
Coates' Canons Blog: Early Voting in North Carolina

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Article: <https://canons.sog.unc.edu/early-voting-in-north-carolina/>

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UPDATE November 2013: The 2013 General Assembly amended the early voting statutes to eliminate same-day registration and voting and to shorten the early voting period by one week.

UPDATE February 2017: In July 2016 the federal Fourth Circuit Court of Appeals issued an injunction against elements of the 2013 legislation, reinstating early voting to the status described in this post. The matter is before the United States Supreme Court.

You have a choice of how to vote in North Carolina. You can vote by regular, secret ballot on election day. Or you can vote before election day by a personally identifiable absentee ballot. More about that secrecy difference in a moment.

It is commonly thought that absentee ballots are used *exclusively* by people who cannot get to the polls on election day because of illness, disability, or travel. Once upon a time that was true, and absentee ballots are indeed still available for people in those circumstances. They can request the absentee ballots by mail and mark them and return them by mail.

But emphatically it is no longer true that absentee ballots are used *exclusively* by people who cannot get to the polls on election day. In fact, in the general election in November 2008, more than a **half** of all ballots cast were cast through absentee voting—2.6 million out of a total of 4.4 million votes. How can that be true? It is because what we routinely call “early voting” in this state is, in reality, absentee voting.

Old fashioned, traditional absentee ballots by mail, now a small minority of all absentee ballots, are available 60 days before most elections. Generally speaking, they must be mailed back to the county board of elections by election day. Voters who want to use such traditional absentee ballots must plan in advance in order to obtain their ballots, get them marked, and return them in time.

But early voting is different. By early voting, a voter, during a period beginning 18 days before an election and ending on the Saturday before the election, may vote at voting places throughout his or her county in a way that feels very much like regular voting but is in fact absentee voting.

To be more precise, what we call “early voting” is really one-stop no-excuse absentee voting at designated sites around the county. Each element of that description came along at a different time.

Step One: Introduction of absentee voting. Until the early days of the twentieth century voting in person on election day was the only option. The introduction of absentee voting made it possible for people who were ill or disabled or who were to be away on election day to cast a vote. The process was cumbersome. The voter applied for absentee ballots, usually by mail. Elections officials considered the application and, if they approved it, sent the ballots to the voter, by mail. The voter then marked the ballots and returned them to the elections officials, by mail.

Step Two: Introduction of one-stop absentee voting at the board of elections office. In 1977, the General Assembly amended the absentee ballot laws to permit a person to come to the county board of elections office and, in one procedure, apply for absentee ballots and mark the ballot. If elections officials subsequently approved the application, they counted the ballots. This “one-stop” absentee voting, like all absentee voting, applied only to individuals who were eligible under the law to vote by absentee ballot, because they were ill or disabled or would be away.

Step Three: Introduction of “no excuse” absentee voting. In 1999 the General Assembly authorized “no-excuse” absentee voting in even-year general elections. That is, anyone could now vote by absentee ballot—through the mail or at the board of elections one-stop site—for any reason in those elections.

Step Four: Introduction of remote one-stop sites. Also in 1999 the General Assembly authorized counties to establish one-stop absentee voting sites in locations around the county, not just at the board of elections office. Now, voters in the county who wished to vote by no-excuse absentee ballot had their choice of where to go to vote—and over time boards of elections began to set up one-stop absentee voting sites at non-traditional places, such as shopping malls. In 2001, the provision for no-excuse absentee voting was extended from even-year general elections to all elections. So, by 2001 we had one-stop no-excuse absentee voting at designated sites around the county for all elections. It could be said that “early voting” was by then in place.

Step Five: Expanding the times for one-stop voting. In 2001, the General Assembly defined the time for one-stop absentee voting to begin on the third Thursday before the election and to end on the Saturday before the election. It added a local option for counties to include evenings and weekends in the 18 days before the election.

Step Six: Allowing individual to register and vote at the same time at one-stop sites. In 2007, the General Assembly enacted legislation allowing an individual to come to a one-stop site and, at the same time, fill out an application to register to vote and cast an absentee ballot at the one-stop site.

“Early voting” has become extremely popular. Of the 2.6 million absentee votes cast in the 2008 general election, all but 200,000 of them were cast at early-voting sites. This popularity no doubt derives from the convenience that early voting provides: voters have a choice of many days (including at least one Saturday) to vote and a choice of several locations (not just their one assigned election-day precinct voting place). Political parties like early voting because it spreads out the time during which they can make efforts to increase turnout among their voters.

Not all voters are aware, however, of one significant characteristic of ballots cast in early voting. They are not, strictly speaking, secret ballots.

When you vote on regular election day, once you have placed the paper ballot in the tabulator or hit the “confirm vote” button on the computer touch screen (depending on the system in use in your county), how you voted can no longer be traced to you. There is nothing that identifies you with the ballot you cast. It is secret.

But when you vote at an early voting site, that is not true. The ballot that you cast (whether on paper or on a computer screen) is “retrievable.” That is, there is a code right on the ballot (marked on the paper ballot or electronically in computer screen voting) that identifies you with that ballot. How come? Because of a provision in the election laws, **G.S. 163-89(a)**, that permits challenges to absentee ballots on regular election day. If you vote in early voting, your ballot, as an absentee ballot, can be challenged on election day. Because of the possibility that that challenge might be sustained—perhaps you are not an eligible voter because of, say, your residence—the ballot that you cast in early voting must be retrievable. It must be possible for election officials to find it and remove it from the set of ballots that will be counted.

In the nearly 10-year history of early voting, no such retrieval of early voting ballots has ever been necessary. As long as the law remains in its current form, however, it remains a possibility.

Links

- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_163/GS_163-89.html