

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 641

Short Title: Education Governance Amendment. (Public)

Sponsors: Senator Hartsell.

Referred to: Rules and Operations of the Senate.

April 19, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA CONCERNING  
3 THE SIZE AND COMPOSITION OF THE STATE BOARD OF EDUCATION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Section 4 of Article IX of the North Carolina Constitution reads as  
6 rewritten:

7 "**Sec. 4. State Board of Education.**

8 (1) Board. The State Board of Education shall consist of the ~~Lieutenant Governor,~~  
9 ~~President of the Senate,~~ the Treasurer, three members appointed by the Senate, three members  
10 appointed by the House of Representatives, the chief executive officer of The University of  
11 North Carolina, the chief executive officer of the other system of public institutions of higher  
12 education as provided by law, and ~~eleven-eight~~ members appointed by the Governor, subject to  
13 confirmation by the General Assembly in joint session. The General Assembly shall divide the  
14 State into eight educational districts. Of the Governor's appointive members of the Board, one  
15 shall be appointed from each of the eight educational districts and three shall be appointed from  
16 the State at large. Appointments made by the Governor shall be for overlapping terms of eight  
17 years. Appointments made by the Senate and by the House of Representatives shall be for  
18 overlapping terms of four years. Appointments to fill vacancies in the appointments of the  
19 Governor shall be made by the Governor for the unexpired terms and shall ~~not be subject to~~  
20 confirmation. be subject to confirmation, but the General Assembly may provide by law for  
21 interim appointments pending confirmation.

22 (2) Superintendent of Public Instruction. The Superintendent of Public Instruction shall  
23 be the secretary and chief administrative officer of the State Board of Education."

24 **SECTION 2.** The amendment set out in Section 1 of this act shall be submitted to  
25 the qualified voters of the State at the general election on November 6, 2012, which election  
26 shall be conducted under the laws then governing elections in the State. Ballots, voting  
27 systems, or both may be used in accordance with Chapter 163 of the General Statutes. The  
28 question to be used in the voting systems and ballots shall be:

29 "[ ] FOR [ ] AGAINST

30 Constitutional amendment increasing the size and changing the composition of the  
31 State Board of Education."

32 **SECTION 3.** If a majority of the votes cast on the question are in favor of the  
33 amendment set out in Section 1 of this act, the State Board of Elections shall certify the  
34 amendments to the Secretary of State. The Secretary of State shall enroll the amendments so  
35 certified among the permanent records of that office. The amendment becomes effective as  
36 follows:



- 1 (1) Terms of office expiring in 2013 and later years end on June 30.
- 2 (2) Initial appointees of the Senate and House of Representatives begin their
- 3 terms July 1, 2013.
- 4 (3) The President of The University of North Carolina and the President of the
- 5 North Carolina System of Community Colleges begin their ex officio service
- 6 July 1, 2013.
- 7 (4) The terms of the at-large members of the State Board of Education appointed
- 8 by the Governor terminate June 30, 2013.

9 **SECTION 4.** G.S. 115C-10 reads as rewritten:

10 **"§ 115C-10. Appointment of Board.**

11 (a) The State Board of Education shall consist of the ~~Lieutenant Governor, President of~~  
12 the Senate, the State Treasurer, three members appointed by the Senate, three members  
13 appointed by the House of Representatives, the President of The University of North Carolina,  
14 the President of the North Carolina System of Community Colleges, and ~~four~~ Height members  
15 appointed by the Governor, subject to confirmation by the General Assembly in joint session.

16 (b) Not more than two public school employees paid from State or local funds may  
17 serve as appointive members of the State Board of Education. No spouse of any public school  
18 employee paid from State or local funds and no spouse of any employee of the Department of  
19 Public Instruction may serve as an appointive member of the State Board of Education.

20 (c) Of the ~~appointive gubernatorially appointed~~ members of the State Board of  
21 Education, one shall be ~~appointed~~ from each of the eight educational ~~districts and three shall be~~  
22 ~~appointed as members at large.~~ districts. Appointments shall be for terms of eight years and  
23 shall be made in four classes. Appointments to fill vacancies in appointments by the Governor  
24 shall be made by the Governor for the unexpired terms and shall ~~not~~ be subject to ~~confirmation.~~  
25 confirmation by the General Assembly in joint session, but the Governor may make interim  
26 appointments to remain effective until the 20<sup>th</sup> legislative day after the date the vacancy occurs.

