

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
23CV029308-910

JOSHUA H. STEIN, in his official
capacity as GOVERNOR OF THE
STATE OF NORTH CAROLINA,

Plaintiff,

v.

DESTIN C. HALL, in his official
capacity as SPEAKER OF THE
NORTH CAROLINA HOUSE OF
REPRESENTATIVES; and PHILIP
E. BERGER, in his official capacity as
PRESIDENT PRO TEMPORE OF
THE NORTH CAROLINA SENATE.

Defendants.

**MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Plaintiff Joshua H. Stein, in his official capacity as Governor of the State of North Carolina, by and through counsel and pursuant to Rule 65 of the North Carolina Rules of Civil Procedure, moves the Court for a temporary restraining order and preliminary injunction during the pendency of this litigation to restrain the effectiveness of Sections 3A.3.(b), (c), (d), (f), (g), and (h) of Senate Bill 382 (Session Law 2024-57). As shown below, if the challenged unconstitutional provisions of Senate Bill 382 are not enjoined, they will cause a complete restructuring of the State Board of Elections on May 1, 2025. In support of these Motions, the Governor shows the Court as follows:

1. On December 11, 2024, over then-Governor Cooper's veto, the General Assembly enacted Senate Bill 382. Among other things, Senate Bill 382

unconstitutionally stripped the Governor of his authority to appoint the State Board of Election's members, instead transferring that authority to the State Auditor.

2. Previously, on October 17, 2023, then-Governor Cooper had initiated this lawsuit challenging the constitutionality of provisions in Senate Bill 749 (Session Law 2023-139), which likewise attempted to reorganize the State Board of Elections. This Court issued a preliminary injunction blocking the legislation from taking effect before ultimately entering a unanimous order granting summary judgment to the Governor. Legislative Defendants' appeal was pending when the General Assembly passed Senate Bill 382.

3. In light of the new legislation, Legislative Defendants' appeal was dismissed. The parties jointly moved this Court to vacate the summary judgment order, permit supplemental amendment of Plaintiff's complaint pursuant to Rule 15(c), and establish a briefing schedule for dispositive motions.

4. The Court granted the joint motion in a February 11, 2025 Order that set forth a schedule for dispositive motions, including "a hearing on the motions scheduled at or after 24 March 2025 before a three-judge panel." Order ¶ 5. The Court also determined pursuant to N.C. Gen. Stat. § 1-267.1 that the matter shall be heard by a three-judge panel, and noted that the "parties all consent to the three-judge panel previously appointed in this matter on 14 November 2023 continuing to preside." *Id.* ¶ 6.

5. On March 7, 2025, the Court entered an Order transferring the matter to a three-judge panel.

6. Pursuant to the Court's February 11, 2025 Order, the parties filed their motions for summary judgment on February 26, 2025 and are proceeding with the preparation of their responsive briefs, as contemplated by the Court's Order.

7. As of the date of this filing, a three-judge panel has not yet been assigned to this matter. As a result, no hearing has yet been scheduled on the parties' dispositive motions.

8. A temporary restraining order and a preliminary injunction must issue to prevent immediate and irreparable injury to the Governor.

9. As shown in the Governor's Complaint and Brief in Support of Plaintiff's Motion for Summary Judgment:

- a. Without injunctive relief, many of the challenged provisions of Senate Bill 382 will take effect on May 1, 2025, causing significant changes to the State Board of Elections, an executive branch agency.
- b. Specifically, the current terms of office for the five members of the State Board of Elections that were appointed by the Governor in 2023 would terminate on April 30, 2025, and the State Auditor would be empowered to appoint their replacements on May 1, 2025. Session Law 2024-57, Section 3A.3.(c), 3A.3.(g).
- c. These changes will cause immediate and irreparable injury, loss, or damage to the Governor if allowed to take effect.

10. As shown in the Governor's pending motion for summary judgment and memorandum in support, the Governor is likely to prevail in this matter.

11. The public interest further favors enjoining enforcement of the challenged provisions.

12. Counsel listed below certifies that the Governor will give notice to Defendants of this motion on March 14, 2025.

WHEREFORE, Plaintiff Joshua H. Stein, in his official capacity as Governor of the State of North Carolina, prays the Court:

- a. Issue a temporary restraining order pursuant to North Carolina Rule of Civil Procedure 65, enjoining Sections 3A.3.(b), (c), (d), (f), (g), and (h) of Session Law 2024-57;
- b. Issue a preliminary injunction pursuant to North Carolina Rule of Civil Procedure 65, enjoining Sections 3A.3.(b), (c), (d), (f), (g), and (h) of Session Law 2024-57 during the pendency of this litigation; and
- c. Grant such other and further relief as the Court deems just and proper.

This the 14th day of March, 2025.

/s/ Amanda S. Hawkins

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CERTIFICATE OF SERVICE

I hereby certify that on this day a copy of the foregoing document was served on the following parties via email as follows:

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This the 14th day of March, 2025.

/s/ Amanda S. Hawkins
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