

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 28

Education/Higher Education Committee Substitute Adopted 4/8/93

Constitution and Election Laws Committee Substitute Adopted 4/22/93

Short Title: School Governance Changes.

(Public)

Sponsors:

Referred to:

February 1, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION TO CHANGE THE COMPOSITION OF THE STATE BOARD OF EDUCATION, TO MAKE THE SUPERINTENDENT OF PUBLIC INSTRUCTION AN APPOINTEE OF THE STATE BOARD OF EDUCATION, AND TO MAKE CORRESPONDING STATUTORY CHANGES.

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,~~ nine members appointed by the Governor, four members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and four members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. The General Assembly shall divide the State into eight educational ~~districts,~~ districts. ~~Of the appointive members of the Board, one shall be appointed~~ Of the Governor's nine appointees, one shall be appointed from each of the eight educational districts and ~~three~~ one shall be appointed from the State at large. ~~Appointments—Terms shall be for overlapping terms of eight years.~~ four years, except as provided by statute. The General Assembly may provide by statute for any qualifications of Board members and any limitation on the number of terms a member may serve on the Board. Appointments to

1 fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject  
2 to confirmation, as provided by law.

3 The Governor shall designate one member of the Board as chair for a term as chair  
4 of two years."

5 Sec. 2. Section 4(2) of Article IX of the Constitution reads as rewritten:

6 "(2) **Superintendent of Public Instruction.** The Superintendent of Public  
7 Instruction shall be the secretary and chief administrative officer of the State Board of  
8 Education. The Superintendent shall be appointed by the State Board of Education and  
9 shall serve at the pleasure of the State Board of Education."

10 Sec. 3. Section 7(1) of Article III of the Constitution reads as rewritten:

11 "(1) **Officers.** A Secretary of State, an Auditor, a Treasurer, a ~~Superintendent of~~  
12 ~~Public Instruction,~~ an Attorney General, a Commissioner of Agriculture, a Commissioner  
13 of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of  
14 the State in 1972 and every four years thereafter, at the same time and places as  
15 members of the General Assembly are elected. Their term of office shall be four years  
16 and shall commence on the first day of January next after their election and continue  
17 until their successors are elected and qualified."

18 Sec. 4. G.S. 115C-10 reads as rewritten:

19 "**§ 115C-10. Appointment of Board.**

20 (a) The State Board of Education shall consist of the Lieutenant Governor, the  
21 State Treasurer, and ~~44~~ nine members appointed by the Governor, four members  
22 appointed by the General Assembly upon the recommendation of the President Pro  
23 Tempore of the Senate, and four members appointed by the General Assembly upon the  
24 recommendation of the Speaker of the House of Representatives. ~~Governor, subject to~~  
25 ~~confirmation by the General Assembly in joint session. Not more than one public school~~  
26 ~~employee paid from State or local funds may serve as an appointive member of the State Board~~  
27 ~~of Education. No spouse of any public school employee paid from State or local funds and no~~  
28 ~~employee of the Department of Public Instruction or his spouse, may serve as an appointive~~  
29 ~~member of the State Board of Education. Of the appointive members of the State Board of~~  
30 ~~Education, one shall be appointed~~ Of the Governor's nine appointments, one shall be  
31 appointed from each of the eight educational districts and ~~three~~ one shall be appointed as  
32 members ~~a member~~ at large. Appointments shall be for terms of eight years and shall be  
33 made in four classes. Appointments to fill vacancies shall be made by the Governor for the  
34 unexpired terms and shall not be subject to confirmation.

35 (b) All terms shall begin July 1, 1994, and all terms shall be for four years,  
36 except as otherwise provided in subsection (c) of this section. No member may serve  
37 more than two full four-year terms in succession. Resignation from a term of office does  
38 not constitute a break in service for the purpose of this subsection.

39 (c) Members appointed by the Governor for a term to begin July 1, 1994, shall  
40 serve until June 30, 1996. Thereafter, all members shall be appointed to serve four-year  
41 terms. The first of these terms shall begin July 1, 1996. Members appointed for a term  
42 to begin July 1, 1994, may be reappointed for two additional successive terms.

