

NORTH CAROLINA GENERAL ASSEMBLY  
1965 SESSION

CHAPTER 630  
SENATE BILL 235

1 AN ACT TO REWRITE G.S. 90-203 AND TO DESIGNATE TERMS OF OFFICE AND  
2 MANNER OF ELECTION OF MEMBERS OF THE NORTH CAROLINA STATE  
3 BOARD OF EMBALMERS AND FUNERAL DIRECTORS AND TO PRESCRIBE  
4 THEIR QUALIFICATIONS.  
5

6 The General Assembly of North Carolina do enact:  
7

8 **Section 1.** That G.S. 90-203 be and the same is hereby rewritten to read as follows:

9 "**G.S. 90-203.** (a) The practice of embalming and funeral directing in the State of North  
10 Carolina is hereby declared to affect the public health, safety and welfare and to be subject to  
11 regulation and control in the public interest. It is further declared to be a matter of public  
12 interest and concern that the embalming and funeral directing professions merit and receive the  
13 confidence of the public and that only qualified persons be permitted to practice embalming  
14 and funeral directing in the State of North Carolina. This Article shall be liberally construed to  
15 carry out these objects and purposes.

16 (b) The North Carolina State Board of Embalmers and Funeral Directors heretofore  
17 created by Chapter 338, Public Laws, 1901, by Chapter 174, Public Laws, 1931, by Chapter  
18 951, Public Laws, 1949, and Chapter 1240, Public Laws, 1957, is hereby continued as the  
19 agency of the State for the regulation of the practice of embalming and funeral directing in this  
20 State. Said Board of Embalmers and Funeral Directors shall consist of five embalmers who are  
21 licensed to practice embalming in North Carolina and two funeral directors who are licensed to  
22 practice funeral directing in North Carolina and who possess other qualifications hereinafter  
23 specified and who shall have been elected in an election held as hereinafter provided in which  
24 every person licensed to practice embalming and funeral directing in North Carolina shall be  
25 entitled to vote. Each embalmer of said board shall be elected for a term of five years and until  
26 his successor shall be elected and shall qualify and each funeral director of said board shall be  
27 elected for a term of two years and until his successor shall be elected and shall qualify. Each  
28 year there shall be elected one embalmer for a term of five years and one funeral director for a  
29 term of two years. Any vacancy occurring on said board shall be filled for the period of the  
30 unexpired term by a majority vote of the remaining members of the board. No embalmer shall  
31 be nominated for membership on said board, or shall be elected to membership on said board,  
32 unless, at the time of such nomination, and at the time of such election, he is licensed to  
33 practice embalming in North Carolina and actually engaged in the practice of embalming in  
34 North Carolina and unless he has had such license to practice embalming in North Carolina for  
35 not less than five consecutive years prior thereto. No funeral director shall be nominated for  
36 membership on said board or shall be elected to membership on said board, unless, at the time  
37 of such nomination and at the time of such election, he is licensed to practice funeral directing  
38 in North Carolina and actually engaged in the practice of funeral directing in North Carolina  
39 and unless he has had such license to practice funeral directing in North Carolina for not less  
40 than five consecutive years prior thereto. In addition to the seven members above provided for,  
41 the President of the State Board of Health shall serve ex officio as a member of said board.

42 (c) Nominations and elections of members of the North Carolina State Board of  
43 Embalmers and Funeral Directors shall be as follows:

- 1 (1) An election shall be held each year to elect an embalmer and a funeral  
2 director for membership on the Board of Embalmers and Funeral Directors,  
3 each to take office on the first day of January following the election and the  
4 embalmer to hold office for a term of five years and until his successor has  
5 been elected and shall qualify and the funeral director to hold office for a  
6 term of two years and until his successor has been elected and shall qualify;  
7 provided that if in any year the election of the members of such board for  
8 that year shall not have been completed by January 1, of that year, then the  
9 said members elected that year shall take office immediately after the  
10 completion of the election and the embalmer shall hold office until the first  
11 of January of the fifth year thereafter and until his successor is elected and  
12 qualified and the funeral director shall hold office until the first of January of  
13 the second year thereafter and until his successor is elected and qualified.
- 14 (2) Every embalmer and funeral director with a current North Carolina license  
15 shall be eligible to vote in all elections. The holding of such a license to  
16 practice embalming or funeral directing in North Carolina shall constitute  
17 registration to vote in such elections. The list of licensed embalmers and  
18 funeral directors shall constitute the registration list for elections.
- 19 (3) All elections shall be conducted by the State Board of Embalmers and  
20 Funeral Directors which is hereby constituted a Board of Embalming and  
21 Funeral Directing Elections. If a member of the State Board of Embalmers  
22 and Funeral Directors whose position is to be filled at any election is  
23 nominated to succeed himself, and does not withdraw his name, he shall be  
24 disqualified to serve as a member of the Board of Embalming and Funeral  
25 Directing Elections for that election and the remaining members of the  
26 Board of Embalming and Funeral Directing Elections shall proceed and  
27 function without his participation.
- 28 (4) Nomination of candidates for election shall be made to the Board of  
29 Embalming and Funeral Directing Elections by a written petition signed by  
30 not less than twenty embalmers or funeral directors licensed to practice in  
31 North Carolina, and filed with said Board of Embalming and Funeral  
32 Directing Elections subsequent to the 15th day of May of the year in which  
33 the election is to be held and not later than midnight of the 15th day of  
34 August of such year, or not later than such earlier date (not before July 1) as  
35 may be set by the Board of Embalming and Funeral Directing Elections:  
36 Provided, that not less than ten days' notice of such earlier date shall be  
37 given to all embalmers and funeral directors qualified to sign a petition of  
38 nomination.
- 39 (5) Any person who is nominated as provided in subdivision (4) above may  
40 withdraw his name by written notice delivered to the Board of Embalming  
41 and Funeral Directing Elections or its designated secretary at any time prior  
42 to the closing of the polls in any election.
- 43 (6) Following the close of nominations, there shall be prepared, under and in  
44 accordance with such rules and regulations as the Board of Embalming and  
45 Funeral Directing Elections shall prescribe, ballots containing, in  
46 alphabetical order, the names of all nominees; and each ballot shall have  
47 such method of identification, and such instructions and requirements  
48 printed thereon, as shall be prescribed by the Board of Embalming and  
49 Funeral Directing Elections. At such time as may be fixed by the Board of  
50 Embalming and Funeral Directing Elections a ballot and a return official  
51 envelope addressed to said board shall be mailed to each embalmer and

1 funeral director licensed to practice in North Carolina, together with a notice  
2 by said board designating the latest day and hour for return mailing and  
3 containing such other items as such board may see fit to include. The said  
4 envelope shall bear a serial number and shall have printed on the left portion  
5 of its face the following:

6 "Serial No. of Envelope.....  
7 Signature of Voter.....  
8 Address of Voter.....  
9 .....

10 (Note: The enclosed ballot is not valid unless the signature of the voter is on  
11 this envelope)."

12 The Board of Embalming and Funeral Directing Elections may cause to  
13 be printed or stamped or written on said envelope such additional notice as it  
14 may see fit to give. No ballot shall be valid or shall be counted in an election  
15 unless within the time hereinafter provided, it has been delivered to said  
16 board by hand or by mail and shall be sealed. The said board by rule may  
17 make provision for replacement of lost or destroyed envelopes or ballots  
18 upon making proper provisions to safeguard against abuse.

19 (7) The date and hour fixed by the Board of Embalming and Funeral Directing  
20 Elections as the latest time for delivery by hand or mailing of said return  
21 ballots shall not be earlier than the tenth day following the mailing of the  
22 envelopes and ballots to the voters.

23 (8) The said ballots shall be canvassed by the Board of Embalming and Funeral  
24 Directing Elections beginning at noon on a day and at a place set by said  
25 board and announced by it in the notice accompanying the sending out of the  
26 ballots and envelopes, said date to be not later than four days after the date  
27 fixed by the board for the closing of the balloting. The canvassing shall be  
28 made publicly and any licensed embalmer or funeral director may be  
29 present. The counting of ballots shall be conducted as follows: The  
30 envelopes shall be displayed to the persons present and an opportunity shall  
31 be given to any person present to challenge the qualification of the voter  
32 whose signature appears on the envelope or to challenge the validity of the  
33 envelope. Any envelope (with enclosed ballot) challenged shall be set aside,  
34 and the challenge shall be heard later or at that time by said board. After the  
35 envelopes have been so exhibited, those not challenged shall be opened and  
36 the ballots extracted therefrom, insofar as practicable without showing the  
37 marking on the ballots, and there shall be a final and complete separation of  
38 each envelope and its enclosed ballot. Thereafter each ballot shall be  
39 presented for counting, shall be displayed and, if not challenged, shall be  
40 counted. No ballot shall be valid if it is marked for more nominees than there  
41 are positions to be filled in that election: Provided, that no ballot shall be  
42 rejected for any technical error unless it is impossible to determine the  
43 voter's choices or choice from the ballot. The counting of ballots shall be  
44 continued until completed. During the counting, challenge may be made to  
45 any ballot on the grounds only of defects appearing on the face of the ballot.  
46 The said board may decide the challenge immediately when it is made or it  
47 may put aside the ballot and determine the challenge upon the conclusion of  
48 the counting of the ballots.

49 (9) If one of the nominees shall receive a majority of the votes cast, he shall be  
50 declared elected. If no candidate shall receive a majority of the votes cast,  
51 the said board shall order a second election to determine a contest between

1 the two candidates receiving the highest number of votes. In any election if  
2 there is a tie between candidates, the tie shall be resolved by the vote of the  
3 State Board of Embalming and Funeral Directors, provided that if a member  
4 of that board is one of the candidates in the tie, he may not participate in  
5 such vote.

6 (10) In the event there shall be required a second election, there shall be followed  
7 the same procedure as outlined in the paragraphs above subject to the same  
8 limitations and requirements.

9 (11) In the case of the death or withdrawal of a candidate prior to the closing of  
10 the polls in any election, he shall be eliminated from the contest and any  
11 votes cast for him shall be disregarded. If, at any time after the closing of the  
12 period for nominations because of lack of plural or proper nominations or  
13 death, or withdrawal, or disqualification or any other reason, there shall be  
14 (i) only one candidate for a position, he shall be declared elected by the  
15 Board of Embalming and Funeral Directing Elections, or (ii) no candidate  
16 for a position, the position shall be filled by the State Board of Embalmers  
17 and Funeral Directors. In the event of the death or withdrawal of a candidate  
18 after election but before taking office, the position to which he was elected  
19 shall be filled by the State Board of Embalmers and Funeral Directors. In the  
20 event of the death or resignation of a member of the State Board of  
21 Embalmers and Funeral Directors, after taking office, his position shall be  
22 filled for the unexpired term by the State Board of Embalmers and Funeral  
23 Directors.

24 (12) An official list of all licensed embalmers and funeral directors shall be kept  
25 at an office of the Board of Embalming and Funeral Directing Elections and  
26 shall be open to the inspection of any person at all times. Copies may be  
27 made by any licensed embalmer or funeral director. As soon as the voting in  
28 any election begins a list of the licensed embalmers and funeral directors  
29 shall be posted in such office of said board and indication by mark or  
30 otherwise shall be made on that list to show whether a ballot-enclosing  
31 envelope has been returned.

32 (13) All envelopes enclosing ballots and all ballots shall be preserved and held  
33 separately by the Board of Embalming and Funeral Directing Elections for a  
34 period of six months following the close of an election.

