

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
Civil Action No. 4:23-cv-193-D

RODNEY D. PIERCE, et al.,)
)
Plaintiffs,)
v.)
)
NORTH CAROLINA STATE BOARD OF)
ELECTIONS, et al.,)
)
Defendants.)

**DECLARATION OF
KAREN BRINSON BELL**

I, Karen Brinson Bell, declare under penalty of perjury, that the following information is true to the best of my knowledge and state as follows:

1. I am over 18 years old. I am competent to give this declaration, and have personal knowledge of the facts set forth herein. I have consulted with senior staff at the State Board in the preparation of this declaration.
2. I currently serve as the Executive Director of the North Carolina State Board of Elections (the “State Board”). I became Executive Director of the State Board effective June 1, 2019. My statutory duties as Executive Director include staffing, administration, and execution of the State Board’s decisions and orders. I am also the Chief State Elections Official for the State of North Carolina under the National Voter Registration Act of 1993 and N.C.G.S. § 163-27. As Executive Director, I am responsible for the administration of elections in the State of North Carolina. The State Board has supervisory responsibilities for the 100 county boards of elections, and as Executive Director, I provide guidance to the directors of the county boards.
3. Candidate filing for the March 5, 2024, statewide primary election began at noon on December 4, 2023, and ended at noon on December 15, 2023. See N.C.G.S. § 163-106.2(a). Absentee ballots will be distributed on January 19, 2024, and in-person early voting begins on

February 15, 2024. *Id.*; N.C.G.S. § 163-22(k) and 227.10(a); *see also* N.C. State Bd. of Elections, Resolution on Absentee Ballot Distribution for the March 2024 Primary (Nov. 28, 2023);¹ and *see* 52 U.S.C. § 20302(a)(8)(A); N.C. Sess. Laws 2023-140, sec. 27(b), § 163-166.40.

4. In our state, the county boards of elections administer elections in each county, which includes, among other things, providing for the distribution of voting systems, ballots, and pollbooks, training elections officials, conducting absentee and in-person voting, and tabulation and canvassing of results. The State Board is responsible for development and enhancement of our State Elections Information Management System (“SEIMS”), which includes managing functions that assign voters to their relevant voting districts, a process known as “geocoding.” The State Board also supports the county boards and their vendors in the preparation and proofing of ballots.

5. County board staff, with assistance from State Board staff, have completed the geocoding process of assigning voters to their correct State Senate, State House, and Congressional districts following redistricting this fall. For North Carolina electoral districts, the geocoding process starts when the State Board receives district shapefiles from the legislature, which include geographic data setting the boundaries for legislative districts. The State Board’s staff then works with county board staff to use the shapefiles to update the voting jurisdictions that are assigned to particular addresses in SEIMS. State Board staff and county board staff perform multiple audits of the geocoding to ensure its accuracy before ballot preparation. The

¹ Available at https://s3.amazonaws.com/dl.ncsbe.gov/State_Board_Meeting_Docs/Orders/Resolutions/20231128%20Resolution%20for%2045-day%20absentee%20distribution.pdf, last visited December 12, 2023.

amount of time required for geocoding generally corresponds with the number of district boundaries that are redrawn within the counties and, especially, the number of voting districts that split precinct lines.

6. The process of generating and proofing ballots is complex and involves multiple technical systems and quality-control checkpoints that precede ballot printing and the coding of voting machines. This includes the preparation and proofing of official ballots, certified vendors printing and delivering those ballots to the county board offices, and county board staff creating outgoing absentee ballot packages for each eligible absentee ballot requester. *See* N.C.G.S. §§ 163-165.3, -229, -230.1(a1) & (c); *see also* 08 NCAC 06B .0103. All of this must be completed prior to the absentee distribution deadline.

7. Under N.C.G.S. § 163-227.10(a), the State Board must begin mailing absentee ballots 50 days prior to the primary election day, unless the State Board authorizes a reduction to 45 days or there is “an appeal before the State Board or the courts not concluded, in which case the board shall provide the ballots as quickly as possible upon the conclusion of such an appeal.” The federal Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”) requires that absentee ballots that include elections for federal office be made available by 45 days before a primary election, *see* 52 U.S.C. § 20302(a)(8)(A), unless I request a waiver of this requirement based on a legal contest delaying the preparation of ballots (or another enumerated hardship), and that waiver is granted by the federal official designated to administer UOCAVA, *see id.* § 20302(g). The state requesting a waiver must present a comprehensive plan that provides absentee UOCAVA voters sufficient time to receive and submit absentee ballots they have requested in time to be counted in the federal election.²

² https://www.fvap.gov/uploads/FVAP/EO/2012_waiver_guidance.pdf.

