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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2019

SESSION LAW 2020-17

HOUSE BILL 1169

AN ACT TO MAKE VARIOUS CHANGES TO THE LAWS RELATED TO ELECTIONS AND TO APPROPRIATE FUNDS TO THE STATE BOARD OF ELECTIONS IN RESPONSE TO THE CORONAVIRUS PANDEMIC.

The General Assembly of North Carolina enacts:

SECTION 1.(a) For an election held in 2020, notwithstanding G.S. 163-229(b) and G.S. 163-231(a), and provided all other requirements for absentee ballots are met, a voter's returned absentee ballot shall be accepted and processed accordingly by the county board of elections if the voter marked the ballot in the presence of at least one person who is at least 18 years of age and is not disqualified by G.S. 163-226.3(a)(4) or G.S. 163-237(c), provided that the person signed the application and certificate as a witness and printed that person's name and address on the container-return envelope. For an election held in 2020, notwithstanding G.S. 163-229(b), the State Board of Elections may prepare applications for each container-return envelope providing for a space for the identification of one person witnessing the casting of the absentee ballot in accordance with G.S. 163-231, that person's signature, and that person's printed name and address.

SECTION 1.(b) For an election held in 2020, notwithstanding G.S. 163-42(b), in making appointments of the precinct assistants for each precinct in a county, the county board of elections shall ensure that at least one precinct assistant is a registered voter of the precinct, but may appoint registered voters from other precincts of the same county as precinct assistants for the remaining positions if there are an insufficient number of precinct assistants who reside within the precinct to fill all positions for the precinct, provided that the registered voter meets all qualifications to be a precinct assistant other than residence. For an election held in 2020, notwithstanding G.S. 163-41(c), the county board of elections shall ensure that at least one position of chief judge or judge is a registered voter of the precinct, but may appoint a registered voter from other precincts of the same county to fill the other two positions of chief judge or judge in a precinct, provided that the registered voter meets all other qualifications to be a chief judge or judge other than residence.

SECTION 1.(c) For an election held in 2020, any individual working as part of a multipartisan team trained and authorized by the county board of elections pursuant to G.S. 163-226.3 may assist any voter in the completion of a request form for absentee ballots or in delivering a completed request form for absentee ballots to the county board of elections and may serve as a witness for the casting of absentee ballots.

SECTION 1.(d) Section 1(a) and Section 1(c) of this section become effective July 1, 2020, and expire December 31, 2020. The remainder of this section is effective when it becomes law and expires December 31, 2020.

SECTION 2.(a) For an election held in 2020, notwithstanding G.S. 163-230.2, a completed written request for absentee ballots may be delivered either in person or by mail, e-mail, or fax, to the county board of elections by the voter, the voter's near relative or verifiable legal guardian, or any individual working as part of a multipartisan team trained and authorized by the county board of elections pursuant to G.S. 163-226.3. A request for absentee ballots shall be valid if it is returned to the county board of elections through one of the following methods: (i) hand-delivered to the county board of elections by a person listed in G.S. 163-230.2(c), (ii) mailed to the county board by the United States Postal Service, or a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), by a person listed in G.S. 163-230.2(c), or (iii) e-mailed or faxed to the county board of elections by a person listed in G.S. 163-230.2(c).

SECTION 2.(b) The Department of Health and Human Services and the State Board of Elections shall develop guidance to safely allow multipartisan teams to assist registered voters within hospitals, clinics, nursing homes, assisted living or other congregate living situations in the 2020 elections during the COVID-19 pandemic in accordance with law, as amended by this act. Multipartisan teams, as used in this section, are those appointed and trained by the county board of elections in accordance with this act and G.S. 163-226.3 and implementing rules. No later than August 1, 2020, the Department and the State Board shall jointly submit a report to the Joint

Legislative Oversight Committee on General Government, the Joint Legislative Elections Oversight Committee, and the Governor as to the details of the guidance.

