

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**SENATE BILL 288
RATIFIED BILL**

AN ACT TO PROVIDE THAT ELECTIONS FOR THE BURKE COUNTY BOARD OF EDUCATION AND THE TOWN OF RUTHERFORD COLLEGE SHALL BE HELD IN EVEN-NUMBERED YEARS AND TO CHANGE THE ELECTION METHOD OF THE BURKE COUNTY BOARD OF EDUCATION AND THE CALDWELL COUNTY BOARD OF EDUCATION FROM NONPARTISAN TO PARTISAN.

The General Assembly of North Carolina enacts:

PART I. BURKE COUNTY

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

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

...

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

...

(i) In the event of a vacancy for positions elected on a nonpartisan basis in 2019 and 2021 on the Board by reason of death, resignation, failure to meet the election district residency requirement, or for any other reason other than expiration of the regular term (hereinafter referred to as a 'vacated seat'), the remaining members of the Board shall elect a qualified person to serve in the vacated seat (such person being herein referred to as the 'replacement member'). If such vacated seat is that of a member elected to represent an election district, the replacement member shall be a person qualified to be elected to represent the election district of the vacated seat. The term of office of the replacement member shall in all cases expire on the date of the next election of members of the Board. If the term of office of the holder of the vacated seat would have



otherwise expired as of the date of the next election, there shall be elected for said seat at the next election a member whose term shall be the regular four years. If, however, the term of office of the holder of the vacated seat would have otherwise expired as of the date of the second succeeding election (i.e., said term having more than two years remaining as of the time the seat is vacated), there shall be elected for said seat at the next election a member whose term shall be two years. If in such latter case there is the necessity of electing at one election two members to represent one election district, the candidate from said election district receiving the highest number of votes shall serve a term of four years, and the candidate from said election district receiving the second highest number of votes shall serve a term of two years. Beginning in 2024, vacancies for positions elected on a partisan basis shall be filled by appointment by the remaining members of the Board in accordance with G.S. 115C-37.1."

SECTION 1.1.(b) Notwithstanding the Plan, as rewritten by Chapter 1 of the 1981 Session Laws, Section 3 of Chapter 1 of the 1981 Session Laws reads as rewritten:

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

SECTION 1.1.(c) This act does not affect the terms of office of any member elected on a nonpartisan basis in 2019 or 2021 to the Board. The members of the Board elected in 2019 and 2021, or any member appointed to fill a vacancy for the remainder of an unexpired term for a member elected in 2019 or 2021, shall serve until a successor has been elected and qualified.

SECTION 1.1.(d) Notwithstanding the Plan, as the terms of the present members expire, in 2024, and quadrennially thereafter, four members of the Board shall be elected on the date of the general election, and in 2026, and quadrennially thereafter, three members of the Board shall be elected on the date of the general election.

SECTION 1.1.(e) Each member of the Board elected in 2019 or 2021, or any member appointed to fill a vacancy of a member elected in 2019 or 2021, shall have his or her term extended by one year and shall serve until a successor has been elected and qualified.

SECTION 1.2.(a) Chapter III of the Charter of the Town of Rutherford College, being Chapter 452 of the 1977 Session Laws, reads as rewritten:

"CHAPTER III.

"Governing Body.

"Sec. 3.1. Number of members. The governing body shall consist of six council members and the mayor.

...

"Sec. 3.3. Term of office of the members of the board. ~~Beginning with the regular municipal election to be held in 1977, the three candidates for town council receiving the highest number of votes shall be elected for a term of four years, and the three candidates receiving the next highest number of votes shall be elected for a term of two years. Thereafter as the terms of each member expire, their successors shall be elected for terms of four years.~~ In 2024, and quadrennially thereafter, three council members shall be elected for four-year terms. In 2026, and quadrennially thereafter, three council members shall be elected for four-year terms.

"Sec. 3.4. Election of mayor – term of office. The qualified voters of the entire Town of Rutherford College shall elect the mayor. ~~He~~ In 2026, and quadrennially thereafter, the mayor is elected for a four-year term of office."

SECTION 1.2.(b) Section 4.1 of the Charter of the Town of Rutherford College, being Chapter 452 of the 1977 Session Laws, reads as rewritten:

"Sec. 4.1. Conduct of town elections. In 2024, and biennially thereafter, regular municipal elections shall be held in the Town on the Tuesday after the first Monday in November of even-numbered years in accordance with the uniform municipal election laws of North Carolina. The town officers shall be elected on a nonpartisan basis, and the results determined by plurality as provided in G.S. 163-292, and this includes the election of the mayor."

SECTION 1.2.(c) Regular municipal elections shall be conducted in the Town of Rutherford College in 2021. The mayor and three council members elected in 2021 shall serve five-year terms. The three council members elected in 2019 whose terms expire in 2023 are extended until 2024. After the municipal election in 2021, the next regular municipal election shall be conducted in the Town of Rutherford College in 2024.

SECTION 1.6. The municipalities in Burke County shall reimburse the Burke County Board of Elections for the actual cost involved in the administration of each municipal election in compliance with G.S. 163-284, prorated amongst each affected municipality based on the voter registration of each municipality. The Burke County Board of Elections shall consult with the State Board of Elections in determining the amount to charge each municipality participating in a given election in Burke County.

PART II. CALDWELL COUNTY BOARD OF EDUCATION

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

"**Sec. 4.** ~~All~~ Beginning in 2022, all candidates for membership on the Caldwell County Board of Education shall ~~file for a nonpartisan election with the Caldwell County Board of Elections a notice of such candidacy during the period beginning at 12:00 noon on the second Monday in July and ending at 12:00 noon on the second Monday in August prior to the General Election, and this election shall be held at the time of said General election.~~ be elected on a partisan basis at the time of the general election in each even-numbered year as terms expire. Candidates for the Caldwell County Board of Education shall be nominated at the same time and manner as other county officers. Each candidate shall pay a filing fee of five dollars (\$5.00) and in addition shall certify in writing that he or she is a bona fide resident of Caldwell County and a qualified registered voter therein. Persons elected shall assume office on the first Monday of December following the General Election. The terms of their predecessors shall expire at that same time. Members shall serve until a successor has been elected and qualified. The requirements set forth in this section, together with such requirements as are now or may be hereafter provided for by the North Carolina General Statutes, are inclusive and constitute the sole criteria for membership on the Caldwell County Board of Education."

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

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

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

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

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

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

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

PART III. EFFECTIVE DATE

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

In the General Assembly read three times and ratified this the 23rd day of June, 2021.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives