

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 77

Short Title: Education Governance Changes.

(Public)

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Sponsors: Representative J. W. Crawford; and Green.

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Referred to: Courts, Justice, Constitutional Amendments and Referenda.

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February 18, 1991

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A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION TO CHANGE THE MEMBERSHIP OF  
THE STATE BOARD OF EDUCATION AND TO MAKE THE  
SUPERINTENDENT OF PUBLIC INSTRUCTION THE CHAIRMAN OF THE  
STATE BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Article IX of the Constitution reads as rewritten:

"Sec. 4. State Board of Education.

(1) Board. The State Board of Education shall consist of the Lieutenant Governor, the Superintendent of Public Instruction, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session. eight members elected by the Senate, and eight members elected by the House of Representatives. The General Assembly shall divide the State into eight educational districts. Of the appointive-elected members of the Board, one shall be appointed-elected by the Senate and one shall be elected by the House of Representatives from each of the eight educational districts and three shall be appointed from the State at large. — districts. Appointments shall be for overlapping terms of eight years. four-year terms, except that the election of four members elected by the Senate and four members elected by the House of Representatives in 1993 shall be for two-year terms. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation. as provided by law. The General Assembly may authorize a member of the General Assembly, a member of the General Assembly after the expiration of his term but before his successor is qualified, a committee of the General Assembly, or a

committee of the Senate or the House of Representatives, to fill vacancies in positions filled by the Senate or the House of Representatives.

(2) Superintendent of Public Instruction. The Superintendent of Public Instruction shall be the ~~secretary-chairman, secretary,~~ and chief administrative officer of the State Board of Education."

Sec. 2. G.S. 115C-10 reads as rewritten:

"§ 115C-10. Appointment of Board.

The State Board of Education shall consist of the Lieutenant Governor, the Superintendent of Public Instruction, the State Treasurer, and 11 members appointed by the Governor, subject to confirmation by the General Assembly in joint session. eight members elected by the Senate, and eight members elected by the House of Representatives. Not more than one public school employee paid from State or local funds may serve as an appointive-elected member of the State Board of Education. No spouse of any public school employee paid from State or local funds and no employee of the Department of Public Instruction or his spouse, may serve as an appointive-elected member of the State Board of Education. Of the appointive-elected members of the State Board of Education, one shall be appointed-elected by the Senate and one from the House of Representatives from each of the eight educational districts and three shall be appointed as members at large. districts. Appointments shall be for terms of eight years and shall be made in four classes. four-year terms, except that the election of four members elected by the Senate and four members elected by the House of Representatives in 1993 shall be for two-year terms.

The Senate and the House of Representatives, in electing members of the State Board of Education, shall select from a slate of nominees made in each house as provided by resolution of that house. In the event there is more than one individual who is seeking nomination, the slate of nominees shall contain at least two nominations for any vacancy. The Senate shall hold its election prior to the House of Representatives.

Appointments to fill vacancies in positions filled by the Senate shall be made by the Governor for the unexpired terms and shall not be subject to confirmation. by the President Pro Tempore of the Senate when the General Assembly has adjourned to a date certain, which date is more than 10 days after the date of adjournment, after sine die adjournment of the regular session, or after the beginning of the terms of members of the General Assembly but before convening of the regular session; otherwise, the appointments shall be made by the Senate. Appointments to fill vacancies in positions filled by the House of Representatives shall be made by the Speaker of the House of Representatives when the General Assembly has adjourned to a date certain, which date is more than 10 days after the date of adjournment, after sine die adjournment of the regular session, or after the beginning of the terms of members of the General Assembly but before convening of the regular session; otherwise, the appointments shall be made by the House of Representatives. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall continue to exercise their authority to fill vacancies under this section until each of their successors in office is selected.

The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, on or before the sixtieth legislative day of the General Assembly, the

names of the persons appointed by him and submitted to the General Assembly for confirmation; thereafter, pursuant to joint resolution, the Senate and the House of Representatives shall meet in joint session for consideration of an action upon such appointments."