SECTION 2.5.(a) G.S. 163-226.3 is amended by adding a new subsection to read:

"(c) For the purposes of this section, a "multipartisan team" shall consist of at least two registered voters of the county. The two political parties having the highest number of affiliated voters in the State, as reflected by the registration statistics published by the State Board on January 1 of the current year, shall each be represented by at least one team member of the party's affiliation, as recommended by the members of that political party serving on the county board of elections. If the team consists of more than two members, voters who are unaffiliated or affiliated with other political parties recognized by the State may be team members. If a county board of elections finds an insufficient number of voters available to meet this requirement, the county board of elections, upon a unanimous vote of all of its sworn members, may appoint an unaffiliated team member to serve instead of a team member representing one of the two political parties having the highest number of affiliated voters in the State."

SECTION 2.5.(b) This section is effective when it becomes law and applies to appointments to a multipartisan team on or after that date.

SECTION 3.(a) G.S. 163-229(b), as amended by S.L. 2019-239, reads as rewritten:

"(b) Application on Container-Return Envelope. – In time for use not later than 60 days before a statewide general election in an even-numbered year, and not later than 50 days before a statewide primary, other general election or county bond election, the county board of elections shall print a sufficient number of envelopes in which persons casting absentee ballots may transmit their marked ballots to the county board of elections. However, in the case of municipal elections, sufficient container-return envelopes shall be made available no later than 30 days before an election. Each container-return envelope shall have printed on it an application which shall be designed and prescribed by the State Board, providing for all of the following:

(1) The voter's certification of eligibility to vote the enclosed ballot and of having voted the enclosed ballot in accordance with this Part.

(2) A space for identification of the envelope with the voter and the voter's signature.

(3) A space for the identification of the two persons witnessing the casting of the absentee ballot in accordance with G.S. 163-231, those persons' signatures, and those persons' addresses.

(4) A space for the name and address of any person who, as permitted under G.S. 163-226.3(a), assisted the voter if the voter is unable to complete and sign the certification and that individual's signature.

(5) A space for approval by the county board of elections.

(6) A space to allow reporting of a change of name as provided by G.S. 163-82.16.

(7) A prominent display of the unlawful acts under G.S. 163-226.3 and G.S. 163-275, except if there is not room on the envelope, the State Board may provide for that disclosure to be made on a separate piece of paper to be included along with the container-return envelope.

(8) An area to attach additional documentation necessary to comply with the identification requirements in accordance with State Board rules, as provided in G.S. 163-230.1.

(9) A bar code or other unique identifier to allow both the county board of elections and the voter to track the ballot following return of the voted ballot to the county board of elections by the voter.

The container-return envelope shall be printed in accordance with the instructions of the State Board, which shall prohibit the display of the voter's party affiliation on the outside of the container-return envelope."

SECTION 3.(b) This section becomes effective September 1, 2020, and applies to elections held on or after that date.

SECTION 4. G.S. 163-230.1(f), as amended by S.L. 2019-239, reads as rewritten:

"(f) Required Meeting of County Board of Elections. – During the period commencing on the ~~third~~ fifth Tuesday before an election, in which absentee ballots are authorized, the county board of elections shall hold one or more public meetings each Tuesday at 5:00 p.m. for the purpose of action on applications for absentee ballots. At these meetings, the county board of elections shall pass upon applications for absentee ballots.

If the county board of elections changes the time of holding its meetings or provides for additional meetings in accordance with the terms of this subsection, notice of the change in hour and notice of the schedule of additional meetings, if any, shall be published in a newspaper circulated in the county at least 30 days prior to the election.

At the time the county board of elections makes its decision on an application for absentee ballots, the board shall enter in the appropriate column in the register of absentee requests, applications, and ballots issued opposite the name of the applicant a notation of whether the applicant's application was "Approved" or "Disapproved".

The decision of the board on the validity of an application for absentee ballots shall be final subject only to such review as may be necessary in the event of an election contest. The county board of elections shall constitute the proper official body to pass upon the

validity of all applications for absentee ballots received in the county; this function shall not be performed by the chair or any other member of the board individually."

