

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

5

HOUSE BILL 106
Committee Substitute Favorable 4/17/01
Third Edition Engrossed 4/25/01
Senate Judiciary I Committee Substitute Adopted 7/24/01
Fifth Edition Engrossed 7/31/01

Short Title: School Election Options.

(Public)

Sponsors:

Referred to:

February 14, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO GIVE LOCAL BOARDS OF EDUCATION AUTHORITY TO
3 CHANGE THE MANNER OF THEIR ELECTION IN A MANNER MODELED
4 AFTER AUTHORITY ALREADY GIVEN TO CITY AND COUNTY
5 GOVERNING BOARDS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 5 of Chapter 115C of the General Statutes is amended
8 by adding several new sections to read:

9 "**§ 115C-37.2. Optional forms.**

10 Any local board of education may alter its form of government by adopting any one
11 or combination of the options prescribed by this section:

- 12 (1) Terms of office of members of the local board of education:
13 Members of the local board of education shall serve terms of office of
14 two or four years. All of the terms need not be of the same length, and
15 all of the terms need not expire in the same year.
- 16 (2) Number of members of the local board of education:
17 The local board of education shall consist of any number of members
18 no fewer than three nor more than 12.
- 19 (3) Mode of election of the local board of education:
20 a. All candidates shall be nominated and elected by all the
21 qualified voters of the local school administrative unit.
22 b. The local school administrative unit shall be divided into single-
23 member electoral districts; local board of education members
24 shall be apportioned to the districts so that each member
25 represents the same number of persons to the extent required by
26 the one person, one vote mandate of the United States

1 Constitution, except for members apportioned to the local
2 school administrative unit at large, if any; the qualified voters of
3 each district shall nominate and elect candidates who reside in
4 the district for seats apportioned to that district; and all the
5 qualified voters of the local school administrative unit shall
6 nominate and elect candidates apportioned to the local school
7 administrative unit at large, if any.

8 c. The local school administrative unit shall be divided into single-
9 member electoral districts; local board of education members
10 shall be apportioned to the districts so that each member
11 represents the same number of persons to the extent required by
12 the one person, one vote mandate of the United States
13 Constitution, except for members apportioned to the local
14 school administrative unit at large; and candidates shall reside
15 in and represent the districts according to the apportionment
16 plan adopted, but all candidates shall be nominated and elected
17 by all the qualified voters of the local school administrative
18 unit.

19 d. The local school administrative unit shall be divided into
20 electoral districts equal in number to one-half the number of
21 local board of education seats; the local board of education
22 seats shall be divided equally into "district seats" and "at-large
23 seats", one each of which shall be apportioned to each district,
24 so that each local board of education member represents the
25 same number of persons to the extent required by the one
26 person, one vote mandate of the United States Constitution, the
27 qualified voters of each district shall nominate and elect
28 candidates to the "district seats"; candidates for the "at-large
29 seats" shall reside in and represent the districts according to the
30 apportionment plan adopted, but all candidates for "at-large"
31 seats shall be nominated and elected by all the qualified voters
32 of the local school administrative unit.

33 e. The local school administrative unit shall be divided into single-
34 member electoral districts; local board of education members
35 shall be apportioned to the districts so that each member
36 represents the same number of persons to the extent required by
37 the one person, one vote mandate of the United States
38 Constitution, except for members apportioned to the local
39 school administrative unit at large, if any; in a nonpartisan
40 primary, the qualified voters of each district shall nominate two
41 candidates who reside in the district, and the qualified voters of
42 the entire local school administrative unit shall nominate two
43 candidates for each seat apportioned to the local school

1 administrative unit at large, if any; and all candidates shall be
2 elected by all the qualified voters of the local school
3 administrative unit.

4 If either of options b., c., d., or e. is adopted, the local board of
5 education shall divide the local school administrative unit into the
6 requisite number of single-member electoral districts according to the
7 apportionment plan adopted and shall cause a map of the districts so
8 laid out to be drawn up and filed in a manner similar to that provided
9 by G.S. 160A-22 and G.S. 160A-23.

10 (4) Elections:

11 a. Partisan. – Local school administrative unit primary and general
12 elections shall be conducted on a partisan basis as provided in
13 Chapter 163 of the General Statutes for county boards of
14 commissioners.

