

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 455

Short Title: School Governance Changes.

(Public)

Sponsors: Representatives Hightower; and Hall.

Referred to: Constitutional Amendments and Referenda.

March 22, 1993

A BILL TO BE ENTITLED

AN ACT TO MAKE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION THE CHAIRMAN OF THE STATE BOARD OF EDUCATION AND TO AMEND THE CONSTITUTION TO CHANGE THE COMPOSITION OF THE STATE BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 4(1) of Article IX of the Constitution reads as rewritten:

"(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, six members appointed by the Governor, six members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and six 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, of the appointive members of the Board, one shall be appointed elected from each of the eight educational districts and three shall be appointed from the State at large. Appointments Terms shall be for overlapping terms of eight years, four years, except that three of the initial members appointed by the Governor, three of the initial members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and three of the initial members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, shall serve for a two-year term. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation, as provided by law."

Sec. 2. G.S. 115C-10 reads as rewritten:

1 **"§ 115C-10. Appointment of Board.**

2 (a) ~~The State Board of Education shall consist of the Lieutenant Governor, the~~
3 ~~State Treasurer, and 11 members appointed by the Governor, subject to confirmation by~~
4 ~~the General Assembly in joint session. six members appointed by the Governor, six~~
5 ~~members appointed by the General Assembly upon the recommendation of the~~
6 ~~President Pro Tempore of the Senate, and six members appointed by the General~~
7 ~~Assembly upon the recommendation of the Speaker of the House of Representatives.~~
8 ~~Not more than one public school employee paid from State or local funds may serve as~~
9 ~~an appointive member of the State Board of Education. No spouse of any public school~~
10 ~~employee paid from State or local funds and no employee of the Department of Public~~
11 ~~Instruction or his spouse, may serve as an appointive member of the State Board of~~
12 ~~Education. Of the appointive members of the State Board of Education, one shall be~~
13 ~~appointed from each of the eight educational districts and three shall be appointed as~~
14 ~~members at large. Appointments shall be for terms of eight years and shall be made in~~
15 ~~four classes. Appointments to fill vacancies shall be made by the Governor for the~~
16 ~~unexpired terms and shall not be subject to confirmation.~~

17 (b) Appointments shall be for four-year terms, except that the Governor shall
18 designate three of the initial members he appoints to serve for a two-year term, the
19 General Assembly shall designate three of the initial members it appoints upon the
20 recommendation of the President Pro Tempore of the Senate to serve for a two-year
21 term, and the General Assembly shall designate three of the initial members it appoints
22 upon the recommendation of the Speaker of the House of Representatives to serve for a
23 two-year term.

24 (c) Appointments to fill vacancies in positions filled by the Governor shall be
25 made by the Governor for the unexpired terms. Appointments by the General Assembly
26 shall be made in accordance with G.S. 120-121, and appointments to fill vacancies in
27 those positions shall be made in accordance with G.S. 120-122.

28 ~~The Governor shall transmit to the presiding officers of the Senate and the House of~~
29 ~~Representatives, on or before the sixtieth legislative day of the General Assembly, the~~
30 ~~names of the persons appointed by him and submitted to the General Assembly for~~
31 ~~confirmation; thereafter, pursuant to joint resolution, the Senate and the House of~~
32 ~~Representatives shall meet in joint session for consideration of an action upon such~~
33 ~~appointments."~~

34 Sec. 3. G.S. 115C-65 is repealed.

35 Sec. 4. G.S. 120-123 is amended by adding a new subdivision to read:

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

37 Sec. 5. G.S. 115C-11 reads as rewritten:

38 **"§ 115C-11. Organization and internal procedures of Board.**

39 (a) Presiding Officer. – The Superintendent of Public Instruction shall serve as
40 the chairman of the State Board of Education. The State Board of Education shall elect
41 from its membership a chairman and vice-chairman. A majority of the Board shall
42 constitute a quorum for the transaction of business. Per diem and expenses of the
43 appointive members of the Board shall be provided by the General Assembly. The
44 chairman of the Board shall determine the agenda and shall preside at all meetings of

1 the Board. In the absence of the chairman, the vice-chairman shall preside; in the
2 absence of both the chairman and the vice-chairman, the Board shall name one of its
3 own members as chairman pro tempore.

4 (a1) Student advisors. – The Governor is hereby authorized to appoint two high
5 school students who are enrolled in the public schools of North Carolina as advisors to
6 the State Board of Education. The student advisors shall participate in State Board
7 deliberations in an advisory capacity only. The State Board may, in its discretion,
8 exclude the student advisors from executive sessions.

9 The Governor shall make initial appointments of student advisors to the State Board
10 as follows:

11 (1) One high school junior shall be appointed for a two-year term
12 beginning September 1, 1986, and expiring June 14, 1988; and

13 (2) One high school senior shall be appointed for a one-year term
14 beginning September 1, 1986, and expiring June 14, 1987. When an
15 initial or subsequent term expires, the Governor shall appoint a high
16 school junior for a two-year term beginning June 15 of that year. If a
17 student advisor is no longer enrolled in the public schools of North
18 Carolina or if a vacancy otherwise occurs, the Governor shall appoint a
19 student advisor for the remainder of the unexpired term.

20 Student advisors shall receive per diem and necessary travel and subsistence
21 expenses in accordance with the provisions of G.S. 138-5.

22 (a2) State Teacher of the Year Advisor. – Each State Teacher of the Year, as
23 designated by the Department of Public Instruction, shall serve ex officio as advisor to
24 the State Board of Education. Each State Teacher of the Year shall begin service as
25 advisory member to the State Board at the commencement of the teacher's term as State
26 Teacher of the Year and shall serve for two years. The State Teachers of the Year shall
27 participate in State Board deliberations and committee meetings in an advisory capacity
28 only. The State Board may, in its discretion, exclude the State Teachers of the Year
29 from executive sessions.

30 In the event a vacancy occurs in the State Teacher of the Year's advisory position,
31 the teacher who was next runner-up to that State Teacher of the Year shall serve as the
32 advisory member to the Board for the remainder of the unexpired term. The State
33 Teacher of the Year advisors to the State Board shall receive per diem and necessary
34 travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

35 (b) Regular Meetings of Board. – The regular meetings of the Board shall be held
36 each month on a day certain, as determined by the Board. The Board shall determine the
37 hour of the meeting, which may be adjourned from day to day, or to a day certain, until
38 the business before the Board has been completed.

39 (b1) Annual meeting with the State Board of Community Colleges and the Board
40 of Governors of The University of North Carolina. The State Board of Education shall
41 meet with the State Board of Community Colleges and the Board of Governors of The
42 University of North Carolina at least once a year to discuss educational matters of
43 mutual interest and to recommend to the General Assembly such policies as are
44 appropriate to encourage the improvement of public education at every level in this

1 State. The meeting in 1987 and every three years thereafter shall be hosted by the
2 University Board of Governors, the meeting in 1988 and every three years thereafter
3 shall be hosted by the State Board of Education, and the meeting in 1989 and every
4 three years thereafter shall be hosted by the State Board of Community Colleges.

5 (c) Special Meetings. – Special meetings of the Board may be set at any regular
6 meeting or may be called by the ~~chairman or by the secretary upon the approval of the~~
7 chairman: Provided, a special meeting shall be called by the chairman upon the request
8 of any five members of the Board. In case of regular meetings and special meetings, the
9 secretary shall give notice to each member, in writing, of the time and purpose of the
10 meeting, by letter directed to each member at his home post-office address. Such notice
11 must be deposited in the Raleigh Post Office at least three days prior to the date of
12 meeting.

13 (d) Voting. – No voting by proxy shall be permitted. Except in voting on
14 textbook adoptions, all voting shall be **viva voce** unless a record vote or secret ballot is
15 demanded by any member, and a majority of those present and voting shall be necessary
16 to carry a motion.

17 (e) Voting on Adoption of Textbooks. – A majority vote of the whole
18 membership of the Board shall be required to adopt textbooks, and a roll call vote shall
19 be had on each motion for such adoption or adoptions. A record of all such votes shall
20 be kept in the minute book.

21 (f) Committees. – ~~The Board may create from its membership such committees~~
22 ~~as it deems necessary to facilitate its business. The chairman of the Board shall with~~
23 ~~approval of the majority of the Board appoint members to the several committees~~
24 ~~authorized by the Board and to any additional committees which the chairman may~~
25 ~~deem to be appropriate.~~ The Chairman of the Board may appoint from the membership
26 of the Board such committees as he deems to be necessary to facilitate the business of
27 the Board.

28 (g) Record of Proceedings. – All of the proceedings of the Board shall be
29 recorded in a well-bound and suitable book, which shall be kept in the office of the
30 Superintendent of Public Instruction, and open to public inspection.

