

GOVERNMENT

ELECTION LAWS

Promote measures that safeguard the rights of the voter and encourage clear and democratic election procedures. Promote and support election laws in North Carolina that emphasize full participation of all citizens in the democratic process.

Details of Position

- Government should be open, accountable, and responsive to citizens.
- Citizen participation on state boards should be encouraged.
- Measures to eliminate barriers to voting should be encouraged.
- Authority for administration and enforcement of election laws should be centralized in the State Board of Elections.
- Elections should be applied consistently across the state and from one county to another.
- A permanent, uniform voter registration should be maintained across the state.
- Training of election officials should be mandated and paid for by the state at both state and county levels.

Legislative Background

In 1952, the LWFNC published its first *Handbook of State Government*, a publication that has been revised and updated periodically. As a result of a study of the North Carolina Constitution, reapportionment and redistricting received attention in the 1950s. The League expressed concern over the inequities arising from the failure of the General Assembly to enact election laws which would comply with the constitutional reapportionment mandates, particularly the requirement for "one man, one vote."

Literacy tests as part of voter registration were studied originally because of their requirement under the Constitution. Until 1970, the League's position favored "employment of literacy tests at the time of registration, except when banned by federal action because of discriminatory use." A later consensus reversed this position to favor abolition of literacy tests, a position that was firmly opposed by the North Carolina electorate in a statewide referendum.

Through a poll of the League membership in 1977, a constitutional amendment to permit the Governor two successive terms was supported. The League has been successful in working for various laws which strengthen open meeting legislation, such as a requirement for public announcement of nominees appointed boards and commissions in advance of the appointment. Action to eliminate the use of the secret ballots by boards and commissions was also successful. To broaden public participation, the League has long supported the appointment of citizens, with no direct conflict of interest or institutional commitment, to state boards. Limits on terms have also been advocated. The Election Law Study, mandated by the 1985 LWFNC Convention, resulted in a comprehensive analysis of election laws, training procedures, and registration and voting procedures at the county level. The study concluded that progress had been made in reducing barriers to registration and voting procedures at state and county levels. It urged, however, that county boards elections, which bear the ultimate responsibility for the application of statewide law at the county level, be monitored. This study was published in 1987 as *Election Laws in North Carolina: An Analysis*.

HB1124, passed in 1987, would have limited campaign expenditures and provided for voluntary public financing of elections at the legislative, Council of State, and gubernatorial levels. It was assigned to the Senate's Election Laws Committee for review in the 1988

short session. The LWVNC Board agreed to support the bill since it corresponded with League principles of nonpartisanship and open government.

From inception in 1973 to the present, LWVNC has supported legislation regulating campaign contributions and spending. Support for voluntary public funding of campaigns has continued also, although that portion of state election law dealing with campaign finance and ethics generally was not reviewed in the 1985 Elections Laws Study.

In 1988, automatic recounts were begun whenever the difference between the winning candidate and the next highest vote-getter was not more than 1% of the total vote. The law, HB457 (Chapter 642) applies to primaries and general elections for all state, district, and county offices but not to municipal elections or referenda on such issues as establishment of ABC stores and issuance of bonds. In the 1989 session of the General Assembly, the threshold for top vote-getter was reduced to 40% to reduce the chance of the necessity of a run-off primary (thereby boosting chances for minority candidates.) Laws were also passed requiring state and local elected officials to resign if they ran for another office with a term overlaps by more than forty days.

Since the passage of the National Voting Rights Act by Congress in 1993, the League has worked within the state with other citizen groups to help shape voting registration procedures not only to bring North Carolina into compliance with federal legislation, but to also ensure that registering to vote is a simple and accessible activity. SB1776 (Voter Registration Rewrite Bill), passed by the 1994 short session, established agency-based registration and simplified registration for all North Carolinians. Changes include the use of mail-in registration forms that can be either mailed or hand-delivered to the Boards of Elections and the abolition of the positions known as Special Registration Commissioners. Enforcement powers for the new legislation rest with the State Board of Elections.

ELECTION PROCESS

The 1990 decennial census started a new cycle of activities required for reapportionment and redistricting, nationwide as well as statewide. This provided an opportunity to review mandates of the North Carolina Constitution as well as of the Voting Rights Act. Local leagues continue to monitor their county boards of elections, particularly as such boards may seek more autonomy. The original LWV positions on centralization of authority for administration and enforcement of election laws and on the consistency of application of such laws across the state and from one county to another are again significant.

