

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 213
HOUSE BILL 45

1 AN ACT TO AMEND SECTION 22 OF ARTICLE 2 OF CHAPTER 90 OF THE GENERAL
2 STATUTES OF NORTH CAROLINA AND TO DESIGNATE TERMS OF OFFICE AND
3 MANNER OF ELECTION OF MEMBERS OF THE NORTH CAROLINA STATE
4 BOARD OF DENTAL EXAMINERS AND TO PRESCRIBE THEIR
5 QUALIFICATIONS.
6

7 The General Assembly of North Carolina do enact:
8

9 **Section 1.** Section 22 of Article 2 of Chapter 90 of the General Statutes of North
10 Carolina is hereby amended by striking from said Section all of that part of said Section
11 following the words: "...the agency of the State for the regulation of the practice of dentistry in
12 this State", occurring in the first sentence of the second paragraph of said Section, and by
13 putting a period after the aforesaid words "in this State", and by inserting the following in lieu
14 of the portion so stricken out:

15 "Said Board of Dental Examiners shall consist of six dentists who are licensed to practice
16 dentistry in North Carolina and who possess other qualifications hereinafter specified and who
17 shall have been elected in an election held as is hereinafter provided in which every person
18 licensed to practice dentistry in North Carolina and residing in North Carolina shall be entitled
19 to vote. Each member of said Board shall be elected for a term of three years and until his
20 successor shall be elected and shall qualify. Each year there shall be elected two members for
21 such terms of three years each. Any vacancy occurring on said Board shall be filled for the
22 period of the unexpired term by a majority vote of the remaining members of the Board. No
23 person shall be nominated for membership on said Board, or shall be elected to membership on
24 said Board, unless, at the time of such nomination, and at the time of such election, he is
25 licensed to practice dentistry in North Carolina and actually engaged in the practice of dentistry
26 in North Carolina and unless he has had such license to practice dentistry in North Carolina for
27 not less than nine consecutive years prior thereto.

28 "Nominations and elections of members of the North Carolina State Board of Dental
29 Examiners shall be as follows:

30 "(a) An election shall be held each year to elect two members of the Board of Dental
31 Examiners, each to take office on the first day of August following the election and to hold
32 office for a term of three years and until his successor has been elected and shall qualify;
33 provided that if in any year the election of the members of such Board for that year shall not
34 have been completed by August first of that year, then the said members elected that year shall
35 take office immediately after the completion of the election and shall hold office until the first
36 of August of the third year thereafter and until their successors are elected and qualified.

37 "(b) Every dentist with a current North Carolina license residing in North Carolina shall
38 be eligible to vote in all elections. The holding of such a license to practice dentistry in North
39 Carolina shall constitute registration to vote in such elections. The list of licensed dentists shall
40 constitute the registration list for elections.

41 "(c) All elections shall be conducted by the Board of Dental Examiners which is hereby
42 constituted a Board of Dental Elections. If a member of the Board of Dental Examiners whose
43 position is to be filled at any election is nominated to succeed himself, and does not withdraw

1 his name, he shall be disqualified to serve as a member of the Board of Dental Elections for
2 that election and the remaining members of the Board of Dental Elections shall proceed and
3 function without his participation.

4 "(d) Nomination of candidates for election shall be made to the Board of Dental
5 Elections by a written petition signed by not less than ten dentists licensed to practice in North
6 Carolina and residing in North Carolina, and filed with said Board of Dental Elections
7 subsequent to January first of the year in which the election is to be held and not later than
8 midnight of the 20th day of May of such year, or not later than such earlier date (not before
9 April 1) as may be set by the Board of Dental Elections: Provided, that not less than ten days
10 notice of such earlier date shall be given to all dentists qualified to sign a petition of
11 nomination.

12 "(e) Any person who is nominated as provided in Subsection (d) above may withdraw
13 his name by written notice delivered to the Board of Dental Elections or its designated
14 secretary at any time prior to the closing of the polls in any election.