35 (14) From any decision of the Board of Embalming and Funeral Directing  
36 Elections relative to the conduct of such elections, appeal may be taken to  
37 the courts in the manner otherwise provided by Article 33 of Chapter 143 of  
38 the General Statutes of North Carolina.

39 (15) The Board of Embalming and Funeral Directing Elections is authorized to  
40 make rules and regulations relative to the conduct of these elections,  
41 provided same are not in conflict with the provisions of this Section and  
42 provided that notice shall be given to all licensed embalmers and funeral  
43 directors.

44 (d) The Board of Embalming and Funeral Directing Elections is authorized to appoint  
45 such secretary or secretaries and/or assistant secretary or assistant secretaries to perform such  
46 functions in connection with such nominations and elections as said board shall determine,  
47 provided that any protestant or contestant shall have the right to a hearing by said board in  
48 connection with any challenge of a voter, or an envelope, or a ballot or the counting of an  
49 election. Said board is authorized to designate an office or offices for the keeping of lists of  
50 registered embalmers and funeral directors, for the issuance and the receipt of envelopes and  
51 ballots."

1           **Sec. 2.** The first election to be held pursuant to this Act shall be held in the calendar  
2 year 1965, and there shall be elected in that year one embalmer and one funeral director as  
3 members of the said North Carolina State Board of Embalmers and Funeral Directors who shall  
4 take office on January 1, 1966, or as soon thereafter as the 1965 election shall be concluded,  
5 and the embalmer so elected shall serve for a term of five years ending on January 1, 1971, and  
6 the funeral director so elected shall serve for a term of two years ending on January 1, 1968,  
7 and until their successors shall be elected and shall qualify. An election shall be held each year  
8 thereafter as provided hereinabove in this Act.

9           **Sec. 3.** The following North Carolina licensed embalmers and funeral directors who  
10 constitute the present North Carolina State Board of Embalmers and Funeral Directors are  
11 hereby confirmed, appointed, named, and designated as the North Carolina State Board of  
12 Embalmers and Funeral Directors, and they are authorized and directed to discharge the  
13 functions of said board under the terms of Article 13 of Chapter 90 of the General Statutes, and  
14 they are further named, appointed, and designated as the Board of Embalming and Funeral  
15 Directing Elections and are authorized and directed to discharge the duties and perform the  
16 functions of said Board of Embalming and Funeral Directing Elections as set forth above in this  
17 Act. The said members of said North Carolina State Board of Embalmers and Funeral Directors  
18 and Board of Embalming and Funeral Directing Elections are hereby confirmed, appointed,  
19 named and designated for their terms expiring on the following dates and until their successors  
20 are elected and shall qualify:

21 Daniel A. Blue, Jr., Embalmer	January 1, 1967
22 Edwin C. Cavin, Embalmer	January 1, 1968
23 Charles M. Phillips, Embalmer	January 1, 1970
24 Francis Leonard Yost, Embalmer	January 1, 1969
25 J. Patrick Greeley, Embalmer	January 1, 1966
26 William Jacob McLean, Funeral Director	January 1, 1966
27 Dalton K. Buckner, Funeral Director	January 1, 1967

28           **Sec. 4.** This Act shall be construed as fully as may be possible in conformity with  
29 existing laws, but laws and clauses of laws in irreconcilable conflict with the provisions of this  
30 Act are hereby repealed.

31           **Sec. 5.** If any provision of this Act or the application thereto to any person or  
32 circumstances is held invalid, such invalidity shall not affect other provisions or applications of  
33 the Act which can be given effect without the invalid provisions or application, and to this end  
34 the provisions of this Act are declared to be severable.

35           **Sec. 6.** This Act shall be in full force and effect from and after its ratification.

36           In the General Assembly read three times and ratified, this the 20th day of May,  
37 1965.