REDISTRICTING

Reached by concurrence January 1994

Congressional districts, both houses of the state legislature, county, as well as municipal government districts including boards of education, should be apportioned primarily according to population. Districts should be single-member, compact, convenient, contiguous, and should reflect a community of interest. Specific standards of fair representation as required by the National Voting Rights Acts should be assured.

The responsibility for redistricting and reapportioning should rest with an independent agency commissioned by the legislature once every ten years; the agency plan (for redistricting) should be submitted for legislative approval without amendment. The independent agency should not be a court. While the agency should reflect the geographic, racial, and gender make-up of the state population, no elected official should be a member. As a creature of the legislature, the agency should be subject to the Open Meetings Law. Definite provisions should be made for compensation and staff services of the independent agency.

A process should be provided to effect automatic, compulsory and periodic redistricting and reapportioning. Measures to enact this process should include: authority, enforcement powers, time schedule, and funding. The specific measure may take the form of a constitutional amendment or legislation.

Specific provisions should be made for court review of redistricting and reapportioning measures and for courts to require the independent agency to act on a specific schedule.

The state and its political subdivisions should be redistricted and reapportioned every ten years within a year of certification of the census.

Definite time limits should be set for an agency to act after the decennial census figures are available in order to comply with federal Voting Rights legislation. Time limits should be set for initiating court action for review of the constitutionality of measures.

Legislative Background

Following the 1992 redistricting, litigation erupted over the alleged gerrymandering of two majority minority Congressional districts. The Shaw brief protested the over-concentration of minority voters in Districts 1 and 12 and the disregard for civil divisions such as cities and counties. The United States Supreme court ruled in June 1993 that the second majority minority district (District 12) was unconstitutional and sent the case back to the lower courts for resolution.

The federal District Court for the Eastern District of North Carolina did not require any revision. That decision was appealed in 1994. A panel of the US District Court of Appeals ruled two to one that the new districts "represented a legitimate remedy for discrimination in the past."

Bills were introduced in 1993 and 1994 to amend the North Carolina Constitution to permit the General Assembly to establish a nonpartisan process whereby a commission or agency proposed plans for revising the districts for state Senate and House and for Congress, with the General Assembly giving final approval or rejection of the plan. No bill passed, however.

When the Supreme Court dealt again with a new appeal in Shaw (June 13, 1996), it ruled that in creating the new districts, the legislature's committees had used race to the exclusion of other considerations. It set no deadline for North Carolina to revise those districts.

The US Supreme Court ordered new districts to be drawn in Georgia; and in Texas, the court imposed a district plan. The North Carolina General Assembly took no action in its 1996 session. When the Shaw plaintiffs protested the delay, in July 1996 the lower court decided that new districts must be drawn by April 1997; the 1996 session could go forward with existing, flawed districts. The Supreme Court chose not to hear further appeal, nor did it impose either of the districting plans proposed by the plaintiffs. One of those proposed was the 1992 LWVNC plan.

Redistricting remains an issue, and the League position supporting an independent commission for drawing new plans could form the basis for an improved process.

TAXES

Adopted 1993-94

Promote an equitable and efficient system of taxation.

Support: the removal of the sales tax on food for home consumption; the restructuring of the individual income tax to reflect better the ability to pay; the removal of the three hundred dollar ceiling on the sales tax on motor vehicles, boats, and airplanes; and the adoption of other equitable measures that would ensure sufficient revenue to provide needed services.

Support measures allowing greater autonomy to county and municipal governments in raising needed revenue at the local level.

TAXES

Adopted at Convention May 1989

The League of Women Voters of North Carolina supports an equitable and efficient system of taxation in North Carolina that will adequately fund needed services at both the state and local level.

- The burden of taxes should be in proportion to the citizens' ability to pay.
- All citizens have the duty/right to contribute to the common good.
- For government to tax in excess of the requirements of the common good or to waste tax revenues is unjust since this unfairly deprives the citizen of his property and the product of his labor without a corresponding common benefit.
- The taxation and appropriation process should allow government the necessary flexibility for responsible fiscal management.
- The use of tax laws as incentives or disincentives to action should be viewed in the light of the common good.
- The granting of tax preferences (e.g., exemptions, deductions, etc.) should be genuinely premised on the promotion of the common interest and not upon special interest or favoritism.
- Taxes once established should be collected with even-handed enforcement.
- The norm for choosing a form of taxation should first be the equitable distribution of civic burden and not the ease of collection or lack of popular opposition. However, where there are equivalent, equitable options the simpler methods should be used.
- The tax system should be diversified to provide a broad revenue base and to minimize the effect of imperfections in any one tax. Each form of taxation should not be examined in isolation but evaluated as part of the total tax system. Further, the impact of tax laws should be consistent with other public policies, e.g., the conservation of energy, the preservation of neighborhoods, etc.