Sec. 3. G.S. 115C-11 reads as rewritten:

"§ 115C-11. Organization and internal procedures of Board.

1 (a) Presiding Officer. – The Superintendent of Public Instruction shall serve as  
2 the chairman of the State Board of Education. The State Board of Education shall elect  
3 from its membership a ~~chairman and~~ vice-chairman. A majority of the Board shall  
4 constitute a quorum for the transaction of business. Per diem and expenses of the  
5 appointive members of the Board shall be provided by the General Assembly. The  
6 chairman of the Board shall preside at all meetings of the Board. In the absence of the  
7 chairman, the vice-chairman shall preside; in the absence of both the chairman and the  
8 vice-chairman, the Board shall name one of its own members as chairman pro tempore.

(a1) Student advisors – The Governor is hereby authorized to appoint two high school students who are enrolled in the public schools of North Carolina as advisors to the State Board of Education. The student advisors shall participate in State Board deliberations in an advisory capacity only. The State Board may, in its discretion, exclude the student advisors from executive sessions.

The Governor shall make initial appointments of student advisors to the State Board as follows:

(1) One high school junior shall be appointed for a two-year term beginning September 1, 1986, and expiring June 14, 1988; and

(2) One high school senior shall be appointed for a one-year term beginning September 1, 1986, and expiring June 14, 1987. When an initial or subsequent term expires, the Governor shall appoint a high school junior for a two-year term beginning June 15 of that year. If a student advisor is no longer enrolled in the public schools of North Carolina or if a vacancy otherwise occurs, the Governor shall appoint a student advisor for the remainder of the unexpired term.

Student advisors shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(a2) State Teacher of the Year Advisor. – Each State Teacher of the Year, as designated by the Department of Public Instruction, shall serve ex officio as advisor to the State Board of Education. Each State Teacher of the Year shall begin service as advisory member to the State Board at the commencement of the teacher's term as State Teacher of the Year and shall serve for two years. The State Teachers of the Year shall participate in State Board deliberations and committee meetings in an advisory capacity only. The State Board may, in its discretion, exclude the State Teachers of the Year from executive sessions.

In the event a vacancy occurs in the State Teacher of the Year's advisory position, the teacher who was next runner-up to that State Teacher of the Year shall serve as the advisory member to the Board for the remainder of the unexpired term. The State Teacher of the Year advisors to the State Board shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

1 (b) Regular Meetings of Board. – The regular meetings of the Board shall be held  
2 each month on a day certain, as determined by the Board. The Board shall determine the  
3 hour of the meeting, which may be adjourned from day to day, or to a day certain, until  
4 the business before the Board has been completed.

(b1) Annual meeting with the State Board of Community Colleges and the Board of  
Governors of The University of North Carolina. The State Board of Education shall  
meet with the State Board of Community Colleges and the Board of Governors of The  
University of North Carolina at least once a year to discuss educational matters of  
mutual interest and to recommend to the General Assembly such policies as are  
appropriate to encourage the improvement of public education at every level in this  
State. The meeting in 1987 and every three years thereafter shall be hosted by the  
University Board of Governors, the meeting in 1988 and every three years thereafter  
shall be hosted by the State Board of Education, and the meeting in 1989 and every  
three years thereafter shall be hosted by the State Board of Community Colleges.

5 (c) Special Meetings. – Special meetings of the Board may be set at any regular  
6 meeting or may be called by the ~~chairman or by the secretary upon the approval of the~~  
7 chairman: Provided, a special meeting shall be called by the chairman upon the request  
8 of any five members of the Board. In case of regular meetings and special meetings, the  
9 secretary shall give notice to each member, in writing, of the time and purpose of the  
10 meeting, by letter directed to each member at his home post-office address. Such notice  
11 must be deposited in the Raleigh Post Office at least three days prior to the date of  
12 meeting.

13 (d) Voting. – No voting by proxy shall be permitted. Except in voting on  
14 textbook adoptions, all voting shall be **viva voce** unless a record vote or secret ballot is  
15 demanded by any member, and a majority of those present and voting shall be necessary  
16 to carry a motion.