27 (d) The Governor shall transmit to the presiding officers of the Senate and the House of  
28 Representatives, on or before the sixtieth legislative day of the General Assembly, the names of  
29 the persons appointed by the Governor and submitted to the General Assembly for  
30 confirmation; thereafter, pursuant to joint resolution, the Senate and the House of  
31 Representatives shall meet in joint session for consideration of an action upon such  
32 appointments.

33 (e) In 2013, the House of Representatives shall appoint four members, two of whom  
34 will serve two years and two of whom will serve four years; in 2013 the Senate shall appoint  
35 four members, two of whom will serve two years and two of whom will serve four years.  
36 Successors shall serve four-year terms. Any vacancy occurring among the members elected by  
37 either house of the General Assembly before the expiration of term shall be filled when the  
38 General Assembly next convenes. The vacancy shall be filled by election by the same house  
39 that elected the vacating member, and the replacement member shall serve for the remainder of  
40 the unexpired term of that member.

41 (f) At each session of the General Assembly held in an odd-numbered year, the Speaker  
42 of the House of Representatives and the President Pro Tempore of the Senate shall assign to  
43 either a standing or select committee of that house the duty of receiving from the members of  
44 that house nominations of persons to be considered by that house for election to the State  
45 Board. The chairs of the two committees shall jointly determine a common final date for  
46 receiving nominations from members of that house and a common date for reporting to their  
47 respective houses their nominations for the State Board. Each committee shall screen the  
48 proposed candidates for nomination as to their qualifications, background, lack of statutory  
49 disabilities, and willingness and ability to serve if elected. Each senator and each member of  
50 the House of Representatives may nominate only one candidate. When the nominating process  
51 is closed, each committee shall list all candidates and shall separately vote "aye" or "no" on

1 each candidate to determine whether that person shall be listed as a nominee of the committee.  
2 The vote of a majority of those members of the committee present and voting shall determine  
3 the nominees of the committee. An individual cannot be a candidate for nomination to more  
4 than one place. If a sufficient number of candidates is submitted to each committee, then each  
5 committee shall nominate at least two persons for each place to be filled by that house,  
6 otherwise each committee shall nominate at least one person for each place to be filled by that  
7 house. No person may simultaneously be a candidate for election by both houses, and if one is  
8 nominated in both houses, the prospective nominee shall determine by which house that  
9 prospective nominee shall be nominated and so advise the chairs of both committees. The two  
10 houses shall, by joint resolution, fix a common date and time for the election of members of the  
11 State Board. At the election session in each house, the committee shall report its list of  
12 nominees with the term of office indicated for each nominee. The ballot in the House of  
13 Representatives shall also include the names of all other persons nominated by a member of  
14 that house who are determined by the committee to be qualified for the offices, with the  
15 committee's list of nominees being clearly set out on the ballot. No additional nominations shall  
16 be received from the floor. Each house shall then proceed to an election of the State Board. In  
17 order to be chosen, a nominee shall receive the votes of a majority of all members present and  
18 voting. When each house has chosen one person for each place to be filled on the State Board,  
19 the chair of the committee shall make a motion for the simultaneous election of those persons  
20 by that house to the indicated positions and for the indicated terms. The vote shall then be  
21 called electronically. If a majority of those voting shall vote "aye," persons named in the  
22 motion shall be declared to have been elected. Each house may adopt rules consistent with this  
23 section with respect to the election by that house of members of the State Board.

24 (g) No person may be appointed by either house to more than three consecutive terms  
25 of four years on the State Board."

26 **SECTION 5.** Section 4 of this act becomes effective only if the constitutional  
27 amendment proposed by Section 1 of this act is approved by the qualified voters as provided by  
28 Sections 2 and 3 of this act.

29 **SECTION 6.** This act is effective when it becomes law.