8. Based on the primary date of March 5, 2023, 50 days before the primary election falls on January 15, 2023; but because that day is a holiday, the county boards would need to be prepared to begin distributing absentee ballots on the prior business day, which is January 12, 2023. The 45-day federal deadline falls on January 20, 2023, but because that is a weekend day, the county boards would need to be prepared to begin distributing absentee ballot on the prior business day, which is January 19, 2023.

9. On November 28, 2023, the State Board voted to move the absentee ballot distribution deadline from 50 to 45 days, because the 50-day deadline would have made it difficult to complete these tasks, especially given the holidays between the end of candidate filing and the distribution deadline.^{3,4} The 16 business days between the end of candidate filing and the absentee distribution deadline may have been possible, but it would have placed a considerable strain on staff. Accordingly, the State Board altered the distribution deadline in order to provide staff with 20 business days for this work to occur. While this is an adequate amount of time for these tasks, it still requires staff to work overtime and on non-business days.

10. If the State Board needed to implement new State Senate districts, per a court order, staff would need to reassign voters to the new districts and reopen candidate filing for the affected districts. Typically, candidate filing occurs over a period of 10 business days, but a shorter period such as 5 business days, is administrable. The work of reassigning voters into new districts can be accomplished at the same time as any candidate filing period.

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https://s3.amazonaws.com/dl.ncsbe.gov/State_Board_Meeting_Docs/Orders/Resolutions/20231128%20Resolution%20for%2045-day%20absentee%20distribution.pdf.

⁴ December 25, 2023, December 26, 2023, December 27, 2023, January 1, 2024, and January 15, 2024 are state holidays falling within this time period. See <https://oshr.nc.gov/state-employee-resources/benefits/leave/holidays>.

11. Following candidate filing and assignment of voters, the ballot preparation process must begin. If only State Senate ballot items are being prepared, this reduces the initial ballot preparation and proofing time, but not the printing and delivery time, or the preparation of ballot packages at the county board office. State Board staff estimates the overall ballot preparation for any court-ordered State Senate districts for the 18 counties at issue would take approximately 9 business days following the close of candidate filing, if this were occurring for a separate election for State Senate districts. If a remedial map involved more counties that could add time to ballot preparation. However, if ballot preparation is already ongoing for other contests, as it is now for the March primary, any new State Senate candidates could be folded into ongoing ballot preparation, as long as such candidates are known 7 business days prior to the absentee ballot distribution deadline.

12. Thus, if any court-ordered remedial map only affected two state senate districts, and candidate filing was completed by January 10, State Board staff estimates that the agency and affected counties could incorporate new candidates for the affected districts into ongoing ballot preparation work, in time to meet the current absentee distribution deadline of January 19, 2024.

13. If a new map is needed but is not ordered in time to complete the tasks above before January 19, the affected election contests would need to be moved to May 14, 2024, the date currently set for a second primary (i.e., runoffs for any primary contests that do not surpass the requisite threshold). N.C.G.S. § 163-111.

14. To make this timeline work, candidate filing for any remedial districts would need to be complete before canvass of the March primary on March 15, 2024, leaving 9 business days to prepare ballots before distributing absentee ballots by March 28, 2024. If a court-ordered


remedial map were not provided in sufficient time for candidate filing to occur in early March, holding the contests for the affected State Senate districts on May 14, 2024, would not be administratively possible, unless the absentee voting period were reduced to fewer than 45 days, which state law would permit but, if there are any federal contests on the ballot on May 14, federal law would not permit this absent a waiver from the federal government.

15. Finally, if a court-ordered map is provided after the aforementioned deadlines, the affected races could be held on some date after the canvass is completed for any May 14, 2024, second primaries that are needed. The State and county boards would need to ensure that they could begin distributing ballots at least 45 days in advance, and that they had at least 5 business days for candidate filing and at least 9 business days for ballot preparation before that. Given these necessities, the best option would likely be July 23, 2024, ten weeks after the May 14 primary. Holding an election at any time later than August 6, 2024, would make it difficult to canvass the election and prepare ballots in advance of the general election ballot distribution date of September 6, 2024. *See* N.C.G.S. § 163-227.10(a).

This concludes my declaration.

Pursuant to 28 U.S.C. § 1746(2), I verify under penalty of perjury that the foregoing Affidavit is true and correct in substance and in fact to the best of my knowledge and belief.

This the 22nd day of December, 2023.


Karen Brinson Bell, Executive Director
N.C. State Board of Elections