

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1

Short Title: Education Governance Changes.

(Public)

Sponsors: Representatives Barnes; Bowman, Dickson, Flaherty, Gottovi, and Oldham.

Referred to: Education.

January 28, 1993

A BILL TO BE ENTITLED

AN ACT TO PROPOSE AMENDMENTS TO THE CONSTITUTION TO MAKE THE SUPERINTENDENT OF PUBLIC INSTRUCTION AN APPOINTIVE POSITION AND TO SELECT THE STATE BOARD OF EDUCATION IN A PROCESS TO BE DETERMINED BY STATUTE AND TO DEFINE THE POWERS AND DUTIES OF THE STATE BOARD BY STATUTE.

The General Assembly of North Carolina enacts:

PART I. TO PROPOSE AMENDMENTS TO THE CONSTITUTION TO MAKE THE SUPERINTENDENT OF PUBLIC INSTRUCTION AN APPOINTIVE POSITION.

Section 1. Section 7(1) of Article III of the Constitution reads as rewritten:

"(1) **Officers.** A Secretary of State, an Auditor, a Treasurer, a ~~Superintendent of Public Instruction~~, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified."

Sec. 2. Section 4 of Article IX of the Constitution is amended by adding a new subsection to read:

"(3) The Superintendent of Public Instruction shall be appointed as provided by statute."

PART II. TO PROPOSE AMENDMENTS TO THE CONSTITUTION TO SELECT THE STATE BOARD OF EDUCATION IN A PROCESS TO BE

1 DETERMINED BY STATUTE AND TO DEFINE THE POWERS AND DUTIES OF
2 THE STATE BOARD OF EDUCATION BY STATUTE.

3 Sec. 3. Section 4(1) of Article IX of the Constitution reads as rewritten:

4 "Sec. 4. State Board of Education.

5 (1) ~~Board.—The State Board of Education shall consist of the Lieutenant~~
6 ~~Governor, the Treasurer, and eleven members appointed by the Governor, subject to~~
7 ~~confirmation by the General Assembly in joint session. The General Assembly shall~~
8 ~~divide the State into eight educational districts. Of the appointive members of the~~
9 ~~Board, one shall be appointed from each of the eight educational districts and three shall~~
10 ~~be appointed from the State at large. Appointments shall be for overlapping terms of~~
11 ~~eight years. Appointments to fill vacancies shall be made by the Governor for the~~
12 ~~unexpired terms and shall not be subject to confirmation.~~

13 (1) The State Board of Education shall be established and selected as provided by
14 statute. The General Assembly may provide by law qualifications for office, including
15 qualifications relating to the type of employment of a member and a member's spouse."

16 Sec. 4. G.S. 115C-10 is repealed.

17 Sec. 5. The General Assembly shall provide by statute a process to select the
18 State Board of Education which shall be effective no later than December 31, 1996.

19 Sec. 6. Section 5 of Article IX of the Constitution reads as rewritten:

20 "Sec. 5. Powers and duties of Board. ~~The State Board of Education shall~~
21 ~~supervise and administer the free public school system and the~~
22 ~~educational funds provided for its support, except the funds~~
23 ~~mentioned in Section 7 of this Article, and shall make all needed~~
24 ~~rules and regulations in relation thereto, subject to laws enacted by~~
25 ~~the General Assembly. The powers and duties of the State Board of~~
26 Education shall be determined by statute."

27 PART III. TIME FOR REFERENDUM, THE FORM OF THE BALLOT,
28 EFFECTIVE DATES OF AMENDMENTS.

29 Sec. 7. The amendments set out in Sections 1, 2, 3, and 6 of this act shall be
30 submitted to the qualified voters of this State at the next statewide primary, general, or
31 special election, whichever is held first. The election shall be held and conducted under
32 the laws then governing such election in this State.

33 Sec. 8. The form of the ballot shall be:

34 "QUESTION 1

35 [] FOR Amending the Constitution to make the Superintendent of Public
36 Instruction an appointive position.

37 [] AGAINST Amending the Constitution to make the Superintendent of
38 Public Instruction an appointive position.

39

40 QUESTION 2

41 [] FOR Amending the Constitution to select the State Board of Education
42 in a process to be determined by statute, and, to define the powers and
43 duties of that board by statute.

1 [] AGAINST Amending the Constitution to select the State Board of
2 Education in a process to be determined by statute, and, to define the
3 powers and duties of that board by statute."

4 Those qualified voters favoring the amendments set out in PART I of this act
5 shall vote by marking under "QUESTION 1" an "X" or a check mark in the square
6 beside the statement beginning "FOR", and those qualified voters opposed to those
7 amendments shall vote by making an "X" or check mark in the square beside the
8 statement beginning "AGAINST".

9 Those qualified voters favoring the amendment set out in PART II of this act
10 shall vote by marking under "QUESTION 2" an "X" or a check mark in the square
11 beside the statement beginning "FOR", and those qualified voters opposed to that
12 amendment shall vote by making an "X" or check mark in the square beside the
13 statement beginning "AGAINST".

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

16 Sec. 9. If a majority of the votes cast are in favor of Question 1, then Part I of
17 this act shall become effective January 1, 1997, except that:

18 (1) Unless a vacancy occurs in the office of the elected Superintendent of
19 Public Instruction, an elected Superintendent of Public Instruction
20 whose term of office begins on or after January 1, 1993, shall be the
21 chief state school officer and executive officer of the Department of
22 Public Education and shall serve as secretary and chief administrative
23 officer of the State Board of Education until midnight December 31,
24 1996. There shall be no election held to fill the office of
25 Superintendent in 1996.

26 (2) A Superintendent elected for a term that will commence on or after
27 January 1, 1993, and extends through December 31, 1996, shall serve
28 as a member of the Council of State until December 31, 1996.

29 (3) If a vacancy occurs in the office of the Superintendent of Public
30 Instruction on or after the General Assembly provides by statute for
31 the appointment of the Superintendent of Public Instruction, Part I of
32 this act shall become effective at the time the vacancy occurs.

33 (4) If the referendum on the amendments of Part I of this act is held prior
34 to December 31, 1993, and the majority of the votes cast are in favor
35 of the amendments in Part I, and Article III, Section 7(3) of the
36 Constitution would have provided for an election to be held in 1994
37 for the remainder of the unexpired term caused by a vacancy in the
38 office of the Superintendent of Public Instruction, that election shall
39 not be held and the vacancy shall be filled by the State Board of
40 Education.

41 Sec. 10. If a majority of the votes cast are in favor of Question 2, then Part II
42 of this act shall become effective upon the certification of the election results except
43 that:

1 (1) The term of office of all members of the State Board of Education who
2 were appointed prior to certification of the amendments in Part II of
3 this act shall continue until the method to select members of the State
4 Board of Education provided by the General Assembly is effective.

5 Sec. 11. (a) If a majority of votes cast thereon are in favor of the amendments
6 set out in Part I of this act, the State Board of Elections shall certify the amendments to
7 the Secretary of State, who shall enroll the amendments so certified among the
8 permanent records of his office, and the amendments shall become effective January 1,
9 1997, except as otherwise provided in Section 9 of this act.

10 (b) If a majority of votes cast thereon are in favor of the amendment set out in
11 Part II of this act, the State Board of Elections shall certify the amendment to the
12 Secretary of State, who shall enroll the amendment so certified among the permanent
13 records of his office, and the amendment shall become effective upon certification,
14 except as otherwise provided in Section 10 of this act.

15 (c) Sections 4 and 5 of this act are effective upon certification of the
16 amendment set out in Part II of this act.

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