

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

2

HOUSE BILL 77
Committee Substitute Favorable 5/9/91

Short Title: Education Governance Changes.

(Public)

Sponsors:

Referred to:

February 18, 1991

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 Treasurer, and ~~eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session.~~ the Superintendent of Public Instruction, eight members elected by the Senate, and eight members elected by the House of Representatives. The General Assembly shall divide the State into ~~eight~~ twelve educational districts. Of the ~~appointive-elected~~ members of the Board, one shall be ~~appointed-elected~~ from each of the ~~eight-twelve~~ educational districts and ~~three-four~~ shall be ~~appointed-elected~~ from the State at large. ~~Appointments shall be for-Elected members shall serve 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

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

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

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

7 "**§ 115C-10. ~~Appointment~~ Election of Board.**

8 The State Board of Education shall consist of the Lieutenant Governor, the State
9 Treasurer, and ~~11 members appointed by the Governor, subject to confirmation by the General~~
10 ~~Assembly in joint session.~~ the Superintendent of Public Instruction, eight members elected
11 by the Senate, and eight members elected by the House of Representatives. Not more
12 than one public school employee paid from State or local funds may serve as an
13 ~~appointive-elected~~ member of the State Board of Education. No spouse of any public
14 school employee paid from State or local funds and no employee of the Department of
15 Public Instruction or his spouse, may serve as an ~~appointive-elected~~ member of the State
16 Board of Education. Of the ~~appointive-elected~~ members of the State Board of Education,
17 one shall be appointed from each of the eight educational districts and three shall be appointed
18 as members at large. elected by the Senate from the first, third, fifth, seventh, ninth, and
19 eleventh educational districts, two shall be elected by the Senate from the State at large,
20 one shall be elected by the House of Representatives from the second, fourth, sixth,
21 eighth, tenth, and twelfth educational districts, and two shall be elected by the House of
22 Representatives from the State at large. ~~Appointments shall be for terms of eight years and~~
23 ~~shall be made in four classes.~~ Elected members shall serve four-year terms, except that the
24 election of four members elected by the Senate and four members elected by the House
25 of Representatives in 1993 shall be for two-year terms.

26 The Senate and the House of Representatives, in electing members of the State
27 Board of Education, shall select from a slate of nominees made in each house as
28 provided by resolution of that house. For each position for which members of the State
29 Board of Education are to be elected, the slate of nominees shall contain a number of
30 nominees equal to the lesser of (a) the number of persons proposed as candidates for
31 nomination or (b) two persons for each position available. The Senate shall hold its
32 election prior to the House of Representatives.

33 Appointments to fill vacancies in positions filled by the Senate shall be made by the
34 Governor for the unexpired terms and shall not be subject to confirmation. by the President
35 Pro Tempore of the Senate when the General Assembly has adjourned a regular session
36 to a date certain, which date is more than 10 days after the date of adjournment, after
37 sine die adjournment of the regular session, or after the beginning of the terms of
38 members of the General Assembly but before convening of the regular session;
39 otherwise, the appointments shall be made by the Senate. Appointments to fill
40 vacancies in positions filled by the House of Representatives shall be made by the
41 Speaker of the House of Representatives when the General Assembly has adjourned a
42 regular session to a date certain, which date is more than 10 days after the date of
43 adjournment, after sine die adjournment of the regular session, or after the beginning of
44 the terms of members of the General Assembly but before convening of the regular

1 session; otherwise, the appointments shall be made by the House of Representatives.
2 The President Pro Tempore of the Senate and the Speaker of the House of
3 Representatives shall continue to exercise their authority to fill vacancies under this
4 section until each of their successors in office is selected.

5 ~~The Governor shall transmit to the presiding officers of the Senate and the House of~~
6 ~~Representatives, on or before the sixtieth legislative day of the General Assembly, the~~
7 ~~names of the persons appointed by him and submitted to the General Assembly for~~
8 ~~confirmation; thereafter, pursuant to joint resolution, the Senate and the House of~~
9 ~~Representatives shall meet in joint session for consideration of an action upon such~~
10 ~~appointments."~~

11 Sec. 2.1. G.S. 115C-65 reads as rewritten:

12 **"§ 115C-65. State divided into districts.**

13 The State of North Carolina shall be divided into ~~eight~~ 12 educational districts
14 embracing the counties herein set forth:

15
16 **FIRST DISTRICT**

17
18 ~~Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Martin,~~
19 ~~Pasquotank, Perquimans, Pitt, Tyrrell, Washington.~~

20
21 **SECOND DISTRICT**

22
23 ~~Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow,~~
24 ~~Pamlico, Pender, Sampson, Wayne.~~

25
26 **THIRD DISTRICT**

27
28 ~~Durham, Edgecombe, Franklin, Granville, Halifax, Johnston, Nash, Northampton,~~
29 ~~Vance, Wake, Warren, Wilson.~~

30
31 **FOURTH DISTRICT**

32
33 ~~Bladen, Columbus, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore,~~
34 ~~Richmond, Robeson, Scotland.~~

35
36 **FIFTH DISTRICT**

37
38 ~~Alamance, Caswell, Chatham, Davidson, Forsyth, Guilford, Orange, Person,~~
39 ~~Randolph, Rockingham, Stokes.~~

40
41 **SIXTH DISTRICT**

42
43 ~~Anson, Cabarrus, Cleveland, Gaston, Lincoln, Mecklenburg, Stanly, Union.~~
44

SEVENTH DISTRICT

~~Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Davie, Iredell, Rowan, Surry, Watauga, Wilkes, Yadkin.~~

EIGHTH DISTRICT

~~Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey.~~

districts. The 12 educational districts are the same as the districts specified for the purpose of nominating and electing members of the House of Representatives of the Congress of the United States in 1992."

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

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

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

1 Teacher of the Year and shall serve for two years. The State Teachers of the Year shall
2 participate in State Board deliberations and committee meetings in an advisory capacity
3 only. The State Board may, in its discretion, exclude the State Teachers of the Year
4 from executive sessions.

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

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

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

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

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

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

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

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

4 (h) Rules and Regulations. – The Board shall adopt reasonable rules and
5 regulations not inconsistent herewith, to govern its proceedings which the Board may
6 amend from time to time, which rules and regulations shall become effective when filed
7 as provided by law: Provided, however, a motion to suspend the rules so adopted shall
8 require a consent of two thirds of the members. The rules and regulations shall include,
9 but not be limited to, clearly defined procedures for electing the officers of the State
10 Board referred to in G.S. 115C-11(a), fixing the term of said officers, specifying how
11 the voting shall be carried out, and establishing a date when the first election shall be
12 held."

13 Sec. 4. G.S. 115C-21(b) reads as rewritten:

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

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

18 (1a) To administer the funds appropriated to the Department of Public
19 Education for the operations of the State Board of Education and for
20 aid to local school administrative units.

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

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

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

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

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

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

41 (8) To attend all meetings of the Board and to keep the minutes of the
42 proceedings of the Board in a well-bound and suitable book, which
43 minutes shall be approved by the Board prior to its adjournment; and,

1 as soon thereafter as possible, to furnish to each member of the Board
2 a copy of said minutes.

3 (9) To perform such other duties as the Board may assign to him from
4 time to time."

5 Sec. 5. G.S. 115C-105(a) reads as rewritten:

6 "(a) There is hereby established the North Carolina Education Council composed
7 of the members of the education commission of the states representing this State, and
8 not exceeding five other persons appointed by the Governor for terms of three years.
9 Such other persons shall be selected so as to be broadly representative of professional
10 and lay interests within this State having the responsibilities for, knowledge with respect
11 to, and interest in educational matters. The Governor shall serve as chairman of the
12 North Carolina Education Council or any person that the Governor may designate shall
13 serve as chairman. The ~~chairman~~-vice-chairman of the State Board of Education, the
14 Superintendent of Public Instruction, the chairman of the Board of Governors of The
15 University of North Carolina, and the President of The University of North Carolina
16 shall be ex officio members of the North Carolina Education Council. The council shall
17 meet on the call of its chairman or at the request of a majority of its members, but in any
18 event the Council shall meet not less than three times in each year. The Council may
19 consider any and all matters relating to the recommendations of the education
20 commission of the states and the activities of the members in representing this State
21 thereon."