Legislative Background

During the early 1970s, the General Assembly conducted extensive studies of tax issues. League members attended committee meetings and observed as legislative proposals were developed. Legislation of interest to the League included the Homestead Act, uniform appraisal at market value, a tax classification for farmland, forest and horticultural land, and historical property. The positions that resulted from these tax studies were later incorporated into the Land Use positions as they dealt primarily with property tax. (See Land Use section for further information.)

The League has strongly supported the legislative recommendations for extensive tax revisions including: the repeal of the sales tax on food; the elimination of the ceiling on sales tax on automobiles; and an increase in the tax rate for upper income taxpayers. However, tax reform measures have been frustrated. Efforts to achieve tax reform,

particularly a repeal of the tax on food, have continued.

Specific tax positions are listed below with the corresponding legislative action. The League lobbied actively on tax policies during the 1989 session. The League successfully opposed an increase in the sales tax, which did not include a food tax exemption, and pushed the tax fairness bill that made the income tax structure more equitable. League's lobbying also significantly impacted the highway bill, which included several taxes. There was a movement toward abolishing the intangibles tax entirely during the 1994 short session as well as some interest by legislators in phasing out the sales tax on food. In the end, however, neither change was enacted.

CORPORATE INCOME TAXES

A corporate income tax schedule with graduated rates increasing as income rises should be adopted. General business franchise rates, taxes and other franchise rates should be reviewed and adjusted. Exemptions for business should be reconsidered.

HIGHWAY FUND TAXES

If more revenue is needed for the highway fund, the highway use tax and overweight permits should be increased. Remove the \$300 ceiling on the motor vehicle tax.

Legislative Background

The Highway bill sped through the House in 1989 without opposition, except that of the League to portions of the funding package. League opposed the ceiling on the motor vehicle sales tax and lobbied to increase the trucking fees. The bill was stalled in the Senate until some of League's objections were addressed. The bill raised the tax on automobiles to a level closer to the rest of sales tax (from 2% to 3%) and increased the sales tax ceiling from \$300 to \$1,000 and, in 1993, to \$1,500. The trucking industry successfully fought the overweight fees.

The ratified bill designated the revenue from the sales tax on motor vehicles for the general budget for a period of two years. The revenue from the sales tax on motor vehicles has historically gone to the general fund but is now part of the highway fund. However, the money was to be made available for education and state employee and teacher salary increases for two years. If the Highway bill had passed without that change, funds would not have been available for education. The League was the only organization actively lobbying on the side of equity and revenue for education. A sunset clause however provided that, when sufficient revenue has been accumulated, the tax provisions, such as the three hundred dollar cap on sales tax on motor vehicles, would be reinstated.

In 1992, several changes were made to the Highway Fund: funds were transferred from the Highway Fund to the General Fund to offset the General Fund's loss due to the Department of Transportation's sales tax exemption; several types of vehicle transfers were exempted from the highway use tax; increases were made in the highway use tax for out-of-state vehicles; and fees collected by the Division of Motor Vehicles were raised.

INDIVIDUAL INCOME TAXES

The current state individual income tax system should be simplified and better reflect ability to pay. Methods of determining individual taxable income should be aligned more closely with the federal income tax system. The state can apply its own policies through adjustments to income and levels of deductions. Joint return filing should be permitted. The standard deduction should be increased, and provisions made for future adjustments through periodic review and revision. Tax progressivism should be established with a broader range of tax rates, and the threshold for paying any income tax needs to be raised.

Any exemptions should be applied to all types of pensions.

Legislative Background

The ratified tax fairness bill of 1989 enacted every position of the League except the broader range of tax rates suggested at 6% and 7%. However, it was structured to accomplish the intent since it substantially decreased income taxes for lower and middle income families.

Several lobbyists and legislators credited the League with making a profound impact on the tax structure by lobbying for the tax fairness bill. It was a difficult and complicated bill to advocate. Several reporters and lobbyists expressed surprise that the bill passed.

In 1991, a third income tax bracket of 7.75% was added to the individual income tax rate schedule. The higher rate was expected to increase revenue by \$51 million for the 1991-92 fiscal year.

