

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 974  
HOUSE BILL 2356

AN ACT TO PROVIDE FOR A SPECIAL PRIMARY TO FILL A VACANCY ON THE VANCE COUNTY BOARD OF EDUCATION, AND TO PROVIDE THAT IN FILLING FURTHER VACANCIES, THE BOARD OF EDUCATION MUST CHOOSE THE CANDIDATE RECOMMENDED BY THE COUNTY PARTY EXECUTIVE COMMITTEE OF THE VACATING MEMBER.

Whereas, Chapter 262, Session Laws of 1967, provides that where a vacancy occurs on the Vance County Board of Education during the first two years of a term, an election is to be held to choose a successor for the remaining two years of the term, but that act fails to provide a method for making party nominations after the normal candidate filing deadline; and

Whereas, clarification is needed as to the procedure for the Board of Education filling the vacancy until that election is held; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Section 7 of Chapter 262, Session Laws of 1967, is amended by adding the following immediately after the words "and at such next general election the remaining portion of the unexpired term shall be filled by election.": "Nominations shall be made in accordance with G.S. 163-115, except where the nomination is to be made by the county party executive committee under that section because it is the appropriate executive committee under G.S. 163-114, only the members of the county executive committee who live in the district of the vacating member may vote."

Sec. 2. (a) In accordance with Section 7 of Chapter 262, Session Laws of 1967, an election shall be held on the Tuesday after the first Monday in November 1988, to fill the remaining two years of an unexpired term on the Vance County Board of Education.

(b) Instead of using the nomination procedures provided in that section as amended by Section 1 of this act, a special primary shall be held to nominate candidates.

Sec. 3. (a) Notwithstanding G.S. 163-1, the partisan primary for the election scheduled by Section 2 of this act shall be held on the third Tuesday of August 1988.

(b) Notwithstanding G.S. 163-291(2) notices of candidacy for the 1988 election for the Vance County Board of Education scheduled by Section 2 of this act shall be filed with the Vance County Board of Elections not earlier than 12:00 noon on the second day (excluding Saturdays and Sundays) after this act is approved under Section 5 of the Voting Rights Act of 1965, and not later than 12:00 noon on the last Friday in

July of 1988. Legal notice of the general election shall be given in accordance with law, but legal notice of the primary shall be given as soon as practicable after ratification of this act, but no later than 20 days prior to the primary. Absentee ballots for the primary and general election shall be available as soon as practicable.

(c) Notwithstanding G.S. 163-111(e), a second primary, if necessary, shall be held three weeks after the first primary.

Sec. 4. (a) This section is only effective if approval of Section 2(b) of this act by the United States Department of Justice under Section 5 of the Voting Rights Act of 1965 comes at a time to allow less than five days of candidate filing (Saturdays and Sundays excluded), or if the United States Department of Justice interposes objection to Section 3 of this act under Section 5 of the Voting Rights Act of 1965. If this section becomes effective, then Section 3 of this act is not effective.

(b) Notwithstanding G.S. 163-1, the partisan primary for the election scheduled by Section 2 of this act shall be held on the second Tuesday of September 1988.

(c) Notwithstanding G.S. 163-291(2), notices of candidacy for the 1988 election for the Vance County Board of Education scheduled by Section 2 of this act shall be filed with the Vance County Board of Elections not earlier than 12:00 noon on the second day (excluding Saturdays and Sundays) after this act is approved under Section 5 of the Voting Rights Act of 1965, and not later than 12:00 noon on the second Friday in August of 1988, except that the State Board of Elections may approve a different filing schedule if necessary to meet time constraints caused by the date of approval of this Section 2 of this act and this section by the United States Department of Justice under Section 5 of the Voting Rights Act of 1965. Legal notice of the general election shall be given in accordance with law, but legal notice of the primary shall be given as soon as practicable after ratification of this act, but no later than 20 days prior to the primary. Absentee ballots for the primary and general election shall be available as soon as practicable.

(d) Notwithstanding G.S. 163-111, the results of the 1988 primary election called by Section 2 of this act shall be determined as follows:

- (1) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared the nominee.
- (2) If two or more candidates receiving the highest number of votes each receive the same number of votes, the Vance County Board of Elections shall determine, by lot, from among those candidates receiving the same number of votes, the party nominee.

Sec. 5. G.S. 115C-37.1 reads as rewritten:

**"§ 115C-37.1. Vacancies in offices of county boards elected on partisan basis in certain counties.** – (a) All vacancies in the membership of county boards of education which are elected by public or local act on a partisan basis shall be filled by appointment of the person, board, or commission specified in the act, except that if the act specifies that appointment shall be made by a party executive committee, then the appointment shall be made instead by the remaining members of the board.

(b) If the vacating member was elected as the nominee of a political party, then the person, board, or commission required to fill the vacancy shall consult with the county executive committee of that party and appoint the person recommended by that party executive committee, if the party executive committee makes a recommendation within 30 days of the occurrence of the vacancy.

(c) Whenever only the qualified voters of less than the entire county were eligible to vote for the member whose seat is vacant (either because the county administrative unit was less than countywide or only residents of certain areas of the administrative unit could vote in the general election for a district seat), the appointing authority must accept the recommendation only if the county executive committee restricted voting to committee members who represent precincts all or part of which were within the territory of the vacating school board member.

(d) This section shall apply only in the following counties: Alamance, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood, Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk, Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Vance, Wake, Washington, and Yancey."

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of June, 1988.