

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 1
SENATE BILL 9

AN ACT TO CHANGE THE TIME OF ELECTION, NUMBER AND TERMS OF
OFFICE OF THE MEMBERS OF THE BURKE COUNTY PUBLIC SCHOOLS
BOARD OF EDUCATION.

Whereas, in the "Plan of Merger and Consolidation of Burke County Board of Education, Morganton Graded School District (Morganton City Schools) and Glen Alpine Graded School District (Glen Alpine City Schools) and to Create and Establish One Administrative Unit for All Three of the Burke County School Units in Burke County", dated the 28th day of April, 1969, adopted and having the authority of law pursuant to G.S. 115-74.1, provision was made for the election, number, terms of office, and powers and duties of the members of the Burke County Public Schools Board of Education; and

Whereas, it is in the best interest of the general public of Burke County and public education in Burke County that the Plan of Merger and Consolidation be changed and amended in the form and manner hereinafter set forth; and

Whereas, pursuant to G.S. 115-74.1 the Plan of Merger and Consolidation shall not be changed or amended except by an act of the General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The "Plan of Merger and Consolidation of Burke County Board of Education, Morganton Graded School District (Morganton City Schools) and Glen Alpine Graded School District (Glen Alpine City Schools) and to Create and Establish One Administrative Unit for All Three of the Burke County School Units in Burke County" is rewritten in its entirety to read:

"BURKE COUNTY PUBLIC SCHOOLS BOARD OF EDUCATION.

"Section 1. How constituted. (a) The Burke County Public Schools Board of Education (hereinafter, the 'Board') shall consist of seven members elected by the voters of Burke County at large for terms of four years.

(b) There shall be three Burke County Public Schools Board of Education Election Districts (hereinafter, 'election districts'), designated, respectively, as the Eastern Election District, the Central Election District, and the Western Election District. The geographical boundaries of the three election districts shall be identical to the 'high school attendance zones' established pursuant to the Plan of Merger and Consolidation of Burke County Board of Education, Morganton Graded School District (Morganton City Schools) and Glen Alpine Graded School District (Glen Alpine City

Schools) and to Create and Establish One Administrative Unit for All Three of the Burke County School Units in Burke County, (hereinafter, the 'Old Plan'), as said boundaries exist on the effective date hereof. Thereafter, and from time to time, the geographical boundaries of election districts may be altered and adjusted by the Board so as to include in each roughly equal populations.

(c) Membership of the Board at all times shall consist of two residents from each election district and one member (referred to as the 'at large member') who resides in Burke County, without regard to his residency within a particular election district.

Sec. 2. How elected. (a) The Board shall be elected on a nonpartisan basis biennially the first Tuesday after the first Monday in November in odd-numbered years. The names of the candidates shall be printed on ballots without reference to any party affiliation, and any qualified voter residing in Burke County shall be entitled to vote such ballots. Except as herein provided, the election shall be held, conducted, and supervised by the Burke County Board of Elections under the laws and regulations providing for the election of county officers.

(b) The terms of office of the members shall be staggered so as nearly equal one-half as possible shall expire every two years, and the term of one of the two members from each election district shall expire every two years.

(c) A candidate must have been a resident of the election district for at least 30 days prior to the date of election in order to be eligible to run for a vacated seat in that election district.

(d) Ballots shall list candidates for membership on the Board and shall designate the specific election district, or at large member's seat (as the case may be) for which the candidates have filed.

(e) The candidate receiving the highest number of votes among candidates having filed for election from each respective election district (or in the case of election of two members from an election district, the two candidates receiving the highest number of votes) shall be elected. The candidate receiving the highest number of votes among candidates having filed for election as at large member shall be elected.

(f) All candidates for membership on the Board shall file with the Burke County Board of Elections a notice of such candidacy at any time after 12:00 noon on the Friday preceding the eighth Saturday and before 12:00 noon on the Friday preceding the fifth Saturday before the date on which the election is to be held. Each candidate shall pay a filing fee of ten dollars (\$10.00). Each candidate shall certify in writing that he is a bona fide resident of Burke County and a qualified registered voter therein. Each candidate for election to an election district seat shall, in addition, certify in writing that he is, and has been for 30 days prior to the election, a bona fide resident of the election district he filed to represent. Filings of such notices shall be with the Burke County Board of Elections.

(g) All persons registered and qualified to vote in Burke County in accordance with Chapter 163 of the General Statutes shall be qualified to vote in the election for membership to the Board.

(h) Each member of the Board, elected from and to represent an election district, shall remain a resident of such election district for the term of his office. In the event

that a member becomes no longer a resident of such election district, or in the event that the boundaries of the election districts are changed so that he is no longer a resident within such election district, then his term of office on the Board shall expire and his seat shall be vacated.

