

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 633
HOUSE BILL 1311

AN ACT TO PROVIDE FOR THE ORGANIZATION OF THE GASTON COUNTY BOARD OF EDUCATION, THE NOMINATION AND ELECTION OF ITS MEMBERS, TO DEFINE IN PART THEIR POWERS AND AUTHORITY AND TO REPEAL ALL PUBLIC, PUBLIC-LOCAL AND PRIVATE LAWS IN CONFLICT WITH THIS ACT.

The General Assembly of North Carolina enacts:

Section 1. Definitions.

- (a) The term "county" shall mean Gaston County.
- (b) The term "administrative unit" shall mean the geographical territory over which the Gaston County Board of Education exercises authority in administering and operating the public schools of said county.
- (c) The term "board of commissioners" shall mean the Board of Commissioners of Gaston County.
- (d) The term "board of education" shall mean the Gaston County Board of Education which is empowered to operate and administer all the public schools in the county.
- (e) The term "board of elections" shall mean the Gaston County Board of Elections.
- (f) The term "presiding officer" is used collectively and includes the chairman, vice-chairman and chairman pro tempore. Where the term "chairman", "vice-chairman" and "chairman pro tempore" is used, it is used advisedly and to the exclusion of the others.
- (g) The masculine gender shall be deemed to include the feminine and the neuter as the context may require.
- (h) The singular shall be deemed to include the plural as the context may require.
- (i) The terms "member at large" and "member elected at large" shall mean one who is elected without regard to residence in any particular township.

Sec. 2. Composition of board of education. Notwithstanding Section 115-18 of the General Statutes of North Carolina, the board of education shall consist of nine members. Two members shall be elected by the duly qualified voters of Gaston County without regard to residence in any particular township and seven members shall be elected by the duly qualified voters of Gaston County from the following townships:

- (1) Cherryville Township shall be entitled to one member.

- (2) Crowders Mountain Township shall be entitled to one member.
- (3) Dallas Township shall be entitled to one member.
- (4) Gastonia Township shall be entitled to two members.
- (5) Riverbend Township shall be entitled to one member.
- (6) Southpoint Township shall be entitled to one member.

Sec. 3. Elections. Notwithstanding Section 115-19 of the General Statutes of North Carolina, at the general election to be held in the year 1978, there shall be elected by the duly qualified voters of Gaston County three members of the board of education, with one member from Cherryville Township, one member from Crowders Mountain Township and one member at large. The term for these three members shall commence on the first Monday in December 1978, and expire at the end of two years thereafter, or on the first Monday in December 1980.

At the general election to be held in the year 1980, there shall be elected by the duly qualified voters of Gaston County six members of the board of education, with one member from Cherryville Township, one member from Crowders Mountain Township, one member from Gastonia Township, one member from Riverbend Township, one member from Southpoint Township and one member at large. Those members elected from Cherryville Township, Crowders Mountain Township, Gastonia Township and the member elected at large shall compose one class, whose term of office shall commence on the first Monday in December 1980, and expire at the end of four years thereafter, or on the first Monday in December 1984. The term of office for those members elected from Riverbend Township and Southpoint Township shall commence on the First Monday in December 1980, and expire at the end of two years thereafter, or on the first Monday in December 1982.

At the general election to be held in the year 1982, there shall be elected by the duly qualified voters of Gaston County five members of the board of education, with one member from Dallas Township, one member from Gastonia Township, one member from Riverbend Township, one member from Southpoint Township and one member at large. These five members shall compose another class, whose terms of office shall commence on the first Monday in December 1982, and expire at the end of four years thereafter, or on the first Monday in December 1986.

Upon the expiration of the term of office of each class of members of the board of education (the term class shall exclude the members elected for a term of two years) their successors shall be elected to hold office for four years and until their successors are elected and qualified.

The election of members of the board of education shall be held, conducted and supervised by the board of elections; and except as herein provided, the general election laws and regulations for the nomination and election of county officers, which are set forth in Chapter 163 of the General Statutes of North Carolina, as amended, shall apply and govern as to the holding of any election for members of the board of education.

Sec. 4. Ballot; notice of candidacy and residence requirements. The names of the candidates shall be placed on a separate ballot bearing no party designation, and no party affiliation need be indicated at the time of filing. Each candidate shall file a notice

of candidacy with the board of elections indicating whether he is running as a member at large or from a particular township at any time after 12:00 noon on the Friday preceding the twelfth Saturday and before 12:00 noon on the Friday preceding the eighth Saturday before the general election. A candidate seeking to represent a particular township shall be a resident and qualified voter of said township.