SECTION 4.5.(a) G.S. 163-182.2(a)(5) reads as rewritten:

"(5) Precinct officials shall provide a preliminary report of the vote counting on election day to the county board of elections as quickly as possible. The preliminary report shall be ~~unofficial and~~ unofficial, has no binding effect upon the official county canvass to ~~follow.~~ follow, and shall include the number of provisional ballots cast in that precinct."

SECTION 4.5.(b) G.S. 163-166.11(5) reads as rewritten:

"(5) The cast provisional official ballot and the written affirmation shall be secured by election officials at the voting place according to guidelines and procedures adopted by the State Board of Elections. At the close of the polls, election officials shall transmit the provisional official ballots cast at that voting place to the county board of elections for prompt verification according to guidelines and procedures adopted by the State Board of Elections. No later than 12:00 P.M. two days after the close of the polls, the county board of elections shall publish the number of provisional ballots cast on election day, cast by one-stop absentee voting, cast by mail-in absentee ballots received as of election day, and cast by military and overseas absentee ballots cast under Article 21A of this Chapter and received as of election day."

SECTION 5. G.S. 163-230.2(a), as amended by S.L. 2019-239, reads as rewritten:

"(a) Valid Types of Written Requests. – A completed written request form for absentee ballots as required by G.S. 163-230.1 is valid only if it is on a form created by the State Board and signed by the voter requesting absentee ballots or that voter's near relative or verifiable legal guardian. The State Board shall make the blank request form available at its offices, online, and in each county board of elections office, and that blank request form may be reproduced. A voter may call the State Board of Elections or a county board of elections office and request that the blank request form be sent to the voter by mail, e-mail, or fax. The request form created by the State Board shall require at least the following information:

(1) The name and address of the residence of the voter.

(2) The name and address of the voter's near relative or verifiable legal guardian if that individual is making the request.

(3) The address of the voter to which the application and absentee ballots are to be mailed if different from the residence address of the voter.

(4) One of the following:

a. The number of the applicant'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 applicant's special identification card for nonoperators issued under G.S. 20-37.7.

c. The last four digits of the applicant's social security number.

(5) The voter's date of birth.

(6) The signature of the voter or of the voter's near relative or verifiable legal guardian if that individual is making the request.

(7) A clear indicator of the date the election generating the request is to be held, except for annual calendar year requests in accordance with G.S. 163-226(b)."

SECTION 6. G.S. 163-27.1 is amended by adding a new subsection to read:

"(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."

SECTION 7.(a) Article 20 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-230.3. Online request for absentee ballots.**

(a) Notwithstanding G.S. 163-230.1 and G.S. 163-230.2, a qualified voter who is eligible to vote by absentee ballot under G.S. 163-226, or that voter's near relative or verifiable legal guardian, may submit a request for absentee ballots online using the procedures set forth in this section in lieu of the completed written request on a form established by the State Board. All other provisions in G.S. 163-230.1 and G.S. 163-230.2 shall apply.

(b) The State Board shall establish a secure Internet Web site to permit individuals described in subsection (a) of this section to submit an online request for absentee ballots. The Internet Web site must be able to track the IP address of anyone who accesses the Web site. The Web site must require that the voter or the voter's near relative or verifiable legal guardian provide all of the following information:

(1) All information required for a valid written request for absentee ballots in G.S. 163-230.2.

(2) An electronic signature, as defined in G.S. 66-312 of the Uniform Electronic Transaction Act, of the voter, or the voter's near relative or verifiable legal guardian, if requesting on the voter's behalf.

(c) Upon receipt of an online request for absentee ballots, the State Board shall submit the request to the county board of elections in which the voter resides. The county board of elections shall process the online request in the same manner as processing a completed written request for absentee ballots submitted under G.S. 163-230.1."