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

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

- 28 2. Lieutenant Governor of North Carolina.
- 29 3. Speaker of the House of Representatives.
- 30 4. President Pro Tempore of the Senate.
- 31 5. Secretary of State.
- 32 6. State Auditor.
- 33 7. State Treasurer.
- 34 8. Superintendent of Public Instruction.
- 35 9. Attorney General.
- 36 10. Commissioner of Agriculture.
- 37 11. Commissioner of Labor.
- 38 12. Commissioner of Insurance.
- 39 13. Speaker Pro Tempore of the House.
- 40 14. Legislative Services Officer.
- 41 15. Secretary of Administration.
- 42 16. Secretary of Environment, Health, and Natural
43 Resources.
- 44 17. Secretary of Revenue.

- 1 18. Secretary of Human Resources.
- 2 19. Secretary of Economic and Community Development.
- 3 20. Secretary of the Department of Correction.
- 4 21. Secretary of Cultural Resources.
- 5 22. Secretary of Crime Control and Public Safety.
- 6 23-29. To be reserved for and assigned to members of the
- 7 Governor's staff at the direction of the Governor.
- 8 30. State Budget Officer.
- 9 31. State Personnel Director.
- 10 32-41. To be reserved for and assigned to nonlegislative
- 11 members of the Advisory Budget Commission at the
- 12 direction of the Governor.
- 13 42. ~~Chairman~~, Vice-chairman, State Board of Education.
- 14 43. President, U.N.C. System.
- 15 44. Chairman, A.B.C. Commission.
- 16 45. Member, A.B.C. Commission.
- 17 46. Member, A.B.C. Commission.
- 18 47. Assistant Commissioner of Agriculture.
- 19 48. Assistant Commissioner of Agriculture.
- 20 49. Deputy Secretary of State.
- 21 50. Deputy State Treasurer.
- 22 51. Assistant State Treasurer.
- 23 52. Deputy Commissioner, Department of Labor.
- 24 53. Chief Deputy, Department of Insurance.
- 25 54. Assistant Commissioner of Insurance.
- 26 55-65. Shall be reserved for and assigned to the Attorney
- 27 General's deputies and assistants only. Specific number
- 28 assignments shall be at the direction of the Attorney
- 29 General.
- 30 66-88. Shall be reserved for and assigned upon request to
- 31 nonlegislative members of the Board of Economic
- 32 Development. Specific number assignments to such
- 33 members shall be at the direction of the Governor.
- 34 89-96. Shall be reserved for and assigned upon request to
- 35 nonlegislative members of the State Ports Authority.
- 36 Specific number assignments to such members shall be
- 37 at the direction of the Governor.
- 38 97-104. Shall be reserved for and assigned upon request to
- 39 members of the Utilities Commission. Number 97 to
- 40 be upon request assigned to the Chairman of the
- 41 Utilities Commission with remaining numbers to be
- 42 assigned upon request to the remaining members of the
- 43 Utilities Commission on the basis of seniority.

- 1 (8) The Chairman of the OPEN/net Committee, ex officio, so long as such
2 person is not a State employee;
- 3 (9) The Chairman of the North Carolina Utilities Commission, ex officio;
- 4 (10) The Director of the Public Staff of the North Carolina Utilities
5 Commission, ex officio;
- 6 (11) The Chairman of the Public Radio Advisory Committee of the North
7 Carolina Agency for Public Telecommunications, ex officio;
- 8 (12) The Superintendent of Public Instruction, ex officio;
- 9 (13) The President of the University of North Carolina, ex officio;
- 10 (14) The President of the Department of Community Colleges, ex officio;
11 and
- 12 (15) Two members ex officio who shall rotate from among the remaining
13 heads of departments enumerated in G.S. 143A-11 or G.S. 143B-6,
14 appointed by the Governor.

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

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

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

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

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

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

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

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

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

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

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

10 "[] FOR Constitutional amendment to change the membership of the State
11 Board of Education and to make the Superintendent of Public
12 Instruction the chairman of the State Board of Education.

13 [] AGAINST Constitutional amendment to change the membership of
14 the State Board of Education and to make the Superintendent of Public
15 Instruction the chairman of the State Board of Education."

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

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

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

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

33 Sec. 12. This act is effective upon ratification.