43 (d) Appointments to fill vacancies in positions filled by the Governor shall be  
44 made by the Governor for the unexpired terms. Appointments by the General Assembly

1 shall be made in accordance with G.S. 120-121, and appointments to fill vacancies in  
2 those positions shall be made in accordance with G.S. 120-122.

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

9 Sec. 5. G.S. 115C-11(a) reads as rewritten:

10 "(a) Presiding Officer. – The Governor shall select one member of the Board to  
11 serve as chair. The chair shall serve at the pleasure of the Governor. The State Board of  
12 Education shall elect from its membership a ~~chairman and vice-chairman~~. A majority of  
13 the Board shall constitute a quorum for the transaction of business. Per diem and  
14 expenses of the appointive members of the Board shall be provided by the General  
15 Assembly. The chairman of the Board shall preside at all meetings of the Board. In the  
16 absence of the chairman, the vice-chairman shall preside; in the absence of both the  
17 chairman and the vice-chairman, the Board shall name one of its own members as  
18 chairman pro tempore."

19 Sec. 6. G.S. 115C-18 reads as rewritten:

20 "**§ 115C-18. Election—Appointment of Superintendent of Public Instruction.**  
21 **Instruction; salary.**

22 The Superintendent of Public Instruction shall be ~~elected by the qualified voters of~~  
23 ~~the State in 1972 and every four years thereafter at the same time and places as~~  
24 ~~members of the General Assembly are elected. His term of office shall be four years and~~  
25 ~~shall commence on the first day of January next after election and continue until his~~  
26 ~~successor is elected and qualified.~~

27 ~~If the office of the Superintendent of Public Instruction is vacated by death,~~  
28 ~~resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve~~  
29 ~~until his successor is elected and qualified. Every such vacancy shall be filled by~~  
30 ~~election at the first election for members of the General Assembly that occurs more than~~  
31 ~~30 days after the vacancy has taken place, and the person chosen shall hold the office~~  
32 ~~for the remainder of the unexpired term fixed in Article III, Sec. 7 of the Constitution of~~  
33 ~~North Carolina. When a vacancy occurs in the office and the term expires on the first~~  
34 ~~day of January succeeding the next election for members of the General Assembly, the~~  
35 ~~Governor shall appoint to fill the vacancy for the unexpired term of the office. Upon the~~  
36 ~~occurrence of a vacancy in the office for any of the causes stated herein, the Governor~~  
37 ~~may appoint an interim officer to perform the duties of that office until a person is~~  
38 ~~appointed or elected pursuant to Article III, Sec. 7 of the Constitution of North Carolina~~  
39 ~~to fill the vacancy and is qualified.~~

40 ~~The time of the election of the Superintendent of Public Instruction shall be in~~  
41 ~~accordance with the provisions of Article 1 of Subchapter I of Chapter 163 of the~~  
42 ~~General Statutes.~~

43 ~~The election, term and induction into office of the Superintendent of Public~~  
44 ~~Instruction shall be in accordance with the provisions of G.S. 147-4. appointed by the~~

1 State Board of Education and shall serve at the pleasure of the State Board of Education.  
2 The salary of the Superintendent shall be set by the State Board of Education."

3 Sec. 7. G.S. 115C-20 is repealed.

4 Sec. 8. G.S. 115C-21(a) reads as rewritten:

5 "(a) Administrative Duties. – It shall be the duty of the Superintendent of Public  
6 Instruction:

7 (1) To organize and establish a Department of Public Instruction which  
8 shall include such divisions and departments as are necessary for  
9 supervision and administration of the public school system, to  
10 administer the funds for the operation of the Department of Public  
11 Instruction, and to enter into contracts for the operations of the  
12 Department of Public Instruction.

13 (2) To keep the public informed as to the problems and needs of the public  
14 schools by constant contact with all school administrators and  
15 teachers, by ~~his personal appearance~~ personally appearing at public  
16 gatherings, and by information furnished to the press of the State.

17 (3) To report biennially to the Governor 30 days prior to each regular  
18 session of the General Assembly, ~~Assembly. such report to~~ The report  
19 shall include information and statistics ~~of~~ concerning the public  
20 schools, ~~with~~ and recommendations for ~~their~~ the improvement of the  
21 public schools and ~~for such changes in the public school law. law as shall~~  
22 ~~occur to him.~~

23 (4) To have printed and distributed such educational bulletins as ~~he shall~~  
24 ~~deem~~ necessary for the professional improvement of teachers and for  
25 the cultivation of public sentiment for public education, and to have  
26 printed all forms necessary and proper for the administration of the  
27 Department of Public Instruction.

28 (5) ~~To have under his direction, in his capacity as the constitutional head of the~~  
29 ~~public school system. As chief administrative officer of the State Board~~  
30 of Education, to direct all those matters relating to the supervision and  
31 administration of the public school system.

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

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

36 (1a) To administer the funds appropriated to the Department of Public  
37 Education for the operations of the State Board of Education and for  
38 aid to local school administrative units.

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

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

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

- 1 (5) To collect and organize information regarding the public schools, ~~on~~  
 2 ~~the basis of which he shall~~ and to use this information to furnish the  
 3 Board such tabulations and reports as may be required by the Board.  
 4 (6) To communicate to the public school administrators all information  
 5 and instructions regarding instructional policies and procedures  
 6 adopted by the Board.  
 7 (7) To have custody of the official seal of the Board and to attest all deeds,  
 8 leases, or written contracts executed in the name of the Board. All  
 9 deeds of conveyance, leases, and contracts affecting real estate, title to  
 10 which is held by the Board, and all contracts of the Board required to  
 11 be in writing and under seal, shall be executed in the name of the  
 12 Board by the chairman and attested by the secretary; and proof of the  
 13 execution, if required or desired, may be had as provided by law for  
 14 the proof of corporate instruments.  
 15 (8) To attend all meetings of the Board and to keep the minutes of the  
 16 proceedings of the Board in a well-bound and suitable book, which  
 17 minutes shall be approved by the Board prior to its adjournment; and,  
 18 as soon thereafter as possible, to furnish to each member of the Board  
 19 a copy of said minutes.  
 20 (9) To perform such other duties as the Board may ~~assign to him from time~~  
 21 ~~to time.~~ assign."

22 Sec. 9. G.S. 120-123 is amended by adding a new subdivision to read:

23 "(60) The State Board of Education, as established in G.S. 115C-10."

24 Sec. 10. G.S. 143A-42 reads as rewritten:

25 **"§ 143A-42. Superintendent of Public Instruction; transfer of office and**  
 26 **Department of Public Instruction; powers and duties.**

27 The office of the Superintendent of Public Instruction, as provided for by ~~Article III,~~  
 28 ~~Sec. 7,~~ Article IX, Sec. 4(2), of the Constitution, and the Department of Public  
 29 Instruction are hereby transferred to the Department of Public Education. The  
 30 Superintendent of Public Instruction shall be the secretary and chief administrative  
 31 officer of the State Board of Education, and shall have such powers and duties as are  
 32 conferred by the Constitution, by the State Board of Education, Chapter 115C of the  
 33 General Statutes, and the laws of this State."

34 Sec. 11. G.S. 147-3(c) reads as rewritten:

35 "(c) The general civil executive officers of this State are as follows:

- 36 (1) A Governor;  
 37 (2) A Lieutenant Governor;  
 38 (3) Private secretary for the Governor;  
 39 (4) A Secretary of State;  
 40 (5) An Auditor;  
 41 (6) A Treasurer;  
 42 (7) An Attorney General;  
 43 ~~(8) A Superintendent of Public Instruction;~~  
 44 (9) The members of the Governor's Council;

- 1 (10) A Commissioner of Agriculture;  
2 (11) A Commissioner of Labor;  
3 (12) A Commissioner of Insurance."  
4 Sec. 12. G.S. 147-4 reads as rewritten:

5 **"§ 147-4. Executive officers – election; term; induction into office.**

6 The executive department shall consist of a Governor, a Lieutenant Governor, a  
7 Secretary of State, an Auditor, a Treasurer, a ~~Superintendent of Public Instruction,~~ an  
8 Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a  
9 Commissioner of Labor, who shall be elected for a term of four years, by the qualified  
10 electors of the State, at the same time and places, and in the same manner, as members  
11 of the General Assembly are elected. Their term of office shall commence on the first  
12 day of January next after their election and continue until their successors are elected  
13 and qualified. The persons having the highest number of votes, respectively, shall be  
14 declared duly elected, but if two or more be equal and highest in votes for the same  
15 office, then one of them shall be chosen by joint ballot of both houses of the General  
16 Assembly. Contested elections shall be determined by a joint ballot of both houses of  
17 the General Assembly in such manner as shall be prescribed by law."

