

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL 288  
PROPOSED COMMITTEE SUBSTITUTE S288-PCS45402-BK-1

Short Title: Burke/Caldwell Bd of Ed. Elections.

(Local)

Sponsors:

Referred to:

March 15, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT ELECTIONS FOR THE BURKE COUNTY BOARD OF  
3 EDUCATION SHALL BE HELD IN EVEN-NUMBERED YEARS AND TO CHANGE  
4 THE ELECTION METHOD OF THE BURKE COUNTY BOARD OF EDUCATION AND  
5 THE CALDWELL COUNTY BOARD OF EDUCATION FROM NONPARTISAN TO  
6 PARTISAN.

7 The General Assembly of North Carolina enacts:

8  
9 **PART I. BURKE COUNTY BOARD OF EDUCATION**

10 **SECTION 1.1.** Notwithstanding the "Plan of Merger and Consolidation of Burke  
11 County Board of Education, Morganton Graded School District (Morganton City Schools) and  
12 Glen Alpine Graded School District (Glen Alpine City Schools) and to Create and Establish One  
13 Administrative Unit for All Three of the Burke County School Units in Burke County" (the Plan),  
14 as rewritten by Chapter 1 of the 1981 Session Laws, Section 2 of Chapter 1 of the 1981 Session  
15 Laws reads as rewritten:

16 "Sec. 2. How elected. (a) ~~The Beginning in 2024, the Board shall be elected on a nonpartisan~~  
17 ~~partisan~~ basis ~~biennially the first Tuesday after the first Monday in November at the time of the~~  
18 ~~general election in odd-numbered years. The names of the candidates shall be printed on ballots~~  
19 ~~without reference to any party affiliation, and any qualified voter residing in Burke County shall~~  
20 ~~be entitled to vote such ballots. even-numbered years as terms expire.~~ Except as herein provided,  
21 the election shall be held, conducted, and supervised by the Burke County Board of Elections  
22 under the laws and regulations providing for the election of county officers.

23 ...

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

33 ...

34 (i) In the event of a vacancy for positions elected on a nonpartisan basis in 2019 and  
35 2021 on the Board by reason of death, resignation, failure to meet the election district residency  
36 requirement, or for any other reason other than expiration of the regular term (hereinafter referred



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1 to as a 'vacated seat'), the remaining members of the Board shall elect a qualified person to serve  
2 in the vacated seat (such person being herein referred to as the 'replacement member'). If such  
3 vacated seat is that of a member elected to represent an election district, the replacement member  
4 shall be a person qualified to be elected to represent the election district of the vacated seat. The  
5 term of office of the replacement member shall in all cases expire on the date of the next election  
6 of members of the Board. If the term of office of the holder of the vacated seat would have  
7 otherwise expired as of the date of the next election, there shall be elected for said seat at the next  
8 election a member whose term shall be the regular four years. If, however, the term of office of  
9 the holder of the vacated seat would have otherwise expired as of the date of the second  
10 succeeding election (i.e., said term having more than two years remaining as of the time the seat  
11 is vacated), there shall be elected for said seat at the next election a member whose term shall be  
12 two years. If in such latter case there is the necessity of electing at one election two members to  
13 represent one election district, the candidate from said election district receiving the highest  
14 number of votes shall serve a term of four years, and the candidate from said election district  
15 receiving the second highest number of votes shall serve a term of two years. Beginning in 2024,  
16 vacancies for positions elected on a partisan basis shall be filled by appointment by the remaining  
17 members of the Board in accordance with G.S. 115C-37.1."

18 **SECTION 1.2.** Notwithstanding the Plan, as rewritten by Chapter 1 of the 1981  
19 Session Laws, Section 3 of Chapter 1 of the 1981 Session Laws reads as rewritten:

20 "Sec. 3. Members to qualify. Those persons who shall be elected members of the Board must  
21 qualify by taking the oath of office on or before the first Monday in December next succeeding  
22 their election. The terms of their predecessors shall expire at the same time, which is the first  
23 Monday in December. Members shall serve until a successor has been elected and qualified. A  
24 failure to qualify within that time shall constitute a vacancy which shall be filled as set out in  
25 Section 2, subsection (i). Those persons appointed to fill a vacancy must qualify within 30 days  
26 after notification. A failure to qualify within that time shall constitute a vacancy."

27 **SECTION 1.3.** This act does not affect the terms of office of any member elected on  
28 a nonpartisan basis in 2019 or 2021 to the Board. The members of the Board elected in 2019 and  
29 2021, or any member appointed to fill a vacancy for the remainder of an unexpired term for a  
30 member elected in 2019 or 2021, shall serve until a successor has been elected and qualified.