SECTION 7.(b) Notwithstanding Article 3 of Chapter 143 of the General Statutes, the State Board of Elections is not required to comply with initial purchase and contract requirements for establishing or securing the Internet Web site for online requests for absentee ballots as required by subsection (a) of this section. This exemption expires December 31, 2020.

SECTION 7.(c) The State Board of Elections shall submit a report to the Joint Legislative Elections Oversight Committee regarding the online requests for absentee ballots under G.S. 163-230.3, as enacted by this act, including the total number of absentee ballots requested online by county, and the results of any cybersecurity investigations related to online requests during the 2020 general election no later than February 1, 2021.

SECTION 7.(d) This section is effective when it becomes law. The State Board of Elections shall have the secure Internet Web site available to voters to submit an online request for absentee ballots by September 1, 2020.

SECTION 8.(a) G.S. 163-237 is amended by adding a new subsection to read:

"(d7) Sending of Unrequested Absentee Ballot. – Any member serving on the State Board or on any county board of elections, or any employee of the State Board or a county board of elections, who knowingly sends or delivers an absentee ballot to any person who has not requested an absentee ballot in accordance with the requirements of Chapter 163 of the General Statutes shall be guilty of a Class I felony."

SECTION 8.(b) This section becomes effective July 1, 2020, and applies to offenses committed on or after that date.

SECTION 9. G.S. 20-37.7(d) reads as rewritten:

"(d) Expiration and Fee. – A special identification card issued to a person for the first time under this section expires when a drivers license issued on the same day to that person would expire. A special identification card renewed under this section expires when a drivers license renewed by the card holder on the same day would expire. The Division shall offer renewal of a special identification card in person and online on the Division's Web site.

...."

SECTION 10. G.S. 163-166.16(a) reads as rewritten:

"(a) Photo Identification Required to Vote. – When a registered voter presents to vote in person, the registered voter shall produce any of the following forms of identification that contain a photograph of the registered voter:

...

(2) Any of the following, regardless of whether the identification contains a printed expiration or issuance date:

a. A military identification card issued by the United States government.

b. A Veterans Identification Card issued by the United States Department of Veterans Affairs for use at Veterans Administration medical facilities.

c. A tribal enrollment card issued by a State or federal recognized tribe.

d. An identification card issued by a department, agency, or entity of the United States government or this State for a government program of public assistance.

...."

SECTION 10.5. G.S. 163-132.5G reads as rewritten:

"§ 163-132.5G. Voting data maintained by precinct.

(a) Each county board of elections shall maintain voting data by voting precinct so that precinct returns for each item on the ballot shall include the votes cast by all residents of that voting precinct who voted, regardless of where the voter voted. The county board shall not be required to report returns by voting precinct for voters who voted other than at the voting precinct associated with that voter's voter registration until 30 days after the election. In reporting returns, the county board shall not compromise the secrecy of an individual's ballot. In reporting returns, the county board shall report, by precinct for each item on the ballot, the number of voters who did not select a choice for that item on the ballot and the number of voters who selected more choices than available for that item on the ballot.

(b) The 30-day deadline for reporting returns by voting precinct does not relieve the county board of the duty to report all returns as soon as practicable after the election according to other categories specified by the State ~~Board of Elections.~~ Board.

(c) The State Board ~~of Elections~~ shall adopt rules for the enforcement of this section.

(d) If a county board of elections does not comply with the requirements of this section, the State Board shall direct the chair of the county board of elections to appear and explain the delay at the next official meeting of the State Board."

SECTION 11.1.(a) No later than August 15, 2020, the Department of Commerce shall transfer the sum of two million one hundred twenty thousand four hundred ninety-seven dollars ($2,120,497) in nonrecurring funds for the 2020-2021 fiscal year from the Job Development Investment Grant Special Revenue Fund (Budget Code: 24609; Fund Code: 2565) to the State Board of Elections (Budget Code: 28025). There is appropriated the sum of ten million nine hundred forty-seven thousand one hundred thirty-nine dollars ($10,947,139) in Election Security Grants in the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136, and the funds transferred in this section, as the required match from the State General Fund to the State Board of Elections for the 2020-2021 fiscal year to prevent, prepare for, and respond to the coronavirus pandemic during the 2020 federal election cycle. Of the funds appropriated under this section, the State Board of Elections shall use four hundred twenty-four thousand dollars ($424,000) to establish an online portal for absentee ballot requests.