18 Sec. 13. G.S. 147-11.1 reads as rewritten:

19 **"§ 147-11.1. Succession to office of Governor; Acting Governor.**

20 (a) Lieutenant Governor. –

- 21 (1) The Lieutenant Governor-elect shall become Governor upon the  
22 failure of the Governor-elect to qualify. The Lieutenant Governor shall  
23 become Governor upon the death, resignation, or removal from office  
24 of the Governor. The further order of succession to the office of  
25 Governor shall be prescribed by law. A successor shall serve for the  
26 remainder of the term of the Governor whom he succeeds and until a  
27 new Governor is elected and qualified.  
28 (2) During the absence of the Governor from the State, or during the  
29 physical or mental incapacity of the Governor to perform the duties of  
30 his office, the Lieutenant Governor shall be Acting Governor. The  
31 further order of succession as Acting Governor shall be prescribed by  
32 law.

33 (b) President of Senate, Speaker of the House and Other Officers. –

- 34 (1) If, by reason of failure to qualify, death, resignation, or removal from  
35 office, there is neither a Governor nor a Lieutenant Governor to  
36 discharge the powers and duties of the office of Governor, then the  
37 President of the Senate shall, upon his resignation as President of the  
38 Senate and as Senator, become Governor.  
39 (2) If, at the time when under subdivision (1) of this subsection the  
40 President of the Senate is to become Governor, there is no President of  
41 the Senate, or the President of the Senate fails to qualify as Governor,  
42 then the Speaker of the House of Representatives shall, upon his  
43 resignation as Speaker and as Representative, become Governor.

- 1 (3) If, at the time when under subdivision (2) of this subsection the  
2 Speaker of the House of Representatives is to become Governor, there  
3 is no Speaker of the House of Representatives, or the Speaker of the  
4 House of Representatives fails to qualify as Governor, then that officer  
5 of the State of North Carolina who is highest on the following list, and  
6 who is not under disability to serve as Governor, shall, upon his  
7 resignation of the office which places him in the order of succession,  
8 become Governor: Secretary of State, Auditor, Treasurer,  
9 ~~Superintendent of Public Instruction~~, Attorney General, Commissioner of  
10 Agriculture, Commissioner of Labor, and Commissioner of Insurance.
- 11 (c) Acting Governor Generally. –
- 12 (1) If, by reason of absence from the State or physical or mental  
13 incapacity, there is neither a Governor nor a Lieutenant Governor  
14 qualified to discharge the powers and duties of the office of Governor,  
15 then the President of the Senate shall become Acting Governor.
- 16 (2) If, at the time when under subdivision (1) of this subsection the  
17 President of the Senate is to become Acting Governor, there is no  
18 President of the Senate, or the President of the Senate fails to qualify  
19 as Acting Governor, then the Speaker of the House of Representatives  
20 shall become Acting Governor.
- 21 (3) If, at the time when under subdivision (2) of this subsection the  
22 Speaker of the House of Representatives is to become Acting  
23 Governor, there is no Speaker of the House of Representatives, or the  
24 Speaker of the House of Representatives fails to qualify as Acting  
25 Governor, then that officer of the State of North Carolina who is  
26 highest on the following list, and who is not under disability to serve  
27 as Acting Governor, shall become Acting Governor: Secretary of  
28 State, Auditor, Treasurer, ~~Superintendent of Public Instruction~~, Attorney  
29 General, Commissioner of Agriculture, Commissioner of Labor, and  
30 Commissioner of Insurance.
- 31 (d) Governor Serving under Subsection (c). – An individual serving as Acting  
32 Governor under subsection (c) of this section shall continue to act for the remainder of  
33 the term of the Governor whom he succeeds and until a new Governor is elected and  
34 qualified, except that:
- 35 (1) If his tenure as Acting Governor is founded in whole or in part upon  
36 the absence of both the Governor and Lieutenant Governor from the  
37 State, then he shall act only until the Governor or Lieutenant Governor  
38 returns to the State; and
- 39 (2) If his tenure as Acting Governor is founded in whole or in part upon  
40 the physical or mental incapacity of the Governor or Lieutenant  
41 Governor, then he shall act only until the removal of the incapacity of  
42 the Governor or Lieutenant Governor.
- 43 (e) Officers to Which Subsections (b), (c) and (d) Applicable. – Subsections (b),  
44 (c), and (d) of this section shall apply only to such officers as are eligible to the office of

1 Governor under the Constitution of North Carolina, and only to officers who are not  
2 under impeachment by the House of Representatives at the time they are to become  
3 Governor or Acting Governor.

4 (f) Compensation of Acting Governor. – During the period that any individual  
5 serves as Acting Governor under subsection (c) of this section, his compensation shall  
6 be at the rate then provided by law in the case of the Governor."

7 Sec. 14. G.S. 163-1 is amended by deleting the entries in the table for  
8 "Superintendent of Public Instruction".

9 Sec. 15. G.S. 163-8 reads as rewritten:

10 **"§ 163-8. Filling vacancies in State executive offices.**

11 If the office of Governor or Lieutenant Governor shall become vacant, the  
12 provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers  
13 shall be vacated by death, resignation, or otherwise than by expiration of term, it shall  
14 be the duty of the Governor to appoint another to serve until his successor is elected and  
15 qualified: Secretary of State, Auditor, Treasurer, ~~Superintendent of Public Instruction,~~  
16 Attorney General, Commissioner of Agriculture, Commissioner of Labor, and  
17 Commissioner of Insurance. Each such vacancy shall be filled by election at the first  
18 election for members of the General Assembly that occurs more than 60 days after the  
19 vacancy has taken place, and the person chosen shall hold the office for the remainder  
20 of the unexpired four-year term: Provided, that when a vacancy occurs in any of the  
21 offices named in this section and the term expires on the first day of January succeeding  
22 the next election for members of the General Assembly, the Governor shall appoint to  
23 fill the vacancy for the unexpired term of the office.

24 Upon the occurrence of a vacancy in the office of any one of these officers for any  
25 of the causes stated in the preceding paragraph, the Governor may appoint an acting  
26 officer to perform the duties of that office until a person is appointed or elected pursuant  
27 to this section and Article III, Section 7 of the State Constitution, to fill the vacancy and  
28 is qualified."

29 Sec. 16. G.S. 163-278.27 reads as rewritten:

30 **"§ 163-278.27. Penalty for violations; duty to report and prosecute.**

31 (a) Any individual, candidate, political committee, referendum committee,  
32 treasurer, person or media who violates the provisions of G.S. 163-278.7, 163-278.8,  
33 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.14, 163-278.16, 163-278.17,  
34 163-278.18, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D or 163-278.40E is  
35 guilty of a misdemeanor.

36 (b) Whenever the Board has knowledge of or has reason to believe there has been  
37 a violation of any section of this Article, it shall report that fact, together with  
38 accompanying details, to the following prosecuting authorities:

39 (1) In the case of a candidate for nomination or election to the State Senate  
40 or State House of Representatives: report to the district attorney of the  
41 prosecutorial district in which the candidate for nomination or election  
42 resides;

43 (2) In the case of a candidate for nomination or election to the office of  
44 Governor, Lieutenant Governor, Secretary of State, State Auditor,



1 State Treasurer, ~~State Superintendent of Public Instruction~~, State Attorney  
 2 General, State Commissioner of Agriculture, State Commissioner of  
 3 Labor, State Commissioner of Insurance, and all other State elective  
 4 offices, Justice of the Supreme Court, Judge of the Court of Appeals,  
 5 judge of a superior court, judge of a district court, and district attorney  
 6 of the superior court: report to the district attorney of the prosecutorial  
 7 district in which Wake County is located;

8 (3) In the case of an individual other than a candidate, including, without  
 9 limitation, violations by members of political committees, referendum  
 10 committees or treasurers: report to the district attorney of the  
 11 prosecutorial district in which the individual resides; and

12 (4) In the case of a person or any group of individuals: report to the  
 13 district attorney or district attorneys of the prosecutorial district or  
 14 districts in which any of the officers, directors, agents, employees or  
 15 members of the person or group reside.