(e) Voting on Adoption of Textbooks. – A majority vote of the whole membership of  
the Board shall be required to adopt textbooks, and a roll call vote shall be had on each  
motion for such adoption or adoptions. A record of all such votes shall be kept in the  
minute book.

(f) Committees. – The Board may create from its membership such committees as it  
deems necessary to facilitate its business. The chairman of the Board shall with  
approval of the majority of the Board appoint members to the several committees  
authorized by the Board and to any additional committees which the chairman may  
deem to be appropriate.

(g) Record of Proceedings. – All of the proceedings of the Board shall be recorded in a  
well-bound and suitable book, which shall be kept in the office of the Superintendent of  
Public Instruction, and open to public inspection.

(h) Rules and Regulations. – The Board shall adopt reasonable rules and regulations not  
inconsistent herewith, to govern its proceedings which the Board may amend from time  
to time, which rules and regulations shall become effective when filed as provided by  
law: Provided, however, a motion to suspend the rules so adopted shall require a  
consent of two thirds of the members. The rules and regulations shall include, but not be  
limited to, clearly defined procedures for electing the officers of the State Board

referred to in G.S. 115C-11(a), fixing the term of said officers, specifying how the voting shall be carried out, and establishing a date when the first election shall be held." Sec. 4. G.S. 115C-21(b) reads as rewritten:

"(b) Duties as Secretary to the State Board of Education. – As secretary, under the direction of the Board, it shall be the duty of the Superintendent of Public Instruction:

(1) To administer through the Department of Public Instruction, all policies established by the Board.

(1a) To administer the funds appropriated to the Department of Public Education for the operations of the State Board of Education and for aid to local school administrative units.

(2) To keep the Board informed regarding developments in the field of public education.

(3) To make recommendations to the Board with regard to the problems and needs of education in North Carolina.

(4) To make available to the public schools a continuous program of comprehensive supervisory services.

(5) To collect and organize information regarding the public schools, on the basis of which he shall furnish the Board such tabulations and reports as may be required by the Board.

(6) To communicate to the public school administrators all information and instructions regarding instructional policies and procedures adopted by the Board.

(7) To have custody of the official seal of the Board and to attest all deeds, leases, or written contracts executed in the name of the Board. All deeds of conveyance, leases, and contracts affecting real estate, title to which is held by the Board, and all contracts of the Board required to be in writing and under seal, shall be executed in the name of the Board by the chairman and attested by the ~~secretary~~; vice-chairman; and proof of the execution, if required or desired, may be had as provided by law for the proof of corporate instruments.

(8) To attend all meetings of the Board and to keep the minutes of the proceedings of the Board in a well-bound and suitable book, which minutes shall be approved by the Board prior to its adjournment; and, as soon thereafter as possible, to furnish to each member of the Board a copy of said minutes.

(9) To perform such other duties as the Board may assign to him from time to time." Sec. 5. G.S. 115C-105(a) reads as rewritten:

"(a) There is hereby established the North Carolina Education Council composed of the members of the education commission of the states representing this State, and not exceeding five other persons appointed by the Governor for terms of three years. Such other persons shall be selected so as to be broadly representative of professional and lay interests within this State having the responsibilities for, knowledge with respect to, and interest in educational matters. The Governor shall serve as chairman of the North Carolina Education Council or any person that the Governor may designate shall serve as chairman. The ~~chairman~~ vice-chairman of the State Board of Education, the Superintendent of Public Instruction, the chairman of the Board of Governors of The University of North Carolina, and the President of The University of North Carolina

shall be ex officio members of the North Carolina Education Council. The council shall meet on the call of its chairman or at the request of a majority of its members, but in any event the Council shall meet not less than three times in each year. The Council may consider any and all matters relating to the recommendations of the education commission of the states and the activities of the members in representing this State thereon."