31 (h) Rules and Regulations. – The Board shall adopt reasonable rules and
32 regulations not inconsistent herewith, to govern its proceedings which the Board may
33 amend from time to time, which rules and regulations shall become effective when filed
34 as provided by law: Provided, however, a motion to suspend the rules so adopted shall
35 require a consent of two-thirds of the members. The rules and regulations shall include,
36 but not be limited to, clearly defined procedures for electing the officers of the State
37 Board referred to in G.S. 115C-11(a), fixing the term of said officers, specifying how
38 the voting shall be carried out, and establishing a date when the first election shall be
39 held."

40 Sec. 6. G.S. 115C-21(b) reads as rewritten:

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

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

- 1 (1a) To administer the funds appropriated to the Department of Public
2 Education for the operations of the State Board of Education and for
3 aid to local school administrative units.
- 4 (2) To keep the Board informed regarding developments in the field of
5 public education.
- 6 (3) To make recommendations to the Board with regard to the problems
7 and needs of education in North Carolina.
- 8 (4) To make available to the public schools a continuous program of
9 comprehensive supervisory services.
- 10 (5) To collect and organize information regarding the public schools, on
11 the basis of which he shall furnish the Board such tabulations and
12 reports as may be required by the Board.
- 13 (6) To communicate to the public school administrators all information
14 and instructions regarding instructional policies and procedures
15 adopted by the Board.
- 16 (7) To have custody of the official seal of the Board and to attest all deeds,
17 leases, or written contracts executed in the name of the Board. All
18 deeds of conveyance, leases, and contracts affecting real estate, title to
19 which is held by the Board, and all contracts of the Board required to
20 be in writing and under seal, shall be executed in the name of the
21 Board by the chairman and attested by the ~~secretary;~~ vice-chairman;
22 and proof of the execution, if required or desired, may be had as
23 provided by law for the proof of corporate instruments.
- 24 (8) To attend all meetings of the Board and to keep the minutes of the
25 proceedings of the Board in a well-bound and suitable book, which
26 minutes shall be approved by the Board prior to its adjournment; and,
27 as soon thereafter as possible, to furnish to each member of the Board
28 a copy of said minutes.
- 29 (9) To perform such other duties as the Board may assign to him from
30 time to time."

31 Sec. 7. G.S. 115C-105(a) reads as rewritten:

32 "(a) There is hereby established the North Carolina Education Council composed
33 of the members of the education commission of the states representing this State, and
34 not exceeding five other persons appointed by the Governor for terms of three years.
35 Such other persons shall be selected so as to be broadly representative of professional
36 and lay interests within this State having the responsibilities for, knowledge with respect
37 to, and interest in educational matters. The Governor shall serve as chairman of the
38 North Carolina Education Council or any person that the Governor may designate shall
39 serve as chairman. The ~~chairman~~ vice-chairman of the State Board of Education, the
40 Superintendent of Public Instruction, the chairman of the Board of Governors of The
41 University of North Carolina, and the President of The University of North Carolina
42 shall be ex officio members of the North Carolina Education Council. The council shall
43 meet on the call of its chairman or at the request of a majority of its members, but in any
44 event the Council shall meet not less than three times in each year. The Council may

1 consider any and all matters relating to the recommendations of the education
2 commission of the states and the activities of the members in representing this State
3 thereon."

4 Sec. 8. G.S. 20-81(4) reads as rewritten:

5 "(4) Elective and Appointive. – Official plates issued to elective and
6 appointive members of State government shall bear number
7 designations beginning with number 1 which shall be assigned to the
8 Governor of North Carolina and numbers following thereafter shall be
9 issued to in the following order:

10 2. Lieutenant Governor of North Carolina.

11 3. Speaker of the House of Representatives.

12 4. President Pro Tempore of the Senate.

13 5. Secretary of State.

14 6. State Auditor.

15 7. State Treasurer.

16 8. Superintendent of Public Instruction.

17 9. Attorney General.

18 10. Commissioner of Agriculture.

19 11. Commissioner of Labor.

20 12. Commissioner of Insurance.

21 13. Speaker Pro Tempore of the House.

22 14. Legislative Services Officer.

23 15. Secretary of Administration.

24 16. Secretary of Environment, Health, and Natural Resources.

25 17. Secretary of Revenue.

26 18. Secretary of Human Resources.

27 19. Secretary of Economic and Community Development.

28 20. Secretary of the Department of Correction.

29 21. Secretary of Cultural Resources.

30 22. Secretary of Crime Control and Public Safety.

31 23-29. To be reserved for and assigned to members of the
32 Governor's staff at the direction of the Governor.

33 30. State Budget Officer.

34 31. State Personnel Director.

35 32-41. To be reserved for and assigned to nonlegislative
36 members of the Advisory Budget Commission at the
37 direction of the Governor.

38 42. ~~Chairman~~, Vice-chairman, State Board of Education.

39 43. President, U.N.C. System.

40 44. Chairman, A.B.C. Commission.

41 45. Member, A.B.C. Commission.

42 46. Member, A.B.C. Commission.

43 47. Assistant Commissioner of Agriculture.

44 48. Assistant Commissioner of Agriculture.

- 1 49. Deputy Secretary of State.
 2 50. Deputy State Treasurer.
 3 51. Assistant State Treasurer.
 4 52. Deputy Commissioner, Department of Labor.
 5 53. Chief Deputy, Department of Insurance.
 6 54. Assistant Commissioner of Insurance.
 7 55-65. Shall be reserved for and assigned to the Attorney
 8 General's deputies and assistants only. Specific number
 9 assignments shall be at the direction of the Attorney
 10 General.
 11 66-88. Shall be reserved for and assigned upon request to
 12 nonlegislative members of the Board of Economic
 13 Development. Specific number assignments to such
 14 members shall be at the direction of the Governor.
 15 89-96. Shall be reserved for and assigned upon request to
 16 nonlegislative members of the State Ports Authority.
 17 Specific number assignments to such members shall be
 18 at the direction of the Governor.
 19 97-104. Shall be reserved for and assigned upon request to
 20 members of the Utilities Commission. Number 97 to
 21 be upon request assigned to the Chairman of the
 22 Utilities Commission with remaining numbers to be
 23 assigned upon request to the remaining members of the
 24 Utilities Commission on the basis of seniority.
 25 105-109. Shall be reserved for and assigned upon request to
 26 members of the Parole Commission. Number 105 to be
 27 upon request assigned to the Chairman of the Parole
 28 Commission with remaining numbers to be assigned
 29 upon request to the remaining members of the Parole
 30 Commission on the basis of seniority.
 31 110-200. Shall be reserved for and assigned upon request to
 32 members of State boards and commissions and State
 33 employees at the direction of the Governor."

34 Sec. 9. G.S. 116-237 reads as rewritten:

35 "**§ 116-237. Educational Advisory Council.**

36 The Board of Governors shall establish a 12-member Educational Advisory Council
 37 consisting of (1) ex officio, the State Superintendent of the Department of Public
 38 Instruction and the ~~chairman~~-vice-chairman of the State Board of Education, and (2) 10
 39 persons who are scientists, mathematicians, public school representatives, or other
 40 persons having an interest in the School and desiring to contribute to its work. The
 41 members of the Advisory Council shall be appointed by the Board of Governors for
 42 four-year terms. No person shall be eligible to serve more than two successive four-year
 43 terms. The Advisory Council shall give advice and counsel to the Director and the
 44 Board of Trustees."

1 Sec. 10. G.S. 143B-426.9 reads as rewritten:

2 **"§ 143B-426.9. North Carolina Agency for Public Telecommunications – creation;**
3 **membership; appointments, terms and vacancies; officers; meetings and**
4 **quorum; compensation.**

5 The North Carolina Agency for Public Telecommunications is created. It is
6 governed by the Board of Public Telecommunications Commissioners, composed of 27
7 members as follows:

- 8 (1) A Chairman appointed by, and serving at the pleasure of, the
9 Governor;
- 10 (2) Ten at-large members, appointed by the Governor from the general
11 public;
- 12 (3) Two members appointed by the General Assembly upon the
13 recommendation of the Speaker of the House of Representatives in
14 accordance with G.S. 120-121;
- 15 (4) Two members appointed by the General Assembly upon the
16 recommendation of the President of the Senate in accordance with
17 G.S. 120-121;
- 18 (5) The Secretary of Administration, ex officio;
- 19 (6) The Chairman of the Board of Trustees of The University of North
20 Carolina Center for Public Television (if and when established), ex
21 officio;
- 22 (7) The ~~Chairman~~ Vice-chairman of the State Board of Education, ex
23 officio;
- 24 (8) The Chairman of the OPEN/net Committee, ex officio, so long as such
25 person is not a State employee;
- 26 (9) The Chairman of the North Carolina Utilities Commission, ex officio;
- 27 (10) The Director of the Public Staff of the North Carolina Utilities
28 Commission, ex officio;
- 29 (11) The Chairman of the Public Radio Advisory Committee of the North
30 Carolina Agency for Public Telecommunications, ex officio;
- 31 (12) The Superintendent of Public Instruction, ex officio;
- 32 (13) The President of the University of North Carolina, ex officio;
- 33 (14) The President of the Department of Community Colleges, ex officio;
- 34 and
- 35 (15) Two members ex officio who shall rotate from among the remaining
36 heads of departments enumerated in G.S. 143A-11 or G.S. 143B-6,
37 appointed by the Governor.