16 (c) Upon receipt of such a report from the Board, the appropriate district attorney  
 17 shall prosecute the individual or persons alleged to have violated a section or sections of  
 18 this Article."

19 Sec. 17. The amendments set out in Sections 1, 2, and 3 of this act shall be  
 20 submitted to the qualified voters of the State at an election to be held at the same time as  
 21 the next statewide primary, general, or special election, whichever occurs first, which  
 22 election shall be conducted under the laws then governing elections in the State. At that  
 23 election, each qualified voter desiring to vote shall be provided a ballot on which shall  
 24 be printed the following:

25 "[ ] FOR constitutional amendments to change the composition of the State  
 26 Board of Education, to change the length of terms for members of the  
 27 State Board of Education, and to make the Superintendent of Public  
 28 Instruction an appointee of the State Board of Education.

29 [ ] AGAINST constitutional amendments to change the composition of  
 30 the State Board of Education, to change the length of terms for  
 31 members of the State Board of Education, and to make the  
 32 Superintendent of Public Instruction an appointee of the State Board of  
 33 Education."

34 Those qualified voters favoring the amendments set out in Sections 1, 2,  
 35 and 3 of this act shall vote by making an "X" or a check mark in the square beside the  
 36 statement beginning "FOR", and those qualified voters opposed to those amendments  
 37 shall vote by making an "X" or check mark in the square beside the statement beginning  
 38 "AGAINST".

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

41 Sec. 18. If a majority of votes cast thereon are in favor of the amendments set  
 42 out in Sections 1, 2, and 3 of this act, the State Board of Elections shall certify the  
 43 amendments to the Secretary of State, who shall enroll the amendments so certified

1 among the permanent records of his office, and the amendments shall become effective  
2 as follows:

3 (1) The amendment set out in Section 1 of this act shall become effective  
4 upon such certification except that the term of office of all members of  
5 the State Board of Education who were appointed to the State Board of  
6 Education prior to July 1, 1994, and were serving as members on June  
7 30, 1994, shall expire on July 1, 1994.

8 (2) The amendments set out in Sections 2 and 3 of this act shall  
9 become effective on the earlier of January 1, 1997, and the date that  
10 a vacancy occurs in the office of Superintendent of Public  
11 Instruction, except that there shall be no election held to fill the  
12 office of Superintendent for a term beginning on or after December  
13 31, 1996. If Article III, Section 7(3) of the Constitution would have  
14 provided for an election to be held in 1994 for the remainder of the  
15 unexpired term caused by a vacancy in the office of the  
16 Superintendent of Public Instruction, that election shall not be held  
17 and the vacancy shall be filled by the State Board of Education;  
18 provided, this sentence only applies if the referendum in Section 17  
19 of this act occurs before January 1, 1994.

20 Sec. 19. Sections 4 through 16 of this act become effective only if the  
21 constitutional amendments set out in Sections 1, 2, and 3 of this act are approved by the  
22 voters. If the constitutional amendments are approved by the voters:

23 (1) Sections 4, 5, and 9 of this act shall become effective July 1, 1994:  
24 Provided, however, the General Assembly and the Governor may  
25 appoint members to the State Board of Education in accordance with  
26 Section 4 of this act, prior to July 1, 1994, for terms of office  
27 beginning July 1, 1994.

28 (2) Sections 6, 7, 8, and 10 through 16 of this act shall become effective  
29 the earlier of January 1, 1997, and the date that a vacancy occurs in the  
30 office of Superintendent of Public Instruction, except that there shall  
31 be no election held to fill the office of Superintendent for a term  
32 beginning on or after December 31, 1996.

33 Sec. 20. This act is effective upon ratification.