

## **Part 6. Presidential Electors.**

### **§ 163A-1225. Conduct of presidential election.**

Unless otherwise provided, the election of presidential electors shall be conducted and the returns made in the manner prescribed by this Subchapter for the election of State officers. (1901, c. 89, s. 79; Rev., s. 4371; C.S., s. 6009; 1933, c. 165, s. 11; 1967, c. 775, s. 1; 2017-6, s. 3.)

### **§ 163A-1226. Names of presidential electors not printed on ballots; notification.**

(a) The names of candidates for electors of President and Vice-President nominated by any political party recognized in this State under G.S. 163A-950, or nominated under G.S. 163A-700(c) by a candidate for President of the United States who has qualified to have his or her name printed on the general election ballot as an unaffiliated candidate under G.S. 163A-1005, shall be filed with the Secretary of State but shall not be printed on the ballot. In the case of the unaffiliated candidate, the names of candidates for electors must be filed with the Secretary of State no later than 12:00 noon on the first Friday in August. In place of their names, there shall be printed on the ballot the names of the candidates for President and Vice-President of each political party recognized in this State, and the name of any candidate for President who has qualified to have his or her name printed on the general election ballot under G.S. 163A-1005. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163A-1005 shall, no later than 12:00 noon on the first Friday in August, file with the State Board the name of a candidate for Vice-President, whose name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State.

(b) Upon receiving the filing of a name as a candidate for elector under this section, the Secretary of State shall notify that candidate of the dual-office holding requirements of the North Carolina Constitution and the General Statutes, including specifically that if a person elected as elector holds another elective office at the time of taking the oath of office as elector, that other office is vacated upon taking the oath of office. (1901, c. 89, s. 78; Rev., s. 4372; C.S., s. 6010; 1933, c. 165, s. 11; 1949, c. 672, s. 2; 1967, c. 775, s. 1; 1991 (Reg. Sess., 1992), c. 782, s. 2; 2001-460, s. 5; 2009-96, s. 2; 2017-6, s. 3.)

**§ 163A-1227. Notification of political parties of dual-office holding rules.**

During January of each year in which electors are elected, the Secretary of State shall notify each political party authorized to nominate electors of (i) the requirement under G.S. 163A-700(c) to nominate first and second alternate electors, and (ii) the dual-office holding requirements of the North Carolina Constitution and the General Statutes, including specifically that if a person elected as elector holds another elective office at the time of taking the oath of office as elector, that other office is vacated upon taking the oath of office. (2009-96, s. 3; 2017-6, s. 3.)

**§ 163A-1228. Elector may be held in addition to other appointive offices.**

The office of elector may be held in addition to the maximum number of appointive offices allowed by G.S. 128-1.1. (2009-96, s. 1; 2017-6, s. 3.)

**§ 163A-1229. Governor to proclaim results; casting State's vote for President and Vice-President.**

Upon receipt of the certifications prepared by the State Board and delivered in accordance with G.S. 163A-1184, the Secretary of State, under seal of the office, shall notify the Governor of the names of the persons elected to the office of elector for President and Vice-President of the United States as stated in the abstracts of the State Board. Thereupon, the Governor shall immediately issue a proclamation setting forth the names of the electors and instructing them to be present in the old Hall of the House of Representatives in the State Capitol in the City of Raleigh at noon on the first Monday after the second Wednesday in December next after their election, at which time the electors shall meet and vote on behalf of the State for President and Vice-President of the United States. The Governor shall cause this proclamation to be published in the daily newspapers published in the City of Raleigh. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. The Secretary of State is responsible for making the actual arrangements for the meeting, preparing the agenda, and inviting guests.

Before the date fixed for the meeting of the electors, the Governor shall send by registered mail to the Archivist of the United States, either three duplicate original certificates, or one original certificate and two authenticated copies of the Certificates of Ascertainment, under the great seal of the State setting forth the names of the persons chosen as presidential electors for this State and the number of votes cast for each. These Certificates of Ascertainment should be sent as soon as possible after the election, but must be received before the Electoral College meeting. At the same time the Governor shall deliver to the electors six duplicate originals of the same certificate, each bearing the great seal of the State. At any time prior to receipt of the certificate of the Governor or within 48 hours thereafter, any person elected to the office of elector may resign by submitting his resignation, written and duly verified, to the Governor. Failure to so resign shall signify consent to serve and to cast his vote for the candidate of the political party which nominated such elector.