Sec. 6. G.S. 20-81(4) reads as rewritten:

"(4) Elective and Appointive. – Official plates issued to elective and appointive members of State government shall bear number designations beginning with number 1 which shall be assigned to the Governor of North Carolina and numbers following thereafter shall be issued to in the following order:

2. Lieutenant Governor of North Carolina.
3. Speaker of the House of Representatives.
4. President Pro Tempore of the Senate.
5. Secretary of State.
6. State Auditor.
7. State Treasurer.
8. Superintendent of Public Instruction.
9. Attorney General.
10. Commissioner of Agriculture.
11. Commissioner of Labor.
12. Commissioner of Insurance.
13. Speaker Pro Tempore of the House.
14. Legislative Services Officer.
15. Secretary of Administration.
16. Secretary of Environment, Health, and Natural Resources.
17. Secretary of Revenue.
18. Secretary of Human Resources.
19. Secretary of Economic and Community Development.
20. Secretary of the Department of Correction.
21. Secretary of Cultural Resources.
22. Secretary of Crime Control and Public Safety.
- 23-29. To be reserved for and assigned to members of the Governor's staff at the direction of the Governor.
30. State Budget Officer.
31. State Personnel Director.
- 32-41. To be reserved for and assigned to nonlegislative members of the Advisory Budget Commission at the direction of the Governor.
42. ~~Chairman~~, Vice-chairman, State Board of Education.
43. President, U.N.C. System.
44. Chairman, A.B.C. Commission.
45. Member, A.B.C. Commission.
46. Member, A.B.C. Commission.
47. Assistant Commissioner of Agriculture.

48. Assistant Commissioner of Agriculture.
49. Deputy Secretary of State.
50. Deputy State Treasurer.
51. Assistant State Treasurer.
52. Deputy Commissioner, Department of Labor.
53. Chief Deputy, Department of Insurance.
54. Assistant Commissioner of Insurance.
- 55-65. Shall be reserved for and assigned to the Attorney General's deputies and assistants only. Specific number assignments shall be at the direction of the Attorney General.
- 66-88. Shall be reserved for and assigned upon request to nonlegislative members of the Board of Economic Development. Specific number assignments to such members shall be at the direction of the Governor.
- 89-96. Shall be reserved for and assigned upon request to nonlegislative members of the State Ports Authority. Specific number assignments to such members shall be at the direction of the Governor.
- 97-104. Shall be reserved for and assigned upon request to members of the Utilities Commission. Number 97 to be upon request assigned to the Chairman of the Utilities Commission with remaining numbers to be assigned upon request to the remaining members of the Utilities Commission on the basis of seniority.
- 105-109. Shall be reserved for and assigned upon request to members of the Parole Commission. Number 105 to be upon request assigned to the Chairman of the Parole Commission with remaining numbers to be assigned upon request to the remaining members of the Parole Commission on the basis of seniority.
- 110-200. Shall be reserved for and assigned upon request to members of State boards and commissions and State employees at the direction of the Governor."

Sec. 7. G.S. 116-237 reads as rewritten:

"§ 116-237. Educational Advisory Council.

The Board of Governors shall establish a 12-member Educational Advisory Council consisting of (1) ex officio, the State Superintendent of the Department of Public Instruction and the ~~chairman~~ vice-chairman of the State Board of Education, and (2) 10 persons who are scientists, mathematicians, public school representatives, or other persons having an interest in the School and desiring to contribute to its work. The members of the Advisory Council shall be appointed by the Board of Governors for four-year terms. No person shall be eligible to serve more than two successive four-year terms. The Advisory Council shall give advice and counsel to the Director and the Board of Trustees."

Sec. 8. G.S. 143B-426.9 reads as rewritten:

"§ 143B-426.9. North Carolina Agency for Public Telecommunications – creation; membership; appointments, terms and vacancies; officers; meetings and quorum; compensation.

