

March 21, 2007

S 1263. ELECTION LAW AMENDMENTS. Filed 3/21/07. *TO AMEND THE ELECTION LAWS.*

GS 163-59 provides that any person who will become qualified by age or residence to register and vote in the general or regular municipal election for which a primary is held, even though not qualified by the primary date, is entitled to register for the primary and general or regular municipal election prior to the primary and then to vote in the primary after being registered. This bill deletes the words "or residence" from that provision, thereby making age the only qualifying event. GS 163-226.3(a)(4) makes it a Class I felony for any person, in connection with absentee voting, other than the voter's near relative or legal guardian, to make a written request pursuant to GS 163-230.1 or an application on behalf of a registered voter who is a patient in any hospital, clinic, nursing home or rest home in the state or for any owner, manager, director, employee, or other person other than the voter's near relative or verifiable legal guardian, to mark the voter's absentee ballot or assist such a voter in marking an absentee ballot. The bill excepts from that provision certain members, employees, or volunteers of the county board of elections. Amends GS 163-33.1 pertaining to the power of the chair of the county board of elections to administer oaths. Effective December 1, 2007, amends GS 163-165.1(e) to make an unlawful disclosure of voted ballots a Class 2 misdemeanor. No effective date is provided for any of the changes other than the amendment to GS 163-165.1(e).

Intro. by Nesbitt.

GS 163

May 8, 2007

S 1263. ELECTION LAW AMENDMENTS. Filed 3/21/07. Senate committee substitute makes the following changes to 1st edition. Makes the changes to GS 163-59 and GS 163-226.3(a)(4) effective January 1, 2008. Effective December 1, 2007, amends GS 163-274 to make a conforming change to make it a Class 2 misdemeanor for any person with access to an official voted ballot or record to knowingly disclose the vote on the ballot in violation of GS 163-165.1(e) (concerning the confidentiality of ballots). Enacts new GS 128-7.2 providing that to be eligible for appointment to fill a vacancy in a state or local elective office, the person must have been qualified to vote for that office if an election were held on the date of appointment. Makes a conforming change to GS 163-11 concerning vacancies in the Senate or House of Representatives. Makes a conforming title change.

May 10, 2007

S 1263. ELECTION LAW AMENDMENTS. Filed 3/21/07. Senate amendment makes the following changes to 2nd edition. Modifies Section 5 enacting GS 128-7.2 and 163-11(e) (regarding qualifications for filling a vacancy in an elective office) to make the section applicable only to appointments made on or after the date the act becomes law.

July 3, 2008

S 1263. ELECTION LAW AMENDMENTS. Filed 5/8/07. House committee substitute deletes all the provisions of the 3rd edition and replaces it with *AN ACT TO APPROPRIATE FUNDS FOR THE JOINT LEGISLATIVE ELECTIONS OVERSIGHT COMMITTEE AND TO ESTABLISH THAT COMMITTEE; TO CLARIFY THE NEW ELECTION STATUTE AS IT APPLIES TO MULTI-SEAT RACES; TO REAUTHORIZE THE PILOT PROGRAM FOR INSTANT RUNOFF VOTING; TO AMEND THE STATUTE CONCERNING NOTICE OF AN ELECTION-PROTEST ORDER AND THE TIMING OF THE APPEAL; TO CLARIFY THE MEANING OF THE TERM "ELECTION" FOR PURPOSES OF THE THIRTY-DAY RESIDENCE REQUIREMENT FOR VOTING; TO RESPOND TO THE DECISION OF THE 4th CIRCUIT U.S. COURT OF APPEALS IN NORTH CAROLINA RIGHT TO LIFE V. BARTLETT; TO REPLACE THE TWENTY-ONE-DAY CONTRIBUTION EMBARGO IN THE JUDICIAL PUBLIC CAMPAIGN PROGRAM WITH AN EXPEDITED RELEASE OF MATCHING FUNDS; TO EXEMPT CERTAIN SALES OF GOODS OR SERVICES BY POLITICAL PARTY EXECUTIVE COMMITTEES FROM CERTAIN CONTRIBUTION REQUIREMENTS; TO REQUIRE ALL TREASURERS TO REPORT ACCORDING TO THE MUNICIPAL CAMPAIGN REPORTING SCHEDULE IF THEIR*

CANDIDATES OR COMMITTEES PARTICIPATE IN MUNICIPAL ELECTIONS; TO PROHIBIT COMMINGLING OF CAMPAIGN FUNDS; TO REQUIRE THAT NEW-PARTY CANDIDATES BE REGISTERED WITH THE PARTY; AND TO REQUIRE FORTY-EIGHT-HOUR REPORTS FOR ANY CONTRIBUTION OF LATE CONTRIBUTIONS OF MORE THAN ONE THOUSAND DOLLARS, REGARDLESS OF THE SOURCE.

