

## **Election Law** <sup>[1]</sup>

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See also: [Congressional Districts](#) <sup>[2]</sup>; [Disfranchisement](#) <sup>[3]</sup>; [Free Suffrage](#) <sup>[4]</sup>; [General Assembly](#) <sup>[5]</sup>; [Short Ballot](#); [Women Suffrage](#) <sup>[6]</sup>.

Election Law in North Carolina has seen significant changes over the years. During early statehood, the [governor](#) <sup>[7]</sup> and two U.S. senators were appointed by the [General Assembly](#) <sup>[5]</sup>, while the other major political officers were popularly elected by white male North Carolinians. Excluded from voting were Jews and other non-Christians, who could not cast a ballot in the state until 1860, as well as women, who gained suffrage with ratification of the Nineteenth Amendment to the U.S. Constitution in 1920. Free men of color participated in North Carolina elections until county representatives resolved to deny them the vote at the [1835 constitutional convention](#) <sup>[8]</sup>.

That convention also determined that the governor would henceforth be chosen by the people. [Edward B. Dudley](#) <sup>[9]</sup>, a [Whig](#) <sup>[10]</sup>, won the first popular gubernatorial election, held in 1836. With ratification in 1913 of the Seventeenth Amendment to the U.S. Constitution, providing for the popular election of U.S. senators, the General Assembly relinquished its appointment authority.

The next major change in North Carolina election law was made in 1915, when the [Democratic](#) <sup>[11]</sup> legislature passed the Primary Elections Act. In primary elections, citizens select candidates to run against one another within a particular party; the winner becomes that party's official candidate in the general election. The 1915 statute provided for a "primary election for the purpose of nominating candidates of each and every political party in the state" if more than one person aspired to a given office. Until then [Republicans](#) <sup>[12]</sup> had rarely used primaries, but Democrats had introduced primary elections in the 1870s, during [Reconstruction](#) <sup>[13]</sup>, to minimize minority voter strength, originally allowing only white males to vote. After the U.S. Supreme Court struck down the "whites-only" restriction, and following the political success garnered by white and black Republicans and [Progressives](#) <sup>[14]</sup> during the [Fusionist era](#) <sup>[15]</sup> of the 1890s, Democrats modified the primary system to suit their needs. The party also launched a systematic campaign to diminish the turnout of black voters through fear and intimidation, as well as by passing a [suffrage amendment](#) <sup>[3]</sup> that required an individual to be able to read before he could register to vote. Democrats also strategically used race-baiting to separate white voters from black Republicans and thus reduce the number of white Republican voters.

As a result of these efforts, a one-party system emerged, with the Democratic primary becoming the principal statewide forum in which to select officeholders. From 1900 through 1970, most of North Carolina's legislative and other state leaders, as well as the vast majority of its representatives to Congress, were chosen in the Democratic primary. But with the 1972 election of [James E. Holshouser Jr.](#) <sup>[16]</sup>—the state's first Republican governor of the twentieth century—and the emerging strength of the GOP, the importance of primary elections declined and general elections became more significant.

Ironically, the party primary was originally intended to eliminate black votes and return Democrats to office, but by the 1970s it impeded the candidacy of African Americans who had become a crucial element of the Democratic coalition. With their growing role in the Democratic Party, numerous black politicians made unsuccessful bids for major offices, including former Chapel Hill mayor Howard N. Lee for lieutenant governor in 1976 and state representative H. Mickey Michaux for Congress in 1982. When both men garnered a plurality, but not a majority, of votes cast during the first primary and lost to white opponents in the second, many called for reform of the primary system. This change, which finally passed the legislature in 1989, allows candidates who receive more than 40 percent of the votes cast to be their party's nominee. The reform has brought success to black candidates, such as former Charlotte mayor Harvey Gantt, who won the Democratic primary for the U.S. Senate in 1990, and Raleigh city councilman Ralph Campbell Jr., another Democrat, who became the party's nominee for [state auditor](#) <sup>[17]</sup> in 1992. In the general election Gantt lost to the incumbent, Republican Jesse Helms, by a vote of 52 to 48 percent, but Campbell became the first African American ever elected to statewide office in North Carolina.

Most aspects of North Carolina's modern election laws, found in their entirety in the [General Statutes, Section 163](#) <sup>[18]</sup>, parallel those of other states. In 2006 North Carolina had 13 representatives and 2 senators in the U.S. Congress, 10 major statewide elected offices, 120 representatives and 50 senators in the General Assembly, and numerous local officials and judges. Primaries and general elections are administered by the five members of the [State Board of Elections](#) <sup>[19]</sup>, appointed by the governor, and their staffs in Raleigh. The board appoints three members to each [County Board of Elections](#) <sup>[20]</sup>, who are responsible for conducting the primaries and elections in accordance with state law. Every county is divided into election precincts of roughly equal numbers of voters. The County Board appoints election officials, consisting of a chief judge, a Republican judge, and a Democratic judge. Assistants may be named as needed to conduct the elections. The staff of the County Board keeps all records on voter registration and residential addresses and prepares approved voter registration lists for each precinct. These lists determine approval of citizens who arrive to vote on election

day, which, by state law, is the Tuesday following the first Monday in November.

To nominate the candidates of each political party, a primary election is held on Tuesday after the first Monday in May preceding the general election. North Carolina polls are open on election day from 6:30 a.m. to 7:30 p.m. Absentee ballots [21] may be cast if a registered voter is sick or will be away from the precinct on election day, or if it is a religious holiday. Some ballots are counted by hand, but the trend has been toward the automated or computerized tabulation of results.

To be qualified to vote in North Carolina, an individual must be a legal citizen of the United States and at least 18 years of age; be resident in his or her precinct for the 30 days prior to the election; and be properly registered with the County Board of Elections.

## References:

Cortland F. Bishop, *History of Elections in the American Colonies*(1893).

John L. Cheney Jr., ed., *North Carolina Government, 1585-1979: A Narrative and Statistical History*(1981).

*Election Laws of North Carolina* (1996).

## Additional Resources:

North Carolina State Board of Elections website: <http://www.ncsbe.gov> [19] (accessed December 3, 2012).

"An Act To Provide For Primary Elections Throughout The State." *Public laws and resolutions of the State of North Carolina passed by the General Assembly at its session of 1915*. Raleigh, N.C.: Edwards and Broughton. 1915. p. 154-168. <https://digital.ncdcr.gov/Documents/Detail/public-laws-and-resolutions-of-the-state-of-north-carolina-passed-by-the-general-assembly-at-its-session-of-...1915/1956429?item=2106503?item=2106503> [22] (accessed December 3, 2012)

## Subjects:

Civil Rights [23]

Voting [24]

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Encyclopedia of North Carolina, University of North Carolina Press.[28]

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