

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 324
Committee Substitute Favorable 4/15/15

Short Title: Partisan Bd. of Ed. Elections.

(Public)

Sponsors:

Referred to:

March 24, 2015

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ALL ELECTED LOCAL BOARDS OF EDUCATION TO BE ELECTED ON A PARTISAN BASIS WITH VACANCIES IN THE MEMBERSHIP OF THE BOARDS FILLED UPON RECOMMENDATION BY THE EXECUTIVE COMMITTEE OF THE NOMINATING POLITICAL PARTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-37 reads as rewritten:

"§ 115C-37. Election of board members.

(a) Method of Election. – The county boards of education shall be ~~elected on a nonpartisan basis at the time of the primary election in 1970 and biennially thereafter.~~ elected biennially at the time of the general election in even-numbered years. The names of the candidates shall be printed on the ballots without reference to any party affiliation and any qualified voter residing in the county shall be entitled to vote such ballots. Except as otherwise provided herein, the election shall be conducted according to the provisions of Chapter 163 of the General Statutes ~~then governing primary elections.~~ Statutes.

The terms of office of the members shall be staggered so as nearly equal to one half as possible shall expire every two years.

(a1) Partisan Elections for City and County Boards of Education. – County boards of education shall be elected on a partisan basis as provided in Article 10 of Chapter 163 of the General Statutes. City boards of education that by law are elected shall be elected on a partisan basis as provided in Articles 23 and 24 of Chapter 163 of the General Statutes. This subsection supersedes any local act or merger plan approved as provided in Article 7 of this Chapter that provides for nonpartisan elections.

(b) County Board of Elections to Provide for Elections. – The county board of elections under the direction of the State Board of Elections, shall make all necessary provisions for elections of county boards of education as are herein provided for. The county board of elections of each county shall file with the State Board of Elections a statement specifying the size and method of election of members of its county board of education.

(c) City Board of Education. – The board of education for any city administrative unit shall be appointed or elected as ~~now provided in subsection (a1) of this section and as~~ otherwise provided by law.

If no provision is now made by the law for the filling of vacancies ~~in the membership of~~ appointed members of any city board of education, such vacancy may be filled by the governing body of the city or town embraced by said administrative unit. In the event that any such vacancy is not filled in this manner within 30 days, the State Board of Education may fill such vacancy.



1 (d) Members to Qualify. – Each county board of education or elected city board of
2 education shall hold a meeting in December following the election. At that meeting, newly
3 elected members of the board of education shall qualify by taking the oath of office prescribed
4 in Article VI, Sec. 7 of the Constitution.

5 ~~This subsection shall not have the effect of repealing any local or special acts relating to~~
6 ~~boards of education of any particular counties whose membership to said boards is chosen by a~~
7 ~~vote of the people. This subsection supersedes any local act or merger plan approved as~~
8 ~~provided in Article 7 of this Chapter that provides for taking the oath of office.~~

9 (e) Vacancies in Nominations for Membership on County Boards. – If any candidate
10 nominated on a partisan basis shall die, resign, or for any reason become ineligible or
11 disqualified between the date of his or her nomination and the time for the election, such
12 vacancy caused thereby may be filled by the actions of the county executive committee of the
13 political party of such candidate.

14 (f) Vacancies in Office. – All vacancies in the membership of the elected boards of
15 education ~~whose members are elected pursuant to the provisions of subsection (a) of this~~
16 ~~section~~ by death, resignation, or other causes shall be filled by appointment by the remaining
17 members of the board, of a person to serve until the next election of members of such board, at
18 which time the remaining unexpired term of the office in which the vacancy occurs shall be
19 filled by election. The remaining members of the board shall consult with the executive
20 committee of the nominating political party of the member whose seat is vacant and appoint the
21 person recommended by that party executive committee if the party executive committee
22 makes a recommendation within 30 days of the occurrence of the vacancy. Whenever only the
23 qualified voters of less than the area of the entire local school administrative unit were eligible
24 to vote for the member whose seat is vacant, the appointing authority must accept the
25 recommendation only if the party executive committee restricted voting to committee members
26 who represent precincts all or part of which were within the territory of the vacating school
27 board member. This subsection supersedes any local act or merger plan approved as provided
28 in Article 7 of this Chapter that provides for other methods of filling vacancies.

29 (g) Eligibility for Board Membership; Holding Other Offices. – Any person possessing
30 the qualifications for election to public office set forth in Article VI, Sec. 6 of the Constitution
31 of North Carolina shall be eligible to serve as a member of a local board of education:
32 Provided, however, that any person elected or appointed to a local board of education, and also
33 employed by that board of education, shall resign his or her employment before taking office as
34 a member of that board of education.