Enacts new Article 12P, (Joint Legislative Elections Oversight Committee) in GS Chapter 120.

Creation and membership of the Joint Legislative Elections Oversight Committee:

Establishes the 18 member Joint Legislative Elections Oversight Committee (Committee) consisting of nine members of the Senate appointed by the President Pro Tempore of the Senate and nine members of the House of Representatives (House) appointed by the Speaker of the House. Specifies that appointments are to reflect the partisan composition of each body. Provides for two-year-terms beginning on January 15 of each odd-numbered year; however, provides an exception that allows the terms of initial members to begin on the date of their appointment and to end on January 15 of the next odd-numbered year. Provides that members who do not seek reelection or are not reelected to the General Assembly may complete their term of service on the Committee; however, designates that the resignation or removal from General Assembly service of a member constitutes resignation or removal from service on the Committee. Requires that a vacancy be filled within 30 days by the officer who made the original appointment and requires that a member continue to serve on the Committee until the member's successor is appointed.

Purpose and powers of the committee: Designates that the purpose of the Committee is (1) to examine election administration and campaign finance regulation in North Carolina on a continuing basis, and (2) to make ongoing recommendations to the General Assembly on ways to improve elections administration and campaign finance regulation. Provides a listing of specified topics to be examined by the Committee in carrying out its purpose. Provides that the Committee may make interim reports to the General Assembly and that the reports may contain any legislation needed to implement the Committee's recommendations. Authorizes the Committee in the course of its official duties to compel the attendance of state officials or employees before the Committee, have access to documents, or secure any evidence under GS 120.19.

Organization of the Committee: Directs the President Pro Tempore of the Senate and the Speaker of the House to each designate a Committee cochair. Requires the Committee to meet at minimum once a quarter; provides that 10 members constitute a quorum; and that actions may only be taken by a majority vote at a meeting at which a quorum is present. Provides that the Committee has the powers of a joint committee as designated under GS 120-19 and GS 120-19.1 through GS 120-19.4. Makes additional provisions regarding Committee expenses, contracting for consultants and staffing for the Committee.

Appropriation: Effective July 1, 2008, appropriates \$100,000 for the 2008-09 fiscal year from the General Fund to the General Assembly for the Committee.

New Elections Statute: Amends GS 163-182.13(e), (regarding the authorization of new elections by the State Board of Elections), to clarify the statute as it applies to multi-seat races, replacing the term *leading vote-getters* with the more general term, *candidates*, with regards to determining which candidates are listed on the ballot in a new election in a multi-seat contest.

Instant runoff voting: Authorizes the State Board of Elections (Board) to set up pilot programs for instant runoff voting in up to 10 local jurisdictions for local government office elections in 2009, 2010, and 2011. Directs that the selection of jurisdictions and administration of the instant runoff voting pilot programs is to follow the provisions of SL 2006-192, Section 1(a); however, requires the Board to suitably modify the method used for instant runoff voting in single seat contests to accommodate multi-seat contests. Provides additional guidelines regarding the administration of instant runoff voting.

Appeal of final Board decisions: Effective October 1, 2008, amends GS 163-182.14 to require that a copy of a final decision by the Board on an election protest be served on the parties either personally or by *first-class U.S. mail* (was, by certified mail). Provides that if service is by U.S. mail, then Rule 6(e) of the NC Rules of Civil Procedure regarding additional time after service by mail applies to the time for an appeal and the time to obtain a stay under the statute.