SECTION 11.1.(b) The State Board of Elections shall allocate the remaining funds appropriated under subsection (a) of this section to counties for county boards of elections as follows:

(1) A base allocation of $30,000 to tier one counties.

(2) A base allocation of $25,000 to tier two counties.

(3) A base allocation of $20,000 to tier three counties.

(4) $400,000 to be allocated on a per registered voter basis for counties in which 2020 second primary elections were conducted after March 10, 2020.

(5) $6,000,000 for early one-stop voting-related expenses to counties based on the number of registered voters as of May 8, 2020, on a per registered voter basis, that adopt uniform early one-stop voting plans in accordance with G.S. 163-227.6, including satellite location operations with weekday hours from 8:00 A.M. to 7:30 P.M. If no satellite voting locations are available, the funds may be used to support early one-stop voting operations at county boards of elections or alternate sites as follows:

a. $2,000,000 to tier one counties.

b. $2,000,000 to tier two counties.

c. $2,000,000 to tier three counties.

For purposes of this section, tier one, tier two, and tier three counties shall have the same designations as those established by the N.C. Department of Commerce's 2020 County Tier Designations pursuant to G.S. 143B-437.08.

SECTION 11.1.(c) After funding the required allocations under subsections (a) and (b) of this section, the State Board of Elections shall allocate any remaining funds to counties on a per registered voter basis for expenses eligible under the CARES Act.

SECTION 11.1.(d) Base allocations to county boards of elections under subdivisions (b)(1) through (b)(3) of this section shall be used to address the coronavirus pandemic, including, but not limited to, the following:

(1) Providing for increased postage costs for mail-in absentee ballots sent out by the county board of elections.

(2) Ensuring an adequate number of poll workers by (i) use of advertising or public awareness campaigns or (ii) offering incentive compensation and other pay increases.

(3) Recruiting members and promoting the use of multipartisan assistance teams.

SECTION 11.1.(e) Funds appropriated under this section shall be used in accordance with this section and the requirements and limitations set forth in the federal CARES Act.

SECTION 11.1.(f) As used in this section, a registered voter is a voter registered in accordance with Article 7A of Chapter 163 of the General Statutes as of May 8, 2020.

SECTION 11.2.(a) No later than August 15, 2020, the Department of Commerce shall transfer the sum of two million three hundred thirty-five thousand four hundred eighty-eight dollars ($2,335,488) in nonrecurring funds for the 2020-2021 fiscal year from the Job Development Investment Grant Special Revenue Fund (Budget Code: 24609; Fund Code: 2565) to the State Board of Elections (Budget Code: 28025). There is appropriated the sum of eleven million six hundred seventy-seven thousand four hundred forty-one dollars ($11,677,441) from federal Help America Vote Act (HAVA) funds, and the funds transferred in this section, as the required match from the State General Fund to the State Board of Elections for the 2020-2021 fiscal year. There is created within Budget Code 28025 a new fund code to be titled "County Reimbursement Account" to reimburse counties for eligible HAVA expenses. The State Board of Elections shall ensure timely reimbursement to counties for election costs related to eligible HAVA expenses. In reimbursing the counties, no county shall receive more than two hundred fifty thousand dollars ($250,000) in reimbursement for eligible HAVA expenses, and each county shall be entitled to ten thousand dollars ($10,000) in reimbursements for eligible HAVA expenses. As a condition of receiving reimbursement under this subsection, the State Board of Elections shall require counties to certify that HAVA funds will not be used to supplant county funds. The State Board of Elections may make bulk purchases from the County Reimbursement Account for items on the counties' collective behalf.