31 **SECTION 1.4.** Notwithstanding the Plan, as the terms of the present members  
32 expire, in 2024, and quadrennially thereafter, four members of the Board shall be elected on the  
33 date of the general election, and in 2026, and quadrennially thereafter, three members of the  
34 Board shall be elected on the date of the general election.

35 **SECTION 1.5.** Each member of the Board elected in 2019 or 2021, or any member  
36 appointed to fill a vacancy of a member elected in 2019 or 2021, shall have his or her term  
37 extended by one year and shall serve until a successor has been elected and qualified.

38 **SECTION 1.6.** The municipalities in Burke County shall reimburse the Burke  
39 County Board of Elections for the actual costs in the administration of the election in compliance  
40 with G.S. 163-284 based on voter registration. The Burke County Board of Education shall  
41 consult with the State Board of Elections in determining the amount to charge each municipality  
42 in Burke County.

## 43 44 **PART II. CALDWELL COUNTY BOARD OF EDUCATION**

45 **SECTION 2.1.** Section 4 of Chapter 1273 of the 1973 Session Laws, as amended by  
46 Chapter 37 of the 1987 Session Laws, reads as rewritten:

47 "**Sec. 4.** ~~All~~ Beginning in 2022, all candidates for membership on the Caldwell County Board  
48 of Education shall ~~file for a nonpartisan election with the Caldwell County Board of Elections a~~  
49 ~~notice of such candidacy during the period beginning at 12:00 noon on the second Monday in~~  
50 ~~July and ending at 12:00 noon on the second Monday in August prior to the General Election,~~  
51 ~~and this election shall be held at the time of said General election.~~ be elected on a partisan basis

1 at the time of the general election in each even-numbered year as terms expire. Candidates for  
2 the Caldwell County Board of Education shall be nominated at the same time and manner as  
3 other county officers. Each candidate shall pay a filing fee of five dollars (\$5.00) and in addition  
4 shall certify in writing that he or she is a bona fide resident of Caldwell County and a qualified  
5 registered voter therein. Persons elected shall assume office on the first Monday of December  
6 following the General Election. The terms of their predecessors shall expire at that same time.  
7 Members shall serve until a successor has been elected and qualified. The requirements set forth  
8 in this section, together with such requirements as are now or may be hereafter provided for by  
9 the North Carolina General Statutes, are inclusive and constitute the sole criteria for membership  
10 on the Caldwell County Board of Education."

11 **SECTION 2.2.** Section 5 of Chapter 1273 of the 1973 Session Laws reads as  
12 rewritten:

13 "Sec. 5. All persons registered and qualified to vote in Caldwell County in accordance with  
14 the General Election laws of North Carolina shall be eligible to vote in the ~~nonpartisan~~-partisan  
15 election for the members of the Caldwell County Board of Education."

16 **SECTION 2.3.** Section 6 of Chapter 1273 of the 1973 Session Laws reads as  
17 rewritten:

18 "Sec. 6. In the event of a vacancy for positions elected on a nonpartisan basis in 2018 or 2020  
19 on the Caldwell County Board of Education by reason of death, resignation, or a member's failing  
20 to meet residency requirements as set forth above, or for other reasons, the remaining members  
21 of the Caldwell County Board of Education shall appoint a person to serve until the next election  
22 of members of such board, at which time the remaining unexpired term of the office in which the  
23 vacancy occurs shall be filled by election. Beginning in 2022, vacancies for positions elected on  
24 a partisan basis shall be filled by appointment by the remaining members of the Board in  
25 accordance with G.S. 115C-37.1."

26 **SECTION 2.4.** This act does not affect the terms of office of any member elected on  
27 a nonpartisan basis in 2018 or 2020 to the Caldwell County Board of Education. The members  
28 of the Caldwell County Board of Education elected in 2018 and 2020, or any member appointed  
29 to fill a vacancy for the remainder of an unexpired term for a member elected in 2018 or 2020,  
30 shall serve until a successor has been elected and qualified.

31 **SECTION 2.5.** Effective on the first Monday in December of 2022,  
32 G.S. 115C-37.1(d) reads as rewritten:

33 "(d) This section shall apply only in the following counties: Alleghany, Beaufort,  
34 Brunswick, Burke, Caldwell, Carteret, Cherokee, Clay, Cleveland, Dare, Davie, Graham,  
35 Guilford, Harnett, Hyde, Iredell, Lee, Madison, New Hanover, Onslow, Pender, Rutherford,  
36 Stanly, Stokes, Surry, Vance, Washington, and Yancey."

### 37 38 **PART III. EFFECTIVE DATE**

39 **SECTION 3.1.** This act is effective when it becomes law and applies to elections  
40 held on or after that date.