Elections: Adds a new subsection to GS 163-55 (regarding qualifications to vote) to clarify that the term *election*, as it is used in the requirement that a voter reside in a jurisdiction for 30

days prior to an *election* in order to vote in that election, is defined to mean the day of the primary, second primary, general election, special election, or referendum. Makes clarifying and conforming changes to GS 163-86, GS 163-283, and GS 163-82.6.

Campaign finance law changes: Amends GS 163-278.6(14) to modify the major purpose test as it applies to defining a *political committee*. Provides that a defining characteristic of a *political committee* is to have as *the* major purpose (was, a major purpose) to support or oppose a candidate's election. Amends GS 163-278.14A(a) to repeal the contextual test used under current law in determining if a group or individual has engaged in express advocacy (supporting or opposing the nomination or election of one or more clearly identified candidates). Amends GS 163-278.13 to provide that the contribution limits that allow a maximum \$4,000 contribution by any one contributor to any one candidate or political committee do not apply to contributions made to any political committee that certifies that it will not make contributions to candidates or to political committees that make contributions to candidates.

Judicial public financing: Under current law, candidates in appellate judicial races may opt into the Public Campaign Fund (Fund), which provides them with public funding. In exchange, they agree to limit campaign spending. To protect participants in the Fund from being out-spent by non-participants, there is an embargo on spending during the final 21 days before the election. Repeals the 21-day embargo (GS 163-278.13(e2)(3)) and replaces it with a provision to expedite matching funds to a candidate (new subsection GS 163-278.67(c1)). Requires that the funds be transferred no later than 12 hours after receiving notice from the Board that the candidate has become entitled to it.

Campaign sales: Enacts new GS 163-278.8A to provide a limited exemption that would permit political party executive committees to sell goods or services without obtaining identifying information from the purchaser providing that the political party executive committee's treasurer has submitted and adhered to a plan for the sale of the goods or services and that plan has been approved in writing by the Executive Director of the Board. Includes requirements necessary to for the submitted plan to be approved. Treats the proceeds from the sale of these goods and services as contribution for other purposes and requires reporting of the expenditure of those proceeds. Effective the later of August 15, 2008, or the date of preclearance under Section 5 of the Voting Rights Act of 1965, except that in counties where county political party executive committees are not subject to Section 5 of the act the act is effective when it becomes law. Applies to contributions made or accepted on or after the effective date. Repeals the section on the date of denial if preclearance is denied.

Campaign reporting: Enacts new GS 163-278.40J and amends GS 163-278.27(a), GS 163-278.9(a)(5a), and GS 163-278.9(d) to provide that campaign reporting requirements for political committees are to be based on the relevant schedule. Provides that reports are to be submitted in even-numbered years for campaigns in which the committee is supporting *or opposing* a candidate (was, supporting). Effective December 1, 2008.

Amends GS 163-278.8 to require a treasurer to maintain moneys of the political campaign or candidate in accounts used exclusively by the political committee or candidate and prohibits the commingling of funds with any other moneys. Effective September 1, 2008.

Amends GS 163-98 to require that any candidate that is nominated by a new party must be affiliated with the party at the time of certification to the Board. Effective January 1, 2009 and applies to elections held on or after that date.

Amends GS 163-278.9(a)(4a) (regarding a political committee or political party) and GS 163-278.9A(a)(2a) (regarding a referendum committee) to require that a political committee, political party, or referendum committee that receives a contribution or transfer of funds of \$1,000 or more after the final pre-election report is due but before the election, the treasurer must report the contribution within 48-hours regardless of the source of the contribution (was, must report within 48-hours only if the contribution was from a political committee). Effective October 1, 2008.

Unless otherwise indicated effective when it becomes law.

July 9, 2008

S 1263. ELECTION LAW AMENDMENTS. Filed 3/21/07. House committee substitute makes the following changes to 4th edition. Deletes \$100,000 appropriated for 2008-09 from the General

Fund to the General Assembly to implement this act. Instead, authorizes expenses of the Joint Legislative Elections Oversight Committee to be paid out of funds appropriated to the General Assembly, with approval of the Legislative Services Officer.

Provides that the selection of jurisdictions and administration of instant runoff voting will follow the provisions of Section 1(a) of SL 2006-192, *except that the local governing board that is the subject of the election must approve participation in the pilot program and also must agree to cooperate with the county board of elections and the Board of Elections (Board) in the development and implementation of a plan to educate voters about how to use the runoff voting method.* Requires that the Board, in consultation with the UNC School of Government, develop goals, standards, and implementation and evaluation criteria for the instant runoff voting pilot program by January 1, 2009.

Amends proposed revised GS 163-278.6(14) by adding a definition for *political committee* to include the campaign of a candidate who serves as his or her own treasurer.

Amends language in proposed new GS 163-278.8(h) by removing the requirement that the treasurer maintain all moneys of the *candidate* and prevent commingling of the *candidate's* money with other funds.

Amends proposed revised GS 163-98 by clarifying that the requirement that a candidate be affiliated with a new nominating party is met if the candidate submits an application to change party affiliation to that party at or before the time of certification as a candidate.

Amends GS 163-278.66(a) (public campaign fund) by changing the subsection caption to reflect that it concerns reporting by noncertified candidates and other entities and by substituting the descriptions of funds with *contributions* or *payments* where applicable. Deletes requirement that a noncertified candidate or reporting entity comply with an expedited reporting schedule *by filing additional reports after receiving each additional amount in excess of \$1000 or after making or obligating to make each additional expenditure(s) or payment(s) in excess of \$1000.* Makes technical changes. Makes conforming changes to GS 163-278.99A(a) (voter-owned elections fund).

Amends GS 163-278.82 (electioneering communications) and GS 163-278.92 (mass mailings and telephone banks) by limiting the prohibition of corporate and labor disbursements for electioneering to circumstances where the electioneering communication at issue is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

Changes title to *AN ACT TO ESTABLISH THE JOINT LEGISLATIVE ELECTIONS OVERSIGHT COMMITTEE; TO CLARIFY THE NEW ELECTION STATUTE AS IT APPLIES TO MULTISEAT RACES; TO REAUTHORIZE THE PILOT PROGRAM FOR INSTANT RUNOFF VOTING; TO AMEND THE STATUTE CONCERNING NOTICE OF AN ELECTION-PROTEST ORDER AND THE TIMING OF APPEAL; TO CLARIFY THE MEANING OF THE TERM "ELECTION" FOR PURPOSE OF THE THIRTY-DAY RESIDENCE REQUIREMENT FOR VOTING; TO RESPOND TO THE DECISION OF THE 4TH CIRCUIT U.S. COURT OF APPEALS IN NORTH CAROLINA RIGHT TO LIFE V. LEAKE; TO REPLACE THE TWENTY-ONE-DAY CONTRIBUTION EMBARGO IN THE JUDICIAL PUBLIC CAMPAIGN PROGRAM WITH AN EXPEDITED RELEASE OF MATCHING FUNDS; TO EXEMPT CERTAIN SALES OF GOODS OR SERVICES BY POLITICAL PARTY EXECUTIVE COMMITTEES FROM CERTAIN CONTRIBUTION REQUIREMENTS; TO REQUIRE ALL TREASURERS TO REPORT ACCORDING TO THE MUNICIPAL CAMPAIGN REPORTING SCHEDULE IF THEIR CANDIDATES OR COMMITTEES PARTICIPATE IN MUNICIPAL ELECTIONS; TO PROHIBIT COMMINGLING OF CAMPAIGN FUNDS; TO REQUIRE THAT NEW-PARTY CANDIDATES BE REGISTERED WITH THE PARTY; TO AMEND THE REPORTING REQUIREMENT FOR MATCHING FUNDS IN PUBLIC FINANCING PROGRAMS; TO LIMIT THE PROHIBITION IN THE ELECTIONEERING COMMUNICATIONS STATUTES; AND TO REQUIRE FORTY-EIGHT-HOUR REPORTS FOR ANY CONTRIBUTION OF LATE CONTRIBUTIONS OF MORE THAN ONE THOUSAND DOLLARS, REGARDLESS OF THE SOURCE.*

July 18, 2008

S 1263. ELECTION LAW AMENDMENTS. Filed 3/21/07. Conference report recommends the following changes to 5th edition to reconcile matters in controversy. Amends proposed GS 120-

70.140 by clarifying that the President Pro Tem. of the Senate and the Speaker of the House of Representatives will appoint members to the Joint Legislative Elections Oversight Committee *proportionally according to* (was, in a manner to reflect) the partisan composition of the Senate and House, respectively.

Amends proposed revised GS 163-182.14(a) to change the method of delivery specified for serving parties with a copy of the State Board of Elections final decision from first class US mail to *US mail or a designated delivery service authorized under 26 USC sect. 7502(f)(2) if that delivery provides a record of the date and time of delivery to the address provided by the party.* Makes a conforming change to GS 163-182.14(b).

Amends proposed GS 163-278.13 to clarify that the contribution limits of subsections (a) and (b) of this section do not apply to contributions made to *an independent expenditure* political committee. Defines *independent expenditure political committee* as a political committee whose treasurer makes and abides by a certification to the State Board of Elections that the political committee does not and will not make contributions, directly or indirectly, to candidates or to political committees *that make contributions to candidates*. Provides that this subsection does not apply to a candidate or a political committee controlled by a candidate and that the exception in this subsection is in addition to any other exception provided by law. Previous edition provided that the exception applied to a political committee whose treasurer makes and abides by a certification to the State Board of Elections that the political committee does not and will not make contributions, directly or indirectly, to candidates or political committees other than to political committees whose treasurers make and abide by the same certification.

Amends proposed revised GS 163-278.9(a)(4a) (related to candidate and political committee reporting) and GS 163-278.9A(a)(2a) (related to referendum committee reporting) by clarifying that, when the State Board of Elections specifies the form and manner of making the 48-hour report of contributions \$1,000 or more under certain circumstances, *it must also include the form and manner of reporting of in-kind contributions.*

Makes a conforming change to the title.

August 8, 2008

SL 2008-150 (S 1263). ELECTION LAW AMENDMENTS. AN ACT TO ESTABLISH THE JOINT LEGISLATIVE ELECTIONS OVERSIGHT COMMITTEE; TO CLARIFY THE NEW ELECTION STATUTE AS IT APPLIES TO MULTISEAT RACES; TO REAUTHORIZE THE PILOT PROGRAM FOR INSTANT RUNOFF VOTING; TO AMEND THE STATUTE CONCERNING NOTICE OF AN ELECTION-PROTEST ORDER AND THE TIMING OF APPEAL; TO CLARIFY THE MEANING OF THE TERM "ELECTION" FOR PURPOSES OF THE THIRTY-DAY RESIDENCE REQUIREMENT FOR VOTING; TO RESPOND TO THE DECISION OF THE 4TH CIRCUIT U.S. COURT OF APPEALS IN NORTH CAROLINA RIGHT TO LIFE V. LEAKE; TO REPLACE THE TWENTY-ONE-DAY CONTRIBUTION EMBARGO IN THE JUDICIAL PUBLIC CAMPAIGN PROGRAM WITH AN EXPEDITED RELEASE OF MATCHING FUNDS; TO EXEMPT CERTAIN SALES OF GOODS OR SERVICES BY POLITICAL PARTY EXECUTIVE COMMITTEES FROM CERTAIN CONTRIBUTION REQUIREMENTS; TO REQUIRE ALL TREASURERS TO REPORT ACCORDING TO THE MUNICIPAL CAMPAIGN REPORTING SCHEDULE IF THEIR CANDIDATES OR COMMITTEES PARTICIPATE IN MUNICIPAL ELECTIONS; TO PROHIBIT COMMINGLING OF CAMPAIGN FUNDS; TO REQUIRE THAT NEW-PARTY CANDIDATES BE REGISTERED WITH THE PARTY; TO AMEND THE REPORTING REQUIREMENT FOR MATCHING FUNDS IN PUBLIC FINANCING PROGRAMS; TO LIMIT THE PROHIBITION IN THE ELECTIONEERING COMMUNICATIONS STATUTES; AND TO REQUIRE FORTY-EIGHT-HOUR REPORTS FOR ANY CONTRIBUTION OF LATE CONTRIBUTIONS OF MORE THAN ONE THOUSAND DOLLARS, REGARDLESS OF THE SOURCE; AND TO MAKE RELATED CHANGES. Summarized in *Daily Bulletin* 3/21/07, 5/8/07, 5/10/07, 7/3/08, 7/9/08, and 7/18/08. Enacted August 2, 2008. Effective August 2, 2008, except as otherwise provided.