15 "(f) Following the close of nominations, there shall be prepared, under and in
16 accordance with such rules and regulations as the Board of Dental Elections shall prescribe,
17 ballots containing, in alphabetical order, the names of all nominees; and each ballot shall have
18 such method of identification, and such instructions and requirements printed thereon, as shall
19 be prescribed by the Board of Dental Elections. At such time as may be fixed by the Board of
20 Dental Elections a ballot and a return official envelope addressed to said Board shall be mailed
21 to each dentist licensed to practice in North Carolina and residing in North Carolina, together
22 with a notice by said Board designating the latest day and hour for return mailing and
23 containing such other items as such Board may see fit to include. The said envelope shall bear a
24 serial number and shall have printed on the left portion of its face the following:

25 " 'Serial No. of Envelope _____

26 Signature of Voter _____

27 Address of Voter _____

28 (Note: The enclosed ballot is not valid
29 unless the signature of the voter is on
30 this envelope)'

31 The Board of Dental Elections may cause to be printed or stamped or written on said envelope
32 such additional notice as it may see fit to give. No ballot shall be valid or shall be counted in an
33 election unless, within the time hereinafter provided, it has been delivered to said Board by
34 hand or by mail and shall be sealed. The said Board by rule may make provision for
35 replacement of lost or destroyed envelopes or ballots upon making proper provisions to
36 safeguard against abuse.

37 "(g) The date and hour fixed by the Board of Dental Elections as the latest time for
38 delivery by hand or mailing of said return ballots shall be not earlier than the tenth day
39 following the mailing of the envelopes and ballots to the voters.

40 "(h) The said ballots shall be canvassed by the Board of Dental Elections beginning at
41 noon on a day and at a place set by said Board and announced by it in the notice accompanying
42 the sending out of the ballots and envelopes, said date to be not later than four days after the
43 date fixed by the Board for the closing of the balloting. The canvassing shall be made publicly
44 and any licensed dentists may be present. The counting of ballots shall be conducted as follows:
45 The envelopes shall be displayed to the persons present and an opportunity shall be given to
46 any person present to challenge the qualification of the voter whose signature appears on the
47 envelope or to challenge the validity of the envelope. Any envelope (with enclosed ballot)
48 challenged shall be set aside, and the challenge shall be heard later or at that time by said
49 Board. After the envelopes have been so exhibited, those not challenged shall be opened and
50 the ballots extracted therefrom, insofar as practicable without showing the marking on the
51 ballots, and there shall be a final and complete separation of each envelope and its enclosed

1 ballot. Thereafter each ballot shall be presented for counting, shall be displayed and, if not
2 challenged, shall be counted. No ballot shall be valid if it is marked for more nominees than
3 there are positions to be filled in that election: Provided, that no ballot shall be rejected for any
4 technical error unless it is impossible to determine the voter's choices or choice from the ballot.
5 The counting of the ballots shall be continued until completed. During the counting, challenge
6 may be made to any ballot on the grounds only of defects appearing on the face of the ballot.
7 The said Board may decide the challenge immediately when it is made or it may put aside the
8 ballot and determine the challenge upon the conclusion of the counting of the ballots.

9 "(i) If more than two nominees receive a majority of the votes cast, the two receiving the
10 highest number of votes shall be declared elected. If only two of the nominees receive a
11 majority of the votes cast, they shall be declared elected. If only one of the nominees shall
12 receive a majority of the votes cast, he shall be declared elected and the Board of Dental
13 Elections shall thereupon order a second election to determine a contest between the two
14 remaining nominees receiving the highest number of votes. If no candidate shall receive a
15 majority of the votes cast, the said Board shall order a second election to determine a contest
16 between the four candidates receiving the highest number of votes. In any election if there is a
17 tie between candidates, the tie shall be resolved by the vote of the Board of Dental Examiners,
18 provided that if a member of that Board is one of the candidates in the tie, he may not
19 participate in such vote.

20 "(j) In the event there shall be required a second election, there shall be followed the
21 same procedure as outlined in the paragraphs above subject to the same limitations and
22 requirements: Provided, that if the second election is between four candidates, then the two
23 receiving the highest number of votes shall be declared elected.