Sec. 5. Filing fee. Each candidate shall pay a filing fee of fifteen dollars (\$15.00) to the board of elections at the time of filing his notice of candidacy.

Sec. 6. Absentee voting. Absentee voting shall be permitted for members of the board of education.

Sec. 7. Vacancy. Notwithstanding Section 115-24 of the General Statutes of North Carolina, all vacancies in the membership of the board of education by death, resignation, or other causes shall be filled by the remaining members of the board of education by the appointment of a person to serve until the next election of members of such board at which time the remaining unexpired term of the office in which the vacancy occurs shall be filled by election. In the event that the replacement is not selected by the board of education within a period of 90 days after the vacancy occurs, such vacancy shall be filled by the board of commissioners. When one who has been elected at large vacates his office, the successor may be selected without regard to the location of his residence in the county. When one who has been elected from a township vacates his office, the successor shall be selected from that same township.

Sec. 8. Compensation of members. The board of commissioners may fix the compensation of the members of the board of education in such sums as may be just and reasonable. Any change in compensation of members of the board of education shall not take effect until after the next succeeding general election. The members of the board of education shall be entitled to reimbursement for actual expenses incurred in the course of performing their official duties at rates not in excess to those allowed other employees and officials of the board of education.

Sec. 9. Oaths of office. Each newly elected or appointed member of the board of education, before taking office, shall meet at a time and place to be designated by the board of education and shall then and there take an oath to support the Constitution and laws of the United States of America, to support the Constitution and laws of the State of North Carolina and to discharge the duties imposed upon him by virtue of his office as a member of the board of education with fidelity and integrity and to the best of his ability, which oath shall be administered by the superintendent of schools or by some person authorized by law to do so. Anyone who is not present at the time and place provided for by this section may take the oath thereafter as directed by the board of education.

Sec. 10. Organizational meeting. An organizational meeting of the board of education shall be held on the first Monday in December of each biennium following the date of election of its members. The board of education shall elect from its members a chairman and a vice-chairman and may appoint an assistant secretary who shall not be a member of the board of education. The superintendent of schools shall serve as chairman pro tempore during the election of officers but shall have no right to vote on any matter. The organization of the board of education shall take place notwithstanding

the absence, death, refusal to serve or nonelection of one or more members, provided that at least a quorum is present.

Sec. 11. Regular and special meetings. The board of education shall fix a time for its regular meetings, which shall be at least monthly. The chairman, or in the event of his absence or disability, the vice-chairman, or any three members of the board of education may at any time call a special meeting by signing a written notice stating the time, place and purpose of the meeting, which notice shall be delivered to each member or left at his dwelling and also at his place of business at least eight hours before the meeting. However, notice of a special meeting of the board of education may be waived by any member either before or after the meeting by written assent; and attendance at the meeting shall constitute waiver of such notice by such member. Special meetings of the board of education may also be held at any time when the chairman and all other members of the board of education are present and consent thereto or when called or announced at a regular meeting of the board of education, provided, that written notice is given to all members absent from the regular meeting.

Only the business stated in the written notice may be transacted at a special meeting, except when the chairman and all other members of the board of education are present and consent to the transaction of other business.

Unless otherwise specifically provided by this act, the board of education shall have authority to make such provisions as it may deem wise relative to regular, special, adjourned and continued meetings, to adopt rules of procedure, and generally to regulate the time, place, manner and method of the exercise of its powers. All meetings of the board of education shall be held at the school administration offices unless the board of education decides otherwise.

Sec. 12. Quorum. A majority of the members of the board of education shall constitute a quorum.

Sec. 13. Voting by members of board of education. A majority vote of those present shall be required to constitute action, provided that at least a quorum is present.

No member of the board of education, other than the presiding officer, shall be excused from voting except upon matters involving the consideration of his own official conduct or involving matters in the which he has a financial or prejudicial interest. The question of a compensation and allowances of the members of the board of education is not a matter involving a member's own financial interest or official conduct. In all other cases, a failure to vote by a member of the board of education who is physically present at the meeting, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. A member of the board of education who has withdrawn from a meeting without being excused shall be counted as present for the purpose of determining whether or not a quorum is present.

The presiding officer shall have the same power as the other members of the board of education to vote on all matters coming before the board of education but shall not be required to vote except when his vote is necessary for determinative action. On any such matters when his vote is required for determinative action, the presiding officer shall not be excused from voting except on matters in which he has a financial or

prejudicial interest or in which his own official conduct is to be considered. Failure of the presiding officer to vote when present on any such matters when his vote is required by this section shall be deemed an affirmative vote and shall be so recorded. When the presiding officer has withdrawn from a meeting without being excused he shall be counted as present for the purpose of determining whether or not a quorum is present. No presiding officer shall have the authority to cast a vote to create a tie and then vote again to break the tie.