In 1993, an additional credit was allowed for individuals with an elderly parent or handicapped relative living with them, who required outside care. In 1995, a \$60 tax credit per child was approved in addition to the childcare credit. In 1994, the intangible tax, long opposed by LWVNC, was repealed. Taxpayers who had filed an objection to the tax in previous years are now due a rebate of the amount paid.

PROPERTY TAXES

Low-income property owners should be protected by some form of "circuit breaker" when they cannot afford the property tax.

SALES TAX

The sales tax on food for home consumption and that on utilities are regressive taxes and should be removed. Current exemptions and preferential sales tax rates should be reviewed to determine if they are justified, consistent, and equitable. There should be an equitable extension of the sales tax to all services.

NEW REVENUE SOURCES

All local governments should be given the option to utilize new revenue sources such as impact fees, land transfer fees, and room occupancy fees. There should be a severance tax for the removal of natural products from the ground.

Legislative Background

During the 1989 General Assembly, the League successfully opposed an increase in sales tax that did not include a food tax exemption. The League provided a list of potential revenue sources that could be obtained, if tax preferences were eliminated, to the leadership of both houses. For the first time, closing various tax loopholes was given serious consideration. With the exception of a couple of proposals, business interests were able to head off the proposed changes. In 1996, Leagues across the state lobbied long and hard for the repeal of the state sales tax on food. The result was a 1% reduction in 1997. The League continues to actively support the total elimination of the state sales tax on food.

To generate additional state revenue, the general state sales tax was increased from 3% to 4% and the preferential sales tax rate on boats and other big ticket items was increased from 2% to 3%. The increase was expected to raise \$516 million for the General Fund by the 1992-93 fiscal year while the increased tax on big ticket items was expected to generate \$2 million by 1992-93.

GUBERNATORIAL VETO

Support an amendment of the North Carolina Constitution that would give the Governor the power of the veto.

Legislative Background

The State League undertook a study of the issue of gubernatorial veto in 1990. A study guide, issued in January of 1990, stated, "North Carolina is the only state where the governor has no veto." The study guide attempted to review the historical background, the position and experience of other states regarding gubernatorial power, and the types of veto under consideration. Following the study, the League took the position stated above. Since that time, the League has continued to work, as opportunities have presented themselves, towards gubernatorial veto. However, in the 1995 short session, SB3 passed, providing for a referendum to amend the Constitution to provide for a gubernatorial veto. Placed on the ballot in 1996, the measure was passed and became effective on January 1, 1997. The amendment provides for a 3/5 vote override in each chamber of the General Assembly.

NON-PARTISAN SELECTION OF JUDGES

Reached by consensus in 1975; amended in 1991, amended in 1999.

The League supports:

- Non-partisan selection of judges
- The concept of a broadly-based judiciary nominating commission for the selection of well-qualified nominees and appointment, preferably from the nominees.

Legislative Background

LWVNC has maintained a position supporting "merit" selection of judges since 1972. In the 1973 session, HB76 proposed constitutional changes that would have provided for a judicial nominating commission. The commission would provide lists of qualified candidates for the Governor's appointments. In addition, the bill would have offered the voter an opportunity to vote on a Constitutional amendment that would have allowed for merit selection of judges. The legislation passed in the Senate and failed to pass the House.

In 1975, delegates to the state convention voted to adopt an amended study to reassess the League's position on the merit selection system. The 1975 study guide offered the following reasons for support: 1) Voters would have the right (under legislation proposed in 1975) to vote for or against the amendment to implement merit selection. 2) Every human institution involves politics to some extent. The broad base for appointment of commission members (again under the 1975 legislation) was designed to reduce as far as possible the intrusion of politics. 3) The commission would be ultimately responsible to the people through their right by vote to retain or reject a judge. 4) Judges should be free from political obligations, financial or otherwise. Justices should not be subverted by such a relationship either with lawyers or any other citizen. 5) The electorate usually does not know the qualifications of a judicial candidate. 6) Qualified lawyers are reluctant to run against a judge before whom he may appear in representing a case. 7) Merit selection would open the process to qualified minorities. A pool of qualified persons would be established and available to the Governor for prompt appointments to fill a judicial vacancy. The League worked throughout the year and reached consensus in 1976.

In 1975 SB145 again proposed a constitutional amendment but never made it out of committee. As the bill languished in the General Assembly, the League reached consensus to support:

- non-partisan merit selection of judges
- the concept of a broadly-based judiciary nominating commission for the selection of well-qualified judicial nominees, with the proviso that the guidelines used by the commission in selecting such nominees be spelled out and publicized

Since this consensus, the League has continued to support the issue of non-partisan merit selection of judges through the Criminal Justice position. The issue became the focus of the Judicial Selection Study Committee in 1988. The Study Committee was charged in 1987 with making recommendations on this issue to the 1989 General Assembly.