24 "(k) In the case of the death or withdrawal of a candidate prior to the closing of the polls
25 in any election, he shall be eliminated from the contest and any votes cast for him shall be
26 disregarded. If, at any time after the closing of the period for nominations because of lack of
27 plural or proper nominations or death, or withdrawal, or disqualification or any other reason,
28 there shall be (1) only two candidates for two positions, they shall be declared elected by the
29 Board of Dental Elections, or (2) only one candidate for one position, he shall be declared
30 elected by the Board of Dental Elections, or (3) no candidate for two positions, the two
31 positions shall be filled by the Board of Dental Examiners, or (4) no candidate for one position,
32 the position shall be filled by the Board of Dental Examiners, or (5) one candidate for two
33 positions, the one candidate shall be declared elected by the Board of Dental Elections and one
34 qualified dentist shall be elected to the other position by the Board of Dental Examiners. In the
35 event of the death or withdrawal of a candidate after election but before taking office, the
36 position to which he was elected shall be filled by the Board of Dental Examiners. In the event
37 of the death or resignation of a member of the Board of Dental Examiners, after taking office,
38 his position shall be filled for the unexpired term by the Board of Dental Examiners.

39 "(l) An official list of licensed dentists shall be kept at an office of the Board of Dental
40 Elections and shall be open to the inspection of any person at all times. Copies may be made by
41 any licensed dentist. As soon as the voting in any election begins a list of the licensed dentists
42 shall be posted in such office of said Board and indication by mark or otherwise shall be made
43 on that list to show whether a ballot-enclosing envelope has been returned.

44 "(m) All envelopes enclosing ballots and all ballots shall be preserved and held separately
45 by the Board of Dental Elections for a period of six months following the close of an election.

46 "(n) From any decision of the Board of Dental Elections relative to the conduct of such
47 elections, appeal may be taken to the courts in the manner otherwise provided by Article 33 of
48 Chapter 143 of the General Statutes of North Carolina.

49 "(o) The Board of Dental Elections is authorized to make rules and regulations relative
50 to the conduct of these elections provided same are not in conflict with the provisions of this
51 Act and provided that notice shall be given to all licensed dentists residing in North Carolina.

1 "(p) For service on the Board of Dental Elections, the members of such Board shall
2 receive the per diem compensation and the expenses allowed by this Article for service as
3 members of the Board of Dental Examiners. The Board of Dental Elections is authorized and
4 empowered to expend from funds collected under the provisions of this Article such sum or
5 sums as it may determine necessary in the performance of its duties as a Board of Dental
6 Elections, said expenditures to be in addition to the authorization contained in G.S. 90-43 and
7 to be disbursed as provided therein.

8 "(q) The Board of Dental Elections is authorized to appoint such secretary or secretaries
9 and/or assistant secretary or assistant secretaries to perform such functions in connection with
10 such nominations and elections as said Board shall determine, provided that any protestant or
11 contestant shall have the right to a hearing by said Board in connection with any challenge of a
12 voter, or an envelope, or a ballot or the counting of an election. Said Board is authorized to
13 designate an office or offices for the keeping of lists of registered dentists, for the issuance and
14 the receipt of envelopes and ballots."

15 **Sec. 2.** The first election to be held pursuant to this Act shall be held in the calendar
16 year 1961 and there shall be elected in that year two members of the said Board of Dental
17 Examiners who shall take office on August 1, 1961, or as soon thereafter as the 1961 election
18 shall be concluded, and shall serve for a term of three years ending on August 1, 1964, and
19 until their successors shall be elected and shall qualify. An election shall be held each year
20 thereafter as provided hereinabove in this Act.

21 **Sec. 3.** The following North Carolina licensed dentists who constitute the present
22 Board of Dental Examiners are hereby confirmed, appointed, named and designated as the
23 North Carolina State Board of Dental Examiners and they are authorized and directed to
24 discharge the functions of said Board under the terms of Article 2 of Chapter 90 of the General
25 Statutes and they are further named, appointed, and designated as the Board of Dental Elections
26 and are authorized and directed to discharge the duties and perform the functions of said Board
27 of Dental Elections as set forth above in this Act. The said members of said North Carolina
28 State Board of Dental Examiners and Board of Dental Elections are hereby confirmed,
29 appointed, named and designated for the terms expiring on the following dates and until their
30 successors are elected and shall qualify:

31 J. Homer Guion August 1, 1961
32 Horace K. Thompson August 1, 1961
33 Wade H. Breeland August 1, 1962
34 S.W. Shaffer August 1, 1962
35 G. Shuford Abernethy August 1, 1963
36 S.L. Bobbitt August 1, 1963.

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

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

44 **Sec. 6.** This Act shall be in full force and effect from and after its ratification.
45 In the General Assembly read three times and ratified, this the 13th day of April,
46 1961.