STATE BOARD OF ELECTIONS

6400 Mail Service Center ● Raleigh, North Carolina 27699-6400

GARY O. BARTLETT
Executive Director

MAILING ADDRESS:
P.O. BOX 27255
RALEIGH, NC 27611-7255

SBOE Numbered Memo 2012-28

TO: Directors of County Boards of Elections
FROM: Gary O. Bartlett, Executive Director
DATE: November 14, 2012
RE: Unverified Registrations

Some counties have voters in the 2012 General Election who registered by mail or in person at a one-stop site and have had two verification mailings returned as undeliverable. There are several reasons that could have been the basis for the unsuccessful verification mailings. Any that were caused by administrative error obviously should already have been addressed. This directive provides for notice to the public of those remaining unverified registrants and for identification of any elections that could have been affected by their participation. It must be emphasized that the failure of the verification process does not necessarily mean that the voter should not have cast a ballot, but it does mean that if the outcome of an election could have been affected by their participation then further investigation is needed to determine if the voter properly participated in the election.

UNVERIFIED REGISTRATIONS

For registrations that have failed the mail verification process, note that the time for challenging their one-stop absentee ballot ended at 5:00 p.m. on Election Day. Once these registrants receive voter history, pursuant to GS § 163-82.7(g), they will be flagged in the statewide voter registration system to receive an address confirmation mailing and will subsequently be made *inactive* if they do not respond to the confirmation mailing. Prior to the county canvass for the 2012 General Election, each county board of elections shall report at canvass the number of unverified registrations in the 2012 General Election. This reporting will put candidates and others on notice if it appears the number of ballots cast by unverified registrants could have affected the outcome of an election.

In addition, please provide this information to Executive Director Gary Bartlett on the day of the county canvass if appears any election could have been affected by the participation of unverified registrants.

DISPUTED BALLOTS

County boards of elections may administratively consider certain ballots on canvass day if the approval or disposition on these ballots is in dispute.

GS § 163-182.5(a) states as follows:

> (a) The Canvass. – As used in this Article, the term "canvass" means the entire process of determining that the votes have been counted and tabulated correctly, culminating in the authentication of the official election results. The board of elections conducting a canvass has authority to send for papers and persons and to examine them and pass upon the legality of *disputed* ballots.

A disputed ballot includes any ballot, based upon the facts and circumstances surrounding it, that has been questioned. Under its quasi-judicial authority, a county board may render a decision on the legitimacy of a ballot application during the county's canvass. If a county board finds evidence of a voting irregularity, the board may remove from the vote totals a previously counted absentee ballot. A voter or candidate may object to the counting of a provisional ballot, and the county board should consider this objection before canvass. In considering provisional ballots, a county board shall rely upon all information available to the Board at the time of the canvass.

Concerns about disputed ballots need to be raised before the county board of elections meets to consider and rule upon the disposition of provisional and absentee ballots. The minutes of the meeting at which an objection to a ballot is ruled upon should note at least the following:

1. the name and address of the person expressing objections to the disputed ballot;
2. the name and address of the voter casting the disputed ballot;
3. the time and location of the casting of the disputed ballot;
4. the staff's recommendation with respect to the ballot application;
5. a summary of the basis of the objection and the evidence and testimony considered by the county board on the objection; and
6. the decision of the county board on the disputed ballot.

The consideration by the county board of a disputed ballot is not a challenge proceeding, nor is it an election protest, and no stay of certification would arise from a simple objection to counting a ballot. To prevent them from becoming irretrievable, provisional ballots should not be removed from their envelopes and mingled with the main body of the voted ballots until they are approved for counting by the county board.