

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 324
Mar 19, 2015
HOUSE PRINCIPAL CLERK

H

D

HOUSE DRH10135-MK-27A (01/05)

Short Title: Partisan Bd. of Ed. Elections. (Public)

Sponsors: Representatives Cleveland, Lambeth, Conrad, and Shepard (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ALL ELECTED LOCAL BOARDS OF EDUCATION TO BE ELECTED ON A PARTISAN BASIS WITH VACANCIES IN THE MEMBERSHIP OF THE BOARDS FILLED UPON RECOMMENDATION BY THE EXECUTIVE COMMITTEE OF THE NOMINATING POLITICAL PARTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-37 reads as rewritten:

"§ 115C-37. Election of board members.

(a) Method of Election. – The county boards of education shall be elected biennially on a ~~nonpartisan~~partisan basis at the time of the ~~primary election in 1970 and biennially thereafter.~~ The names of the candidates shall be printed on the ballots without reference to any party affiliation and any qualified voter residing in the county shall be entitled to vote such ballots. general election. Notwithstanding any provision of G.S. 153A-3 to the contrary, a local act shall not supersede the method of partisan election provided for in this subsection. Except as otherwise provided herein, the election shall be conducted according to the provisions of Chapter 163 of the General ~~Statutes then governing primary elections.~~Statutes.

The terms of office of the members shall be staggered so as nearly equal to one half as possible shall expire every two years.

(b) County Board of Elections to Provide for Elections. – The county board of elections under the direction of the State Board of Elections, shall make all necessary provisions for elections of county boards of education as are herein provided for. The county board of elections of each county shall file with the State Board of Elections a statement specifying the size and method of election of members of its county board of education.

(c) City Board of Education. – The board of education for any city administrative unit shall be appointed or elected as now provided by law. If the board of education is elected, it shall be elected biennially on a partisan basis. Notwithstanding any provision of G.S. 160A-3 to the contrary, a local act shall not supersede the method of partisan election provided for in this subsection.

The election of the board of education for a city administrative unit shall be conducted according to the provisions of Articles 23 and 24 of Chapter 163 of the General Statutes governing partisan elections.

If no provision is now made by the law for the filling of vacancies ~~in the membership of~~ appointed members of any city board of education, such vacancy may be filled by the governing body of the city or town embraced by said administrative unit. In the event that any such vacancy is not filled in this manner within 30 days, the State Board of Education may fill such vacancy.



1 (d) Members to Qualify. – Each county board of education shall hold a meeting in
2 December following the election. At that meeting, newly elected members of the board of
3 education shall qualify by taking the oath of office prescribed in Article VI, Sec. 7 of the
4 Constitution.

5 This subsection shall not have the effect of repealing any local or special acts relating to
6 boards of education of any particular counties whose membership to said boards is chosen by a
7 vote of the people.

8 (e) Vacancies in Nominations for Membership on County Boards. – If any candidate
9 nominated on a partisan basis shall die, resign, or for any reason become ineligible or
10 disqualified between the date of his or her nomination and the time for the election, such
11 vacancy caused thereby may be filled by the actions of the county executive committee of the
12 political party of such candidate.

13 (f) Vacancies in Office. – All vacancies in the membership of the boards of education
14 whose members are elected pursuant to the provisions of ~~subsection (a) of this section~~ by death,
15 resignation, or other causes shall be filled by appointment by the remaining members of the
16 board, of a person to serve until the next election of members of such board, at which time the
17 remaining unexpired term of the office in which the vacancy occurs shall be filled by election.
18 The remaining members of the board shall consult with the executive committee of the
19 nominating political party of the member whose seat is vacant and appoint the person
20 recommended by that party executive committee, if the party executive committee makes a
21 recommendation within 30 days of the occurrence of the vacancy. Whenever only the qualified
22 voters of less than the area of the entire local school administrative unit were eligible to vote
23 for the member whose seat is vacant, the appointing authority must accept the recommendation
24 only if the party executive committee restricted voting to committee members who represent
25 precincts all or part of which were within the territory of the vacating school board member.
26 Notwithstanding any provisions of G.S. 153A-3 or G.S. 160A-3 to the contrary, a local act may
27 not supersede the method of filling vacancies in the membership of boards of education
28 provided for in this subsection.

29 (g) Eligibility for Board Membership; Holding Other Offices. – Any person possessing
30 the qualifications for election to public office set forth in Article VI, Sec. 6 of the Constitution
31 of North Carolina shall be eligible to serve as a member of a local board of education:
32 Provided, however, that any person elected or appointed to a local board of education, and also
33 employed by that board of education, shall resign his or her employment before taking office as
34 a member of that board of education.

35 Membership on a board of education is hereby declared to be an office that, with the
36 exceptions provided above, may be held concurrently with any appointive office, pursuant to
37 Article VI, Sec. 9 of the Constitution, but any person holding an elective office shall not be
38 eligible to serve as a member of a local board of education.

39 ~~(h) Death or Disqualification of Candidate in Nonpartisan Election. — If a candidate dies~~
40 ~~or becomes disqualified after the filing period has closed and before the election, and the~~
41 ~~ballots have not been printed, the county board of elections shall immediately reopen the filing~~
42 ~~period for five days so that additional candidates may file for election. If the ballots have been~~
43 ~~printed at the time the board of elections receives notice of the death or disqualification, the~~
44 ~~board shall reopen the filing period for three days if the board determines it will have time to~~
45 ~~reprint the ballots before the election.~~

46 ~~In the event the board of elections determines that there is not time enough to reopen the~~
47 ~~filing period for three days and to reprint the ballots, then the ballots shall not be reprinted and~~
48 ~~the name of the deceased or disqualified candidate shall remain on the ballot. Votes cast for~~
49 ~~such candidate shall not be considered and the candidates receiving the highest number of votes~~
50 ~~equal to the number of positions to be filled shall be elected.~~

1 (i) The local board of education shall revise electoral district boundaries from time to
2 time as provided by this subsection. If district boundaries are set by local act or court order and
3 the act or order does not provide a method for revising them, the local board of education shall
4 revise them only for the purpose of (i) accounting for territory annexed to or excluded from the
5 school administrative unit, and (ii) correcting population imbalances among the districts shown
6 by a new federal census or caused by exclusions or annexations. After the General Assembly
7 has ratified an act establishing district boundaries, the local board of education shall not revise
8 them again until a new federal census of population is taken or territory is annexed to or
9 excluded from the school administrative unit, whichever event first occurs. After the local
10 board of education has revised district boundaries in conformity with this act, the local board of
11 education shall not revise them again until a new federal census of population is taken or
12 territory is annexed to or excluded from the school administrative unit, whichever event occurs
13 first, except that the board may make an earlier revision of district boundaries it has drawn if it
14 must do so to comply with a court order or to gain approval of a district-revision plan by the
15 U.S. Justice Department under Section 5 of the Voting Rights Act. In establishing district
16 boundaries, the local board of education shall use data derived from the most recent federal
17 census."

18 **SECTION 3.** G.S. 115C-37.1 is repealed.

19 **SECTION 4.** G.S. 115C-67(3) reads as rewritten:

20 "(3) The establishment and maintenance of a board of education which shall
21 administer all the public schools of the newly created unit, including:

22 a. The termination of any terms of office proposed in the reorganization
23 of the board.

24 b. The method of constituting and continuing the board of education;
25 the manner of selection of board members, including (i) the number
26 of members of the board, (ii) the method of their election or
27 appointment, (iii) whether members shall be nominated, elected, or
28 appointed from districts or at large, and (iv) the manner of
29 determining the ~~nominee, and (v) whether the election shall be~~
30 ~~partisan or nonpartisan;~~ nominee; the length of the members' terms of
31 office; the dates of induction into office; the organization of the
32 board; ~~the procedure for filling vacancies;~~ and the compensation to
33 be paid members of the board for expenses incurred in performance
34 of their duties. ~~To~~ Except for the requirements of election on a
35 partisan basis and the filling of vacancies in the membership of a
36 local board of education, to the extent that the method conflicts with
37 G.S. 115C-35, G.S. 115C-37, or with any local act concerning any of
38 the units being merged and consolidated, the plan of merger and
39 consolidation shall prevail."

40 **SECTION 5.(a)** This act shall have the effect of repealing any provisions of local
41 or special acts relating to the nonpartisan election of a local board of education and any
42 conflicting methods of filling vacancies in the membership of boards of education than as
43 required by G.S. 115C-37(f), as amended by this act. This act shall not affect the filling of a
44 vacancy on a local board of education that occurs for a seat elected prior to the effective date of
45 this act.

46 **SECTION 5.(b)** Any local act requiring a board of education election to be
47 conducted in an odd-numbered year shall be held as a partisan election beginning in 2017.

48 **SECTION 6.** Except as otherwise provided in this act, this act becomes effective
49 with respect to primaries and elections held on or after January 1, 2016.