SECTION 11.2.(b) The State Board of Elections may use a portion of the funds appropriated under subsection (a) of this section as follows:

(1) $138,000 to acquire a more secure system for the delivery and return of uniformed and overseas citizen absentee ballots.

(2) $868,000 to fund security improvements at the State Board of Elections.

(3) $100,000 to assemble Attack Response Kits to be deployed to county boards of elections, as needed, for continuity of operations following cyber attacks.

(4) $300,000 for bar code scanners used in polling locations statewide to ensure accurate ballot style distribution during elections.

(5) $629,000 to purchase multiple high-speed ballot tabulators to be deployed to county boards of elections, as needed, for disaster recovery or continuity of operations.

(6) $605,000 to invest in increased ballot-on-demand capacity for county boards of elections for disaster recovery or continuity of operations.

(7) $456,000 to acquire software to modernize the State Board of Elections help desk and add a chatbot feature to its Web site and train staff on the use of both.

(8) $300,000 for statewide advertising to inform the public of election law changes and other procedures in response to the coronavirus pandemic.

(9) $1,000,000 to assist counties with the speed, accuracy, and transparency of the counties' election, voter, and canvass data and processes.

SECTION 11.2.(c) Any federal HAVA funds unspent on June 30, 2021, shall revert to Budget Code 28025 and shall remain until appropriated by the General Assembly. Any remaining State match funds appropriated in this section shall revert in accordance with G.S. 143C-1-2.

SECTION 11.2.(d) The State Board of Elections shall report on any funds spent in accordance with Section 11.2(b)(2) of this act in a confidential report to the chairs of the Joint Legislative Oversight Committee on General Government and the Joint Legislative Elections Oversight Committee. An initial report of expenditures shall be due no later than August 15, 2020, and a follow up on any additional expenditures shall be due no later than December 1, 2020. This report shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

SECTION 11.3.(a) Counties shall coordinate with local political parties within their jurisdictions to enhance or maintain the partisan balance of election day workers.

SECTION 11.3.(b) The State Board of Elections, in collaboration with counties, shall coordinate with the Department of Public Safety, Division of Emergency Management, on the purchase and distribution of personal protective equipment to be deployed to counties for their county boards of elections pursuant to Sections 11.1 through 11.3 of this act.

SECTION 11.3.(c) The State Board of Elections, after consultation with the U.S. Election Assistance Commission, shall provide counties with lists of example expenses eligible under HAVA and the CARES Act.

SECTION 11.3.(d) The State Board of Elections shall submit a report to the Joint Legislative Elections Oversight Committee, the Joint Legislative Oversight Committee on General Government, and the Fiscal Research Division on the use of the funds appropriated under Sections 11.1 through 11.3 of this act no later than February 1, 2021. Counties receiving funds pursuant to Sections 11.1 through 11.3 of this act shall provide the State Board of Elections the following information to include in its report:

(1) Funding used to expand early one-stop voting and mail-in absentee ballots.

(2) Funding used to address the coronavirus pandemic, including personal protective equipment, social distancing tools, and cleaning and sanitizing supplies.

(3) Funding used to ensure adequate staffing and volunteers through use of advertising or public awareness campaigns or by offering incentive compensation and other pay increases.

(4) Funding used to deploy and support multipartisan assistance teams.

(5) Other items deemed necessary by the State Board of Elections to ensure that counties used funds in accordance with the U.S. Election Assistance Commission and other federal requirements.

SECTION 11A.1. The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

SECTION 11A.2. Except where expressly repealed or amended by this act, the provisions of any other legislation enacted during the 2019 Regular Session of the General Assembly expressly appropriating funds to an agency, a department, or an institution covered under this act, shall remain in effect.

SECTION 12. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of June, 2020.

s/ Brent Jackson

Presiding Officer of the Senate

s/ Tim Moore

Speaker of the House of Representatives

s/ Roy Cooper

Governor

Approved 9:55 a.m. this 12th day of June, 2020

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