Sec. 14. Board of education; exercise of powers. In order to provide an adequate school system, the board of education shall exercise all the powers, authority and duties prescribed for city and county boards in Chapter 115 of the General Statutes of North Carolina as revised and amended and as the same may hereafter be revised and amended. In addition to other powers conferred upon it by law, the board of education may adopt and provide for the execution of such rules and regulations, not inconsistent with this act, as may be necessary or appropriate for the proper administration of the schools in the administrative unit.

As provided in Sections 115-32 and 115-33 of the General Statutes of North Carolina, the board of education shall have the power to investigate the affairs of the schools in the administrative unit and for that purpose may subpoena witnesses, administer oaths and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this section, the board of education may apply to the General Court of Justice for enforcement of its order and the court shall have jurisdiction to issue such order after notice to all proper parties. No testimony of any witness before the board of education pursuant to a subpoena issued in exercise of the power conferred by this section may be used against him in the trial of any civil or criminal action other than a prosecution for the false swearing committed on the examination. If any person testifying under oath at any investigation by the board of education willfully swears falsely, he shall be guilty of a misdemeanor.

Sec. 15. Officers.

(a) Chairman. The chairman shall preside at all meetings of the board of education, shall appoint all committees unless otherwise directed by the board of education, shall have general charge of the activities of the board of education and shall see that all resolutions and motions adopted by the board of education are carried into effect.

(b) Vice-chairman. The vice-chairman shall, in the absence or disability of the chairman, perform the duties and exercise the powers of the chairman and shall perform such other duties as the board of education shall prescribe.

(c) Secretary. The secretary shall be the superintendent of schools, and he shall

- (1) attend all sessions of the board of education;
- (2) record the minutes of all proceedings in a book to be kept for that purpose;
- (3) give or cause to be given notice of all meetings of the board of education;
- (4) take care of all correspondence under the supervision of the chairman;

(5) issue all notices and orders that may be made by the board of education;

(6) be executive officer of the board of education as prescribed by Chapter 115 of the General Statutes of North Carolina; and

(7) perform such other duties as may be assigned to him by the board of education.

(d) Assistant secretary. An assistant secretary, if appointed, shall, in the event of the absence or disability of the secretary, perform the functions of the secretary.

(e) Chairman pro tempore. In the absence of both chairman and vice-chairman, a chairman pro tempore shall be chosen to preside at any meeting and if so presiding he shall have the right to vote upon all questions.

Sec. 16. Removal of chairman or vice-chairman. The chairman and vice-chairman, either or both, may be removed as chairman or vice-chairman by the board of education for or without cause at any regular or special meeting of which at least five days' written notice shall be given to all members, provided that:

(a) it be stated in the notice of such meeting that among the objects thereof shall be removal of such officer or officers; and

(b) it shall require the affirmative vote of a majority of the whole board of education, at the time in office, to remove either the chairman or vice-chairman prior to the expiration of his term as chairman or vice-chairman.

Sec. 17. Replacement for chairman or vice-chairman. In the event of the death, resignation or removal of the chairman or vice-chairman, the board of education shall select, within 60 days after the office is vacated, a successor to serve until the first Monday of December which follows the last day for filing for the next regular biennial election.

Sec. 18. Official bonds. The officers and employees of the board of education, both elective and appointive, shall execute such official bonds in such amounts and upon such terms and conditions as the board of education may from time to time require. The board of education may purchase and pay the premiums for such bonds if it elects to do so.

Sec. 19. Partial invalidity. If any clause, sentence, paragraph or provision of this act shall for any reason be adjudged by any court to be unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, paragraph or provision adjudged unconstitutional or invalid.

Sec. 20. Captions. The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this act nor the intent of any provision thereof.

Sec. 21. Conflict with other law. All laws and clauses of laws which may be in conflict with this act, to the extent of such conflict, are hereby repealed: provided, that nothing herein shall in any manner affect the provisions of Chapter 906 of the 1967 Session Laws of North Carolina relating to the issuance of the twenty million dollar (\$20,000,000) school building bonds of the county, to the levying of a countywide supplemental school tax not to exceed fifty cents (50c) per one hundred dollars

(\$100.00) assessed valuation and to the vesting of title to all real and personal property nor affect the provisions of Chapter 980 of the 1969 Session Laws of North Carolina also relating to the vesting of title to all real and personal property in the board of education.

Sec. 22. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1977.