38 The 10 at-large members shall serve for terms staggered as follows: four terms shall
39 expire on June 30, 1980; and three terms shall expire on June 30, 1982; and three terms
40 shall expire on June 30, 1984. Thereafter, the members at large shall be appointed for
41 full four-year terms and until their successors are appointed and qualified. In making
42 appointments of members at large, the Governor shall seek to appoint persons from the
43 various geographic areas of the State including both urban and rural areas; persons from
44 various classifications as to sex, race, age, and handicapped persons; and persons who

1 are representatives of the public broadcast, commercial broadcast, nonbroadcast
2 distributive systems and private education communities of the State.

3 The terms of the ex officio members are coterminous with their respective terms of
4 office. In the event that any of the offices represented on the Board ceases to exist, the
5 successor officer to the designated member shall become an ex officio member of the
6 Board; if there shall be no successor, then the position on the Board shall be filled by a
7 member to be appointed by the Governor from the general public. The ex officio
8 members shall have the right to vote.

9 The initial members appointed to the Board by the General Assembly shall serve for
10 terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms
11 beginning July 1 of odd-numbered years.

12 The terms of the rotating ex officio members shall be of one-year duration, and the
13 schedule of rotation is determined by the Governor.

14 Each State official who serves on the Board may designate a representative of his
15 department, agency or institution to sit in his place on the Board and to exercise fully
16 the official's privileges of membership.

17 The Secretary of Administration or his designee serves as secretary of the Board.

18 Vacancies in appointments made by the General Assembly shall be filled in
19 accordance with G.S. 120-122. Other vacancies shall be filled in the same manner as the
20 original appointment.

21 The Governor may remove any member of the Board from office in accordance with
22 the provisions of G.S. 143B-16.

23 The Board meets quarterly and at other times at the call of the chairman or upon
24 written request of at least six members.

25 A majority of the Board members shall constitute a quorum for the transaction of
26 business."

27 Sec. 11. The amendment set out in Section 1 of this act shall be submitted to
28 the qualified voters of the State at an election to be held at the same time as the next
29 statewide primary, general, or special election, whichever occurs first, which election
30 shall be conducted under the laws then governing elections in the State. At that election,
31 each qualified voter desiring to vote shall be provided a ballot on which shall be printed
32 the following:

33 FOR constitutional amendment to change the composition of the State
34 Board of Education.

35 AGAINST constitutional amendment to change the composition of the
36 State Board of Education."

37 Those qualified voters favoring the amendment set out in Section 1 of this
38 act shall vote by making an "X" or a check mark in the square beside the statement
39 beginning "FOR", and those qualified voters opposed to the amendment shall vote by
40 making an "X" or check mark in the square beside the statement beginning "AGAINST".

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

43 Sec. 12. If a majority of votes cast thereon are in favor of the amendment set
44 out in Section 1 of this act, the State Board of Elections shall certify the amendment to

1 the Secretary of State, who shall enroll the amendment so certified among the
2 permanent records of his office. The amendment shall become effective upon such
3 certification except that the term of office of all members of the State Board of
4 Education who were appointed to the State Board of Education prior to July 1, 1995,
5 and were serving as members on June 30, 1995, shall expire on July 1, 1995.

6 Sec. 13. Sections 2 through 4 of this act become effective only if the
7 constitutional amendment set out in Section 1 of this act is approved by the voters. If the
8 constitutional amendment is approved by the voters, Sections 2 and 4 of this act shall
9 become effective July 1, 1995: Provided, however, the General Assembly and the
10 Governor may appoint members to the State Board of Education in accordance with
11 Section 2 of this act, prior to July 1, 1995, for terms of office beginning July 1, 1995.

12 Sec. 14. This act is effective upon ratification.