35 Membership on a board of education is hereby declared to be an office that, with the
36 exceptions provided above, may be held concurrently with any appointive office, pursuant to
37 Article VI, Sec. 9 of the Constitution, but any person holding an elective office shall not be
38 eligible to serve as a member of a local board of education.

39 ~~(h) Death or Disqualification of Candidate in Nonpartisan Election. — If a candidate dies~~
40 ~~or becomes disqualified after the filing period has closed and before the election, and the~~
41 ~~ballots have not been printed, the county board of elections shall immediately reopen the filing~~
42 ~~period for five days so that additional candidates may file for election. If the ballots have been~~
43 ~~printed at the time the board of elections receives notice of the death or disqualification, the~~
44 ~~board shall reopen the filing period for three days if the board determines it will have time to~~
45 ~~reprint the ballots before the election.~~

46 ~~In the event the board of elections determines that there is not time enough to reopen the~~
47 ~~filing period for three days and to reprint the ballots, then the ballots shall not be reprinted and~~
48 ~~the name of the deceased or disqualified candidate shall remain on the ballot. Votes cast for~~
49 ~~such candidate shall not be considered and the candidates receiving the highest number of votes~~
50 ~~equal to the number of positions to be filled shall be elected.~~

1 (i) Electoral District Boundaries. – The local board of education shall revise electoral
2 district boundaries from time to time as provided by this subsection. If district boundaries are
3 set by local act or court order and the act or order does not provide a method for revising them,
4 the local board of education shall revise them only for the purpose of (i) accounting for territory
5 annexed to or excluded from the school administrative unit, and (ii) correcting population
6 imbalances among the districts shown by a new federal census or caused by exclusions or
7 annexations. After the General Assembly has ratified an act establishing district boundaries, the
8 local board of education shall not revise them again until a new federal census of population is
9 taken or territory is annexed to or excluded from the school administrative unit, whichever
10 event first occurs. After the local board of education has revised district boundaries in
11 conformity with this act, the local board of education shall not revise them again until a new
12 federal census of population is taken or territory is annexed to or excluded from the school
13 administrative unit, whichever event occurs first, except that the board may make an earlier
14 revision of district boundaries it has drawn if it must do so to comply with a court order or to
15 gain approval of a district-revision plan by the U.S. Justice Department under Section 5 of the
16 Voting Rights Act. In establishing district boundaries, the local board of education shall use
17 data derived from the most recent federal census."

18 **SECTION 3.** G.S. 115C-37.1 is repealed.

19 **SECTION 4.** G.S. 115C-67(3) reads as rewritten:

20 "(3) The establishment and maintenance of a board of education which shall
21 administer all the public schools of the newly created unit, including:
22 a. The termination of any terms of office proposed in the reorganization
23 of the board.
24 b. The method of constituting and continuing the board of education;
25 the manner of selection of board members, including (i) the number
26 of members of the board, (ii) the method of their election or
27 appointment, (iii) whether members shall be nominated, elected, or
28 appointed from districts or at large, (iv) the manner of determining
29 the ~~nominee, and (v) whether the election shall be partisan or~~
30 ~~nonpartisan; nominee; and (v) the length of the members' terms of~~
31 office; the dates of induction into office; the organization of the
32 board; ~~the procedure for filling vacancies; and the compensation to~~
33 be paid members of the board for expenses incurred in performance
34 of their duties. ~~To~~Except for the requirements of election on a
35 partisan basis and the filling of vacancies in the membership of a
36 local board of education, to the extent that the method conflicts with
37 G.S. 115C-35, G.S. 115C-37, or with any local act concerning any of
38 the units being merged and consolidated, the plan of merger and
39 consolidation shall prevail."

40 **SECTION 5.(a)** This act shall have the effect of repealing any provisions of local
41 or special acts relating to the nonpartisan election of a local board of education and any
42 conflicting methods of filling vacancies in the membership of boards of education than as
43 required by G.S. 115C-37(f), as amended by this act. This act shall not affect the filling of a
44 vacancy on a local board of education that occurs for a seat elected prior to the effective date of
45 this act.

46 **SECTION 5.(b)** Any local act or merger agreement providing for election of a
47 local board of education in an odd-numbered year enacted or approved prior to the effective
48 date of this act shall remain in effect, but the election of that local board of education shall be
49 held as a partisan election beginning in 2017.

50 **SECTION 6.** Except as otherwise provided in this act, this act becomes effective
51 January 1, 2016, and applies to primaries and elections held on or after that date.