(i) In the event of a vacancy on the Board by reason of death, resignation, failure to meet the election district residency requirement, or for any other reason other than expiration of the regular term (hereinafter referred to as a 'vacated seat'), the remaining members of the Board shall elect a qualified person to serve in the vacated seat (such person being herein referred to as the 'replacement member'). If such vacated seat is that of a member elected to represent an election district, the replacement member shall be a person qualified to be elected to represent the election district of the vacated seat. The term of office of the replacement member shall in all cases expire on the date of the next election of members of the Board. If the term of office of the holder of the vacated seat would have otherwise expired as of the date of the next election, there shall be elected for said seat at the next election a member whose term shall be the regular four years. If, however, the term of office of the holder of the vacated seat would have otherwise expired as of the date of the second succeeding election (i.e., said term having more than two years remaining as of the time the seat is vacated), there shall be elected for said seat at the next election a member whose term shall be two years. If in such latter case there is the necessity of electing at one election two members to represent one election district, the candidate from said election district receiving the highest number of votes shall serve a term of four years, and the candidate from said election district receiving the second highest number of votes shall serve a term of two years.

(j) Notwithstanding the foregoing provisions of this section, it is provided as follows:

- (1) Pursuant to the Old Plan, the terms of office of four of the 12 members of the Burke County Public Schools Board of Education (hereinafter, the 'Old Board') shall expire at 12:00 noon on the first Monday of April, 1981. There shall be no election of board members in March, 1981 (as would otherwise have been pursuant to the Old Plan). From and after said time and date and continuing through 12:00 noon on the first Monday in December, 1981, the Old Board shall consist of the eight members remaining thereupon. The provisions of the Old Plan as to selection and duties of a chairman and vice-chairman, voting rights of chairman, filling of vacant seats, and such other provisions of the Old Plan as may reasonably be appropriate for the conduct of said Old Board business shall continue in effect until 12:00 noon on the first Monday in December, 1981; provided, however, that five members of the full membership of said eight-member Old Board shall constitute a quorum, and such quorum shall be necessary to transact any official business of the Old Board.
- (2) The terms of office of those persons elected to the Old Board pursuant to the Old Plan whose terms were due to expire under the Old Plan on

March 31, 1983, are shortened and shall end at 12:00 noon on the first Monday in December, 1981.

- (3) The terms of office of those persons elected to the Old Board pursuant to the Old Plan whose terms were due to expire under the Old Plan on March 31, 1985, are shortened and shall end at 12:00 noon on the first Monday, in December, 1983.
- (4) For purposes of this subsection, persons elected pursuant to the Old Plan to represent, respectively, the eastern, central, and western 'high school attendance zones' shall be deemed to occupy the respective seats from the Eastern, Central, and Western Election Districts.
- (5) There shall be elected in the November, 1981, election, to be conducted pursuant to the provisions hereof, one person from, and to represent, the Eastern, Central, and Western Election Districts.
- (6) At the meeting of the Board on the first Monday in December, 1981, lots shall be drawn so as to determine as between the two members elected pursuant to the Old Plan to represent the eastern 'high school attendance zones' which of them shall thereafter be deemed to have been elected to represent the Eastern Election District, and which of them shall thereafter be deemed to have been elected to the at-large seat. Said determination shall be recorded in the minutes of the meeting and, said members shall serve in accordance therewith.

Sec. 3. Members to qualify. Those persons who shall be elected members of the Board must qualify by taking the oath of office on or before the first Monday in December next succeeding their election. A failure to qualify within that time shall constitute a vacancy which shall be filled as set out in Section 2, subsection (i). Those persons appointed to fill a vacancy must qualify within 30 days after notification. A failure to qualify within that time shall constitute a vacancy.

Sec. 4. Organization of Board. At the first meeting of the Board in December of each year, the members of the Board shall organize by electing one of their members as chairman and one of their members as vice-chairman, each to serve in said office for a period of one year or until his successor is elected and qualified. The chairman, or in his absence or sickness, the vice-chairman, shall preside at the meetings of the Board. In the event of absence or sickness of both the chairman and vice-chairman, the Board may appoint one of its members as temporary chairman. The Superintendent of the Burke County Public Schools shall be ex officio secretary to the Board but shall have no vote. In the event of a vacancy in the superintendency, the Board may elect one of its members to serve temporarily as secretary to the Board.

Sec. 5. Quorum. Four members of the full membership of the Board shall constitute a quorum, and such quorum shall be necessary to transact any official business of the Board.

Sec. 6. Compensation of board members. Upon approval of the Board, individual members of the Board shall be compensated for travel or subsistence when such expenditure occurs in connection with the conduct of official Board business. (This section shall not constitute a limitation upon the provisions of G.S. 115-29.)

Sec. 7. Legal status as body corporate; title to property; obligations. For the purposes of title to property, both real and personal, obligations and rights pursuant to contractual and other agreements, and all other matters involving its legal status or character as a body politic and corporate, the Board shall be deemed to be, and is the same body politic and corporate as the Burke County Public Schools Board of Education referred to in the Old Plan.

Sec. 8. Powers and duties. In addition to the powers and duties of the Board herein set forth, the Board shall have, possess, and be charged with all of the powers and duties of boards of education provided for in Chapter 115 of the General Statutes of North Carolina which are not inconsistent or in conflict herewith. Each of the provisions of said Chapter 115 shall apply to the conduct of the Board of its official business and its operation of the Burke County Public Schools except as to such matters for which specific provision is made herein."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of January, 1981.