At the 1991 Convention, League position was amended to read "non-partisan selection of judges" to reflect a willingness on the part of the League to support proposals that used mechanisms other than "merit" for selection of judges. These other mechanisms, while not the method the League had supported in the past, still met the criteria of the League's supporting arguments in that they would ensure that the process of placing judges would be done in an orderly and professional manner. (Simultaneously, the position was moved from Human Resources to Government.)

In the extra session of the 1996 session of the Legislature, SB41 passed both houses and provided for partisan election in their districts thereafter. A May 1996 survey of North Carolina judges conducted by the Commission for the Future of Justice and the Courts in North Carolina, indicated majority (71%) support for the appointment of judges followed by a retention election. The survey further found that if judges continue to be elected, 71% favor non-partisan elections.

During May of 1999 SB12 included the provision for a constitutional amendment to allow the Governor of North Carolina to appoint all appellate judges (including Supreme Court Justices) after a broad-based commission nominated potential judges on a merit basis (although the Governor could ignore the list). The League of Women Voters of North Carolina supported this bill as it was sent to the House.

There was and is concern about giving the Governor unrestricted appointment power. It is said that "politics stop at the judge's door". However, with eight-year terms and retention elections, it would be difficult for a governor to "stack the courts". As Justice Exxum said emphatically at the LWVNC State Convention in Greensboro, "Appointment is so much better than election, that without it, there will be no further reform; the best candidates do not want to jeopardize their successful practices by putting themselves up for a possible temporary job through election." He said that we are already "electing good judges OUT of office because voters do not know" and finally, that "once a judge is appointed, politics generally end, whereas elected judges have to remain in politics..." SB12 was passed by the Senate and defeated in the House.

REPRODUCTIVE CHOICE

The State League's position is based upon National consensus and position which reads, "Protect the constitutional right of privacy of the individual to make reproductive choices." (See *LWVUS Impact on Issues 1996-98*.)

Legislative Background

A 1987 legislative priority was to maintain funding for nondiscriminatory availability of abortions. When the legislative session concluded, the State Abortion Fund was intact, a bill requiring mandatory parental or judicial involvement for minors seeking abortions was stalled in a Senate subcommittee, funding for family planning programs in health departments was secure, and a variety of bills seeking to limit reproductive rights was buried in the committee process.

In 1989, legislators were fully informed of the League's position on reproductive rights. Several legislators, including those opposed to abortion, said that they were glad that the

League was working on the issue. League worked closely with members of the General Assembly to stop bills that restricted reproductive choice, the parental consent bill, and a reduction in the abortion funding. A bill modeled after the Missouri bill, which the Supreme Court ruled as constitutional in part, was also introduced in 1989. The bill had several provisions, the most damaging of which defined life as beginning at conception and promoted the state's interest in potential human life rather than in maternal health. Another bill requiring parental consent for abortions was introduced. It passed the House. The Senate amended the bill to require parents to consider twelve factors such as the minor's emotional development and maturity, financial status of the mother and willingness and ability of the father and maternal grandparents to support the child.

Funding for the abortion fund was reduced in 1989 from \$924,000 to \$424,000. The fund was exhausted at the end of November 1989, leaving many women unserved. During deliberation on the expansion budget, there was an attempt to reduce the fund further. The vote was a tie. On the House floor an amendment was adopted and then later reversed. The amendment would have severely restricted the eligibility for a woman to qualify for abortion funds. Only about 3% of the women now eligible would have qualified. A House committee to study reproductive rights was appointed. League was able to expand its scope from just abortion to other areas.

In 1991, the Legislature maintained the fund at \$424,000 and in 1993, the legislature increased the fund to \$1,200,000. It maintained that level during the 1994 session.

Unfortunately, in 1995 the abortion fund was slashed to \$50,000 and the availability of those funds was limited. In addition, new legislation forbids abortion to a woman under the age of 18 unless she has the written consent of her parent or legal guardian or with special permission from a judge (in special circumstances, a grandparent.) The court may grant the request for one of three reasons: a determination that the minor is mature enough to make the decision on her own; if it would be in the minor's best interest for parental consent not to be required; or if the minor is a victim of rape or incest. If a medical emergency exists, parental consent is not required.