

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 93
SENATE BILL 471

AN ACT TO PROVIDE THAT THE BUNCOMBE COUNTY BOARD OF EDUCATION SHALL BE ELECTED ON A NONPARTISAN PLURALITY BASIS ON THE DATE OF THE GENERAL ELECTION.

The General Assembly of North Carolina enacts:

Section 1. Section 1.1 of Chapter 532 of the Session Laws of 1975, as added by Section 2 of Chapter 178 of the 1981 Session Laws, reads as rewritten:

~~"Sec. 1.1(a) Beginning with the 1982 primary election and biennially thereafter, thereafter through 1994 each candidate elected in the primary election as herein provided for shall be elected for a term of four years. The election shall be held on the date of the primary election as determined by G.S. 163-1(b). The election shall be conducted under the nonpartisan election and runoff election method, and determined by a majority of the votes cast. Notwithstanding the provisions of G.S. 115C-37, the Buncombe County Board of Education shall be elected on a nonpartisan basis at the time of the general election as set by G.S. 163-1 in 1996 and biennially thereafter as terms of office expire. The nonpartisan plurality election method shall be used with the results determined as provided in G.S. 163-292.~~

~~(b) A majority within the meaning of this section shall be determined as follows:~~

~~When more than one person is seeking election to a single office, the majority shall be ascertained by dividing the total vote cast for all candidates by two. Any excess of the sum so ascertained shall be a majority, and the candidate who obtains a majority shall be declared elected.~~

~~(c) If no candidate for a single office receives a majority of the votes cast, a runoff election shall be held as herein provided:~~

~~If no candidate for a single office receives a majority of the votes cast, a runoff election shall be held unless the candidate receiving the second highest number of votes withdraws under subsection (d) of this section. If such a request is made, then the candidate receiving the highest number of votes shall be declared elected. In the runoff election only the names of the two candidates who received the highest and next highest number of votes shall be printed on the ballot.~~

~~(d) The canvass of the first election shall be held on the Thursday after the election. If any candidate is entitled to withdraw under subsection (c) of this section he must do so by filing a written withdrawal with the board of elections no later than 12:00 noon on the Monday after the result of the first election has been officially declared.~~

~~(e) Tie votes; how determined:~~

- (1) ~~If there is a tie for the highest number of votes in a first election, the board of elections shall conduct a recount and declare the results. If the recount shows a tie vote, a runoff election between the two shall be held unless one of the candidates, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections. Should that be done, the remaining candidate shall be declared elected.~~
- (2) ~~If one candidate receives the highest number of votes cast in a first election, but short of a majority, and there is a tie between two or more of the other candidates receiving the second highest number of votes, the board of elections shall declare the candidate having the highest number of votes to be elected, unless all but one of the tied candidates give written notice of withdrawal to the board of elections within three days after the result of the first election has been officially declared. If all but one of the tied candidates withdraw within the prescribed three-day period, a runoff election shall be held between the candidate who received the highest vote and the remaining candidate who received the second highest vote, unless the remaining candidate who received the second highest vote withdraws.~~

~~(f) Runoff elections shall be held on the date fixed in G.S. 163-111(e). The runoff election shall be held under the laws, rules, and regulations provided for the first election.~~

~~(g) A second runoff election shall not be held. The candidates receiving the highest number of votes in a runoff election shall be elected. If in a runoff election there is a tie for the highest number of votes between two candidates, the board of elections shall determine the winner by lot."~~

Sec. 2. Section 4 of Chapter 532 of the Session Laws of 1975, as amended by Section 3 of Chapter 178 of the Session Laws of 1981 reads as rewritten:

"Sec. 4. The members representing the various districts on the Buncombe County Board of Education shall be residents of these said districts and shall file with the County Board of Elections of Buncombe County a notice of candidacy ~~during the period prescribed by G.S. 163-106(e) not earlier than 12:00 noon on the first Friday in July, and not later than 12:00 noon on the first Friday in August in the year of the election~~ which shall give the candidate's name, address, place of residence and a statement that he desires to be a candidate for membership on the said Buncombe County Board of Education for the district in which he resides. The election of said members of said board of education shall be by nonpartisan election. The Board of Elections of Buncombe County shall prepare a separate ballot for the election of said members which shall, among other things, contain the name of the candidate, the school district that he desires to represent and shall not contain any reference to party affiliation in any manner or form. ~~The Board of Elections of Buncombe County shall prepare a separate ballot for the nomination and election of said members which shall, among other things, contain the name of the candidate, the school district that he desires to represent and shall not contain any reference to party affiliation in any manner or form.~~

The candidates for membership on the Buncombe County Board of Education shall be voted on at large by the eligible voters resident in the Buncombe County School Administrative Unit, and the Board of Elections of Buncombe County shall canvass and judicially determine the results of said election and declare the members so elected. All persons so elected shall serve until their successors are elected and qualified, and any vacancy occurring on the Buncombe County Board of Education by death, resignation or by change of residency from the district from which any such person was elected, or otherwise shall be filled by the ~~Senior Resident Superior Court Judge of Buncombe County~~ appointment by the remaining members of the Board for the unexpired term, but the person appointed to fill such vacancy must be from the same district as the person whose death, resignation or removal created the vacancy on the said Buncombe County Board of Education, provided that if the vacancy has not been filled within 60 days of its occurrence, and the term has not yet expired, then the vacancy shall be filled by the Senior Resident Superior Court Judge of Buncombe County for the remainder of the unexpired term, but the person appointed to fill such vacancy must be from the same district as the person whose death, resignation, or removal created the vacancy on the said Buncombe County Board of Education."

Sec. 3. Section 5 of Chapter 532 of the Session Laws of 1975, as amended by Section 4 of Chapter 178 of the Session Laws of 1981, reads as rewritten:

"Sec. 5. Persons so elected to the Buncombe County Board of Education pursuant to this act shall take office on the first Monday in ~~July~~ December next following their election. The terms of office of persons elected in 1992 and 1994 are extended to the first Monday in December of the year in which they would have expired."

Sec. 4. Section 7 of Chapter 532 of the Session Laws of 1975, as amended by Section 5 of Chapter 178 of the Session Laws of 1981, reads as rewritten:

"Sec. 7. The election of said members of the Buncombe County Board of Education in the various ~~primary~~ elections as hereinabove provided for shall be governed by the applicable provisions of Chapters 115C and Chapter 163 of the General Statutes, relating to primaries and elections, insofar as the same may be applicable and not in conflict with the expressed terms of this act. The Buncombe County Board of Elections is hereby authorized and empowered to create any necessary precincts, to appoint any necessary election officials and to set up and establish all necessary books and records for the conduct of said elections."

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of May, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives