



# NORTH CAROLINA

## STATE BOARD OF ELECTIONS

**KAREN BRINSON BELL**  
*Executive Director*

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**RE:** SBE Rules: Notice of Public Comment

**DATE:** March 19, 2020

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Pursuant to G.S. § 150B-21.1, notice is hereby given that the Executive Director of the State Board of Elections intends to amend the rule cited as 08 NCAC 01 .0106 under temporary rulemaking procedures. The full text is attached hereto.

The Codifier of Rules approved this rule as an emergency rule effective March 20, 2020 and received for publication the following notice and proposed temporary rule on March 12, 2020.

G.S. 163-27.1 authorizes the Executive Director of the State Board of Elections to exercise emergency powers to conduct an election in a district where the normal schedule for the election is disrupted by a natural disaster, extremely inclement weather, or armed conflict, and to adopt rules describing the emergency powers and the situations in which the emergency powers will be exercised. The proposed temporary rule would amend her emergency powers to clarify that a catastrophe arising from natural causes includes a disease epidemic or other public health incident that makes it impossible or extremely hazardous for elections officials or voters to reach or otherwise access the voting place or that creates a significant risk of physical harm to persons in the voting place, or that would otherwise convince a reasonable person to avoid traveling to or being in a voting place.

The Executive Director will receive public comment from Thursday, March 19, 2020, through Monday, April 20, 2020. Public comment may be made by the following methods:

**Online:** [Public Comment Portal](#)

**Email:** [rules@ncsbe.gov](mailto:rules@ncsbe.gov)

**Mail:** Attn: Rulemaking Coordinator, P.O. Box 27255, Raleigh, NC 27611-7255

A public hearing will be held as follows:

**Date:** April 20, 2020

**Time:** 1:00 PM

**Location:** Third Floor, Dobbs Building, 430 N. Salisbury Street, Raleigh, NC 27603. The meeting may change to a telephonic meeting; if that determination is made, an updated notice will be sent out.

This notice is posted on the State Board of Elections website, <http://www.ncsbe.gov>.

08 NCAC 01 .0106 is proposed for amendment under temporary procedures as follows:

**08 NCAC 01 .0106            EMERGENCY POWERS OF EXECUTIVE DIRECTOR**

(a) In exercising his or her emergency powers and determining whether the "normal schedule" for the election has been disrupted in accordance with G.S. ~~163A-750, 163-27.1~~, the Executive Director shall consider whether one or more components of election administration has been impaired. The Executive Director shall consult with State Board members when exercising his or her emergency powers if feasible given the circumstances set forth in this Rule.

(b) For the purposes of G.S. ~~163A-750, 163-27.1~~, the following shall apply:

(1) A natural disaster or extremely inclement weather include ~~at any of the following~~:

(A) Hurricane;

(B) Tornado;

(C) Storm or snowstorm;

(D) Flood;

(E) Tidal wave or tsunami;

(F) Earthquake or volcanic eruption;

(G) Landslide or mudslide; or

(H) Catastrophe arising from natural causes ~~resulted~~ resulting in a disaster declaration by the President of the United States or the ~~Governor~~ Governor, a national emergency declaration by the President of the United States, or a state of emergency declaration issued under G.S. 166A-19.3(19). "Catastrophe arising from natural causes" includes a disease epidemic or other public health incident that makes it impossible or extremely hazardous for elections officials or voters to reach or otherwise access the voting place or that creates a significant risk of physical harm to persons in the voting place, or that would otherwise convince a reasonable person to avoid traveling to or being in a voting place.

(2) An armed conflict includes mobilization, pre-deployment, or deployment of active or reserve members of the United States armed forces or National Guard during a national emergency or time of war.

(c) The Executive Director acting under G.S. ~~163A-750 163-27.1~~ to conduct an election in a district where the normal schedule for the election is disrupted must ensure that remedial measures are calculated to offset the nature and scope of the disruption(s). In doing so, the Executive Director shall consider the following factors:

(1) Geographic scope of disruption;

(2) Effects on contests spanning affected and non-affected areas;

(3) Length of forewarning and foreseeability of disruption;

(4) Availability of alternative registration or voting opportunities;

(5) Duration of disruption;

(6) Displacement of voters or election workers;

(7) Access to secure voting locations;

- 1 (8) Sufficiency of time remaining for the General Assembly and the Governor to adopt emergency  
2 legislation addressing the disruption;  
3 (9) Detrimental effects on election integrity and ballot security; and  
4 (10) Aggregate effects on important Federal and State certification deadlines.  
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6 *History Note: Authority G.S. ~~163A-750~~; 163-27.1;*  
7 *Eff. October 1, 2018;*  
8 *Emergency Amendment Eff. March 20, 2020;*  
9 *Temporary Amendment Eff. June 1, 2020.*