The North Carolina Agency for Public Telecommunications is created. It is governed by the Board of Public Telecommunications Commissioners, composed of 27 members as follows:

- (1) A Chairman appointed by, and serving at the pleasure of, the Governor;
- (2) Ten at-large members, appointed by the Governor from the general public;
- (3) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121;
- (4) Two members appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121;
- (5) The Secretary of Administration, ex officio;
- (6) The Chairman of the Board of Trustees of The University of North Carolina Center for Public Television (if and when established), ex officio;
- (7) The ~~Chairman~~-Vice-chairman of the State Board of Education, ex officio;
- (8) The Chairman of the OPEN/net Committee, ex officio, so long as such person is not a State employee;
- (9) The Chairman of the North Carolina Utilities Commission, ex officio;
- (10) The Director of the Public Staff of the North Carolina Utilities Commission, ex officio;
- (11) The Chairman of the Public Radio Advisory Committee of the North Carolina Agency for Public Telecommunications, ex officio;
- (12) The Superintendent of Public Instruction, ex officio;
- (13) The President of the University of North Carolina, ex officio;
- (14) The President of the Department of Community Colleges, ex officio; and
- (15) Two members ex officio who shall rotate from among the remaining heads of departments enumerated in G.S. 143A-11 or G.S. 143B-6, appointed by the Governor.

The 10 at-large members shall serve for terms staggered as follows: four terms shall expire on June 30, 1980; and three terms shall expire on June 30, 1982; and three terms shall expire on June 30, 1984. Thereafter, the members at large shall be appointed for full four-year terms and until their successors are appointed and qualified. In making appointments of members at large, the Governor shall seek to appoint persons from the various geographic areas of the State including both urban and rural areas; persons from various classifications as to sex, race, age, and handicapped persons; and persons who are representatives of the public broadcast, commercial broadcast, nonbroadcast distributive systems and private education communities of the State.

The terms of the ex officio members are coterminous with their respective terms of office. In the event that any of the offices represented on the Board ceases to exist, the successor officer to the designated member shall become an ex officio member of the Board; if there shall be no successor, then the position on the Board shall be filled by a member to be appointed by the Governor from the general public. The ex officio members shall have the right to vote.

The initial members appointed to the Board by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years.

The terms of the rotating ex officio members shall be of one-year duration, and the schedule of rotation is determined by the Governor.



Each State official who serves on the Board may designate a representative of his department, agency or institution to sit in his place on the Board and to exercise fully the official's privileges of membership.

The Secretary of Administration or his designee serves as secretary of the Board.

Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Other vacancies shall be filled in the same manner as the original appointment.

The Governor may remove any member of the Board from office in accordance with the provisions of G.S. 143B-16.

The Board meets quarterly and at other times at the call of the chairman or upon written request of at least six members.

A majority of the Board members shall constitute a quorum for the transaction of business."

Sec. 9. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election on November 5, 1991, which election shall be conducted under the laws then governing elections in the State. At that election, each qualified voter desiring to vote shall be provided a ballot on which shall be printed the following:

FOR Constitutional amendment to change the membership of the State Board of Education and to make the Superintendent of Public Instruction the chairman of the State Board of Education.

AGAINST Constitutional amendment to change the membership of the State Board of Education and to make the Superintendent of Public Instruction the chairman of the State Board of Education."

Those qualified voters favoring the amendment set out in Section 1 of this act shall vote by making an X or a check mark in the square beside the statement beginning "FOR", and those qualified voters opposed to that amendment shall vote by making an X or check mark in the square beside the statement beginning "AGAINST".

Notwithstanding the foregoing provisions of this section, voting machines may be used in accordance with rules and regulations prescribed by the State Board of Elections.

Sec. 10. If a majority of votes cast thereon are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State, who shall enroll the amendment so certified among the permanent records of his office, and the amendment becomes effective upon such certification, except that the term of office of all members of the State Board of Education who were appointed prior to March 1, 1993, shall expire on March 1, 1993.

Sec. 11. Sections 2 through 8 of this act becomes effective only if the constitutional amendment set out in Section 1 of this act is approved by the voters. If the constitutional amendment is approved by the voters, Sections 2 through 8 of this act shall become effective March 1, 1993.

Sec. 12. This act is effective upon ratification.