15 b. Nonpartisan plurality. – The results of local school
16 administrative unit general elections shall be determined as
17 provided in G.S. 163-292. If the board is elected in even-
18 numbered years, the election shall be held either on the date of
19 the primary or the date of the general election under G.S. 163-1.
20 If the board is elected in odd-numbered years, the election shall
21 be held on the date provided by G.S. 163-279.

22 c. Nonpartisan election and runoff election. – The results of local
23 school administrative unit general elections and runoff elections
24 shall be determined as provided in G.S. 163-293. If the board is
25 elected in even-numbered years, the election shall be held on
26 the date of the primary election under G.S. 163-1 and the runoff
27 shall be held on the date of the second primary under G.S. 163-
28 111. If the board is elected in odd-numbered years, the election
29 shall be held on the date provided by G.S. 163-279.

30 d. Nonpartisan primary and election. – The results of local school
31 administrative unit primary and general elections shall be
32 determined as provided in G.S. 163-294. If the board is elected
33 in even-numbered years, the primary shall be held on the date
34 of the primary election under G.S. 163-1 and the general
35 election shall be held on the date of the general election under
36 G.S. 163-1. If the board is elected in odd-numbered years, the
37 election shall be held on the date provided by G.S. 163-279.

38 Amendments to the form of government provided by this section do
39 authorize changing the year of election from the odd-numbered to the
40 even-numbered, or vice versa.

41 (5) Selection of chairman:

1 a. The chairman of the board shall be elected by the qualified
2 voters of the local school administrative unit for a term of no
3 fewer than two years nor more than four years.

4 b. The chairman of the board shall be elected by the board from
5 among its membership to serve at its pleasure.

6 Under option a., the chairman of the board may be given the right to
7 vote on all matters before the board or may be limited to voting only to
8 break a tie. Under option b., the chairman of the board has the right to
9 vote on all matters before the board unless board policy says
10 otherwise. In both cases, the chairman of the board has no right to
11 break a tie vote in which that person participated.

12 (6) If the board is elected in May, those members elected may assume
13 office in:

14 a. July of that same calendar year; or

15 b. December of that same calendar year.

16 **"§ 115C-37.3. Amendment by resolution.**

17 (a) By following the procedure set out in this section, the local board of
18 education may amend the local school administrative unit form of government by
19 resolution to implement any of the optional forms set out in G.S. 115C-37.2. The local
20 board of education shall first adopt a resolution of intent to consider a resolution
21 amending the form of government. The resolution of intent shall describe the proposed
22 form of government amendments briefly but completely and with reference to the
23 pertinent provisions of G.S. 115C-37.2, but it need not contain the precise text of the
24 form of government amendments necessary to implement the proposed changes. At the
25 same time that a resolution of intent is adopted, the local board of education shall also
26 call a public hearing on the proposed form of government amendments, the date of the
27 hearing to be not more than 45 days after adoption of the resolution. A notice of the
28 hearing shall be published at least once not less than 10 days prior to the date fixed for
29 the public hearing and shall contain a summary of the proposed amendments. Following
30 the public hearing but not earlier than the next regular meeting of the local board of
31 education and not later than 60 days from the date of the hearing, the local board of
32 education may adopt a resolution amending the form of government to implement the
33 amendments proposed in the resolution of intent.

34 (b) The local board of education may, but shall not be required unless a
35 referendum petition is received pursuant to G.S. 115C-37.4, to make any resolution
36 adopted pursuant to this section effective only if approved by a vote of the people and
37 may, by resolution adopted at the same time, call a special election for the purpose of
38 submitting the resolution to a vote. The date fixed for the special election shall be not
39 more than 90 days after adoption of the resolution.

40 (c) Within 10 days after a resolution is adopted under this section, the local board
41 of education shall publish a notice stating that a resolution amending the form of
42 government has been adopted and summarizing its contents and effect. If the resolution
43 is made effective subject to a vote of the people, the local board of education shall

1 publish a notice of the election in accordance with G.S. 163-287 and need not publish a
2 separate notice of adoption of the resolution.

3 (d) The local board of education may not commence proceedings under this
4 section between the time of the filing of a valid initiative petition pursuant to G.S.
5 160A-104 and the date of any election called pursuant to such petition.

6 **"§ 115C-37.4. Referendum on form of government amendments by resolution.**

7 A resolution adopted under G.S. 115C-37.3 that is not made effective upon approval
8 by a vote of the people shall be subject to a referendum petition. The local board of
9 education shall submit a resolution adopted under G.S. 115C-37.3 to a vote of the
10 people upon receipt of a referendum petition bearing the signatures and residence
11 addresses of a number of qualified voters of the local school administrative unit equal to
12 at least ten percent (10%) of the whole number of voters who are registered to vote in
13 local school administrative unit elections according to the most recent figures certified
14 by the State Board of Elections or 3,000, whichever is less. The date of the special
15 election shall be fixed at not more than 120 nor fewer than 60 days after receipt of the
16 petition. A referendum petition shall be addressed to the local board of education and
17 shall identify the resolution to be submitted to a vote. A referendum petition must be
18 filed with the local school administrative unit superintendent not later than 30 days after
19 publication of the notice of adoption of the resolution.

20 **"§ 115C-37.5. Submission of propositions to voters; form of ballot.**

21 (a) A proposition to approve a resolution shall be printed on the ballot in
22 substantially the following form:

23 "Shall the resolution (describe the effect of the resolution) be approved?

24 YES

25 NO"

26 The ballot shall be separate from all other ballots used at the election.

27 (b) If a majority of the votes cast on a proposition shall be in the affirmative, the
28 plan contained therein shall be put into effect as provided in this Article. If a majority of
29 the votes cast shall be against the proposition, the resolution or petition proposing the
30 amendments shall be void and of no effect.

31 **"§ 115C-37.6. Amendment of form of government provisions dependent on form**
32 **of government.**

33 The authority conferred by this Article to amend form of government provisions
34 within the options set out in G.S. 115C-37.2 also includes authority to amend other form
35 of government provisions dependent on the form of local school administrative unit
36 government to conform them to the form of government amendments. By way of
37 illustration and not limitation, if a form of government providing for a five-member
38 local board of education is amended to increase the size of the local board of education
39 to seven members, a form of government provision defining a quorum of the local board
40 of education as three members shall be amended to define a quorum as four members.

41 **"§ 115C-37.7. Plan to continue for two years.**

1 Form of government amendments adopted as provided in this Article shall continue
2 in force for at least two years after the beginning of the term of office of the officers
3 elected thereunder.

4 **"§ 115C-37.8. Local school administrative unit officers to carry out plan.**

5 It shall be the duty of the local board of education, the local school administrative
6 unit superintendent, and other local school administrative unit officials in office, and all
7 boards of elections and election officials, when any plan of government is adopted as
8 provided by this Article or is proposed for adoption, to comply with all requirements of
9 this Article, to the end that all things may be done which are necessary for the
10 nomination and election of the officers first to be elected under the new plan so adopted.

11 **"§ 115C-37.9. Effective date.**

12 The local board of education may submit new form of government amendments
13 proposed under this Article at any regular or special election, or at a special election
14 called for that sole purpose. Any amendment affecting the election of local school
15 administrative unit officers shall be finally adopted and approved at least 90 days before
16 the first election for local board of education members held thereunder.

17 **"§ 115C-37.10. Form of government to remain in force.**

18 The form of government of any local school administrative unit that adopts a new
19 form of government as provided in this Article shall continue in full force and effect
20 notwithstanding adoption of a new form of government, except to the extent modified
21 by a resolution adopted under the authority conferred and pursuant to the procedures
22 prescribed by this Article.

23 **"§ 115C-37.11. Filing certified true copies of form of government amendments.**

24 The local school administrative unit superintendent shall file a certified true copy of
25 any form of government amendment adopted under this Article with the Secretary of
26 State and the Legislative Library."

27 **SECTION 2.** G.S. 115C-35(a) reads as rewritten:

28 "(a) Except as otherwise altered in accordance with G.S. 115C-37.2, the ~~The~~
29 county board of education in each county shall consist of five members elected by the
30 voters of the county at large for terms of four years: Provided, that where there are
31 multiple local school administrative units located within the county, and unless the
32 county board is responsible for appointing members of the board of education of a city
33 administrative unit located within the county, only those voters who reside within the
34 county school administrative unit boundary lines shall be eligible to vote for members
35 of the county board of education. Where the county board is responsible for appointing
36 members of the board of education of a city administrative unit located within the
37 county, the voters residing within that city school administrative unit shall be eligible to
38 vote for members of the county board of education.

39 The terms of office of the members of boards of education of all school
40 administrative units in this State, who serve on June 25, 1975, shall continue until
41 members are elected and qualified as provided in this section unless modified by local
42 legislation."

43 **SECTION 3.** This act is effective when it becomes law.