

Senate Bill 382 - Bill Summary

Background: The North Carolina House is now in a lame-duck session, as Republicans are poised to lose their supermajority in the House following the most recent November 2024 elections. Following those elections, the GOP will still control the North Carolina House and Senate, but will once again not have control over the Governor's mansion, meaning that the State Board of Elections is currently set to remain as a 3-2 majority Democratic body.

SB382:

On Tuesday, Nov. 19th and Wednesday, Nov. 20th, a majority of the House and Senate passed SB382, a bill that is ostensibly about "hurricane relief" but is actually nothing more than a partisan power grab, prioritizing politics over the people of North Carolina. The [132-page monster bill](#), created in secret, would make sweeping changes statewide to our legislative, executive and judicial branches, as it:

1. Allows for political parties to receive essentially unlimited funds from corporations for their litigation and legal expenses;
2. Transfers the authority over the North Carolina State Board of Elections from the Governor to the Department of the State Auditor, immediately after a Democrat was elected as Governor, and a Republican was elected as State Auditor for the first time in 16 years. This would mean that the State Auditor would direct and supervise the budget of the SBOE; and would remove the Governor's power to appoint the members of the SBOE, as well as his power to appoint the chair for each County Board of Election.
3. Makes significant changes to the processes for provisional ballot counting, ballot cure, absentee ballot requests, and absentee ballot counting, all of which will make it harder for everyone to vote and to have their vote counted; and would greatly burden County Boards of Election. These changes are:
 - a. Requires all provisional ballots to be researched and counted by 5 p.m. on the third business day after Election Day
 - b. Cuts down the amount of time voters will have to cure their ballots (related to voter photo ID, voter registration, and mail ballot deficiencies) to 2.5 days compared to the current 9 days
 - c. Shortens the deadline for a voter to request an absentee ballot by one week
 - d. Requires all mail-in ballots to be counted in an ongoing meeting starting at 5 p.m. on Election Day, and for mail-in ballot tallies to be announced by 5pm on the third day after Election Day.
4. Creates two special Superior Court Judge positions, appointed by the NCGA leadership, while also removing two elected Superior Court seats
5. Requires the Governor to fill judicial vacancies in the Supreme Court and Court of Appeals with a justice or judge of the same party, a similar scheme that was voted down by voters in 2018.
6. Creates funds for the Rules Review Commission to offset litigation expenses and retain private counsel.

7. Abolishes the Courts Commission, which studies and makes recommendations to improve issues in the Judicial Branch, like eliminating racially disparate treatment.
8. Gives NC Chief Supreme Court Justice Paul Newby the power to decide who the Senior Resident Superior Court judge is in each district, rather than giving this designation to the longest-serving judge, which is current law.
9. Bars the Attorney General from advancing any argument in an out-of-state litigation, whether as a party or merely an amicus, which “would result in the invalidation of any statute enacted by the [North Carolina] General Assembly”

This bill is deeply problematic for several reasons:

1. The Manner in Which the Bill Was Drafted and Voted on Was Anti-Democratic

This 132-page conference report was introduced an hour before being voted on the House floor. It was styled as a conference report in order to get around the requirements for committee discussions and public input. In rushing to pass this, the legislature limited public input on a host of drastic changes to how our government functions, setting a dangerous precedent and weakening the democratic principles of representation and transparency.

No one asked for this bill - not the State Auditor who they gave this power to, not the State Board of Elections or the County Boards of Elections who would have to manage all of these sweeping changes to election law, and most importantly, the people did NOT ask for this bill.

We cannot let them dim the light of the people they are supposed to serve in retaliation for election results that they disagree with - that is fundamentally anti-democratic.

2. It Isn't About Prioritizing Hurricane Relief in Western NC at All

While SB382 would provide an additional \$227 in relief funds for those impacted by Hurricane Helene, it ties the receipt of that money to sweeping legal changes to benefit one political party. The people of Western NC deserve better than this, they deserve a clean bill which solely focuses on much-needed disaster relief. In fact, three Western North Carolina Republicans in the house voted against SB382.

3. It is Yet Another Attempt to Remove Power from a Duly-Elected Governor

In 2023, this same legislature passed SB749, which transferred control of the State Board of Elections from the Governor over to the Secretary of State. However, that bill is currently tied up in litigation, and control over the State Board still currently lives with the Governor.

Now, following the election of another Democratic governor, the legislature has come out to once again seek to remove the State Board of Elections from under the Governor's purview. The legislature is now proposing that the power to appoint members of the SBOE be given to

the State Auditor, since Republican Dave Boliek was just elected a state auditor following 16 years of Democratic control in the position.

The reason for this change is apparent: giving oversight to a recently elected official that aligns with the partisan makeup of the legislative leadership, effectively disregarding legal action. This move is not about improving elections - it's about manipulating them.

4. The Election Law Changes It Proposes are Voter Suppression

Since the Supreme Court decided *Shelby v. Holder* in 2013 and no longer required changes to election law to be subjected to a preclearance process, this state has been inundated with one tool of voter suppression after another from this General Assembly. SB382 is yet another example of legislators seeking to make it more difficult to vote and to have your vote counted, and it is doing so at the expense of both the voters and the already overburdened staff at County Boards of Elections.

Senate Bill 382 requires all provisional ballots to be researched and counted by 5 p.m. on the third business day after Election Day. This deadline is unfeasible for many under-funded County Boards, particularly those in populous regions, and risks compromising the accuracy and thoroughness of vote counts.

It further moves the deadline for voters to fix or “cure” their ballots related to voter photo ID, voter registration, and mail ballot deficiencies to noon on the 3rd business day after Election Day. This gives voters a mere 2.5 days to cure their ballots compared to the current 9 days.

It also changes the deadline to request a mail-in ballot from the Tuesday before the election to the second Tuesday before the election – shortening the request timeline by one week. This change would have prevented tens of thousands of voters from being able to request a mail-in ballot during this past election.

As for absentee ballot counting, it requires all mail-in ballots to be counted in an ongoing meeting starting at 5 p.m. on Election Day. Supplemental meetings would be limited to UOCAVA ballots and challenges only. Mail-in ballot tallies would be announced at 5 p.m. on the third day after Election Day, including civilian mail ballots fixed or “cured” by noon that same day. This would require election workers to work around the clock or require counties with the means to hire more staff—all while those same workers must also rush to research provisional ballots in time to meet that changed deadline as well.

Karen Brinson Bell, the state's top elections official, told WRAL on Tuesday that those changes could lead to valid ballots being thrown out, and legitimate voters being disenfranchised.

5. It Violates the Constitution by Removing the Governor's Power to Fill Judicial Vacancies

Senate Bill 382 violates the Constitution by restricting the Governor's ability to fill judicial

vacancies. The bill would require political parties of the same justice or judge to nominate three individuals from whom the governor could appoint. We believe this action requires a constitutional amendment. Voters voted down a similar scheme as a constitutional amendment in 2018.

Courts should be the guardians of our democracy, yet this bill is a threat to judicial independence. The intent is to make the courts more amenable to a gerrymandered legislature. We are turning these judges into political tools to protect the power that is within this legislative branch. That is not how the separation of powers works. Our founders knew power corrupts - it's why we separated our government into three separate branches of government. This bill violates that.

Current Status: The conference report was passed by both the House and the Senate, and was then [vetoed by Governor Cooper](#) on November 26th. The Senate has already voted to override the veto, the House votes on 12/11.

The Poor People's Campaign, alongside many other organizations, will be holding an action to urge the House to not override the veto on SB382 on Monday, 12/9 at 5:30pm at the Capitol. More information can be found [here](#).