In case of the absence, ineligibility or resignation of any elector chosen, or if the proper number of electors shall for any cause be deficient, the first and second alternates, respectively, who were nominated under G.S. 163A-700(c), shall fill the first two vacancies. If the alternates are absent, ineligible, resign, or were not chosen, or if there are more than two vacancies, then the electors present at the required meeting shall forthwith elect from the citizens of the State a sufficient number of persons to fill the deficiency, and the persons chosen shall be deemed qualified electors to vote for President and Vice-President of the United States. (1901, c. 89, s. 81; Rev., s. 4374; 1917, c. 176, s. 2; C.S., ss. 5916, 6012; 1923, c. 111, s. 12; 1927, c. 260, s. 17; 1933, c. 165, s. 11; 1935, c. 143, s. 2; 1967, c. 775, s. 1; 1969, c. 949, ss. 1, 2; 1981, c. 35, s. 1; 1989, c. 93, s. 5; 1993 (Reg. Sess., 1994), c. 738, s. 1; 2001-398, s. 8; 2017-6, s. 3.)

**§ 163A-1230. Compensation of presidential electors.**

Presidential electors shall be paid, for attending the meeting held in the City of Raleigh on the first Monday after the second Wednesday in December next after their election, the sum of forty-four dollars (\$44.00) per day and traveling expenses at the rate of seventeen cents (17¢) per mile in going to and returning home from the required meeting. (1901, c. 89, s. 84; Rev., s. 2761; C.S., s. 3878; 1933, c. 5; 1967, c. 775, s. 1; 1979, c. 1008; 2017-6, s. 3.)

**§ 163A-1231. Penalty for failure of presidential elector to attend and vote.**

Any presidential elector having previously signified his consent to serve as such, who fails to attend and vote for the candidate of the political party which nominated such elector, for President and Vice-President of the United States at the time and place directed in G.S. 163A-1229 (except in case of sickness or other unavoidable accident) shall forfeit and pay to the State five hundred dollars (\$500.00), to be recovered by the Attorney General in the Superior Court of Wake County. In addition to such forfeiture, refusal or failure to vote for the candidates of the political party which nominated such elector shall constitute a resignation from the office of elector, his vote shall not be recorded, and the remaining electors shall forthwith fill such vacancy as hereinbefore provided. The clear proceeds of forfeitures provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1901, c. 89, s. 83; Rev., s. 4375; C.S., s. 6013; 1933, c. 165, s. 11; 1967, c. 775, s. 1; 1969, c. 949, s. 3; 1998-215, s. 131; 2017-6, s. 3.)

**§ 163A-1232. Appointment of Presidential Electors by General Assembly in certain circumstances, by the Governor in certain other circumstances.**

(a) Appointment by General Assembly if No Proclamation by Six Days Before Electors' Meeting Day. – As permitted by 3 U.S.C. § 2, whenever the appointment of any Presidential Elector has not been proclaimed under G.S. 163A-1229 before noon on the date for settling controversies specified by 3 U.S.C. § 5, and upon the call of an extra session pursuant to the North Carolina Constitution for the purposes of this section, the General Assembly may fill the position of any Presidential Electors whose election is not yet proclaimed.

(b) Appointment by Governor if No Appointment by the Day Before Electors' Meeting Day. – If the appointment of any Presidential Elector has not been proclaimed under G.S. 163A-1229 before noon on the date for settling controversies specified by 3 U.S.C. § 5, nor appointed by the General Assembly by noon on the day before the day set for the meeting of Presidential Electors by 3 U.S.C. § 7, then the Governor shall appoint that Elector.

(c) Standard for Decision by General Assembly and Governor. – In exercising their authority under subsections (a) and (b) of this section, the General Assembly and the Governor shall designate Electors in accord with their best judgment of the will of the electorate. The decisions of the General Assembly or Governor under subsections (a) and (b) of this section are not subject to judicial review, except to ensure that applicable statutory and constitutional procedures were followed. The judgment itself of what was the will of the electorate is not subject to judicial review.

(d) Proclamation Before Electors' Meeting Day Controls. – If the proclamation of any Presidential Elector under G.S. 163A-1229 is made any time before noon on the day set for the meeting of Presidential Electors by 3 U.S.C. § 7, then that proclamation shall control over an appointment made by the General Assembly or the Governor. This section does not preclude litigation otherwise provided by law to challenge the validity of the proclamation or the procedures that resulted in that proclamation. (2001-289, s. 2; 2017-6, s. 3.)