signatures required on petitions for unaffiliated candidates to be included on the general election ballot.***
 - *Compared to the 4th edition, the CCS lowers the percentage of signatures for district offices other than the General Assembly and municipal offices from 3% to 1.5%. The CCS keeps the percentage of signatures needed for General Assembly and county seats at 4%.*
- ***Change the deadline for filing petitions for unaffiliated candidates.***
 - *There are no changes between the 4th edition and CCS.*
- ***Lower the threshold for a substantial plurality in primary elections to 30% of the vote.***
 - *There are no changes between the 4th edition and CCS.*
- ***Add a new section to the bill eliminating primaries for all judicial offices and district attorneys in 2018.***

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.

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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.
- 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: The 4th edition of Senate Bill 656 would lower 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 at least three congressional districts.

The CCS to the 4th edition would also authorize 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 the CCS:

	Current Law	CCS to 4th Edition of SB 656
Statewide office	2% of the vote for Governor in most recent election, with 200 signatures from each of four congressional districts	1.5% of the vote for Governor in the most recent election, with 200 signatures from at least three 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 which remain at 4%)
County office or single county legislative office	4% of the total number of registered voters in the county	4% of the total number of registered voters in the county
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 Friday before 7th Saturday before the election.

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The 4th edition would change 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*.

Section 3 – Primary Determination

CURRENT LAW: G.S. 163-111 requires that nominations in primary elections be determined by a substantial plurality, which requires a candidate receive more than 40% of the vote to be declared the nominee. If no candidate receives a substantial plurality, a second primary may be requested.

BILL ANALYSIS: The 4th edition would lower the threshold for a substantial plurality, requiring a candidate to receive 30% of the vote to be declared the nominee.

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

CURRENT LAW: G.S. 163-106 provides for filing in February for all candidates for partisan primaries for the following offices:

- Justices of the Supreme Court.
- Judges of the Court of Appeals.
- Judges of the superior courts.
- Judges of the district courts.
- District attorneys.

BILL ANALYSIS: The CCS to the 4th edition would eliminate all primary elections for the Justices of the Supreme Court, judges of the Court of Appeals, judges of the superior courts, judges of the district courts, and district attorneys for offices to be elected in the November 2018 general election. Candidates for these offices would file for the general election ballot from June 18, 2018 to June 29, 2018.

There would not be party nominees for these races, but a candidate's party designation or unaffiliated status would be indicated on the ballot. Offices would be placed on the general election ballot with other partisan offices, but candidates would be ordered for each race in the same manner as candidates for a nonpartisan office, using a process selected by the State Board of Elections and Ethics Enforcement for random selection.

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

EFFECTIVE DATE: The CCS would become effective January 1, 2018, and applies to primaries and elections held on or after that date.

*This summary was substantially contributed to by Jessica Sammons and Erika Churchill, Staff Attorneys.