

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 789\*

Short Title: School Election Options.

(Public)

Sponsors: Senator Hartsell.

Referred to: State and Local Government.

April 3, 2001

A BILL TO BE ENTITLED

AN ACT TO GIVE LOCAL BOARDS OF EDUCATION AUTHORITY TO  
CHANGE THE MANNER OF THEIR ELECTION IN A MANNER MODELED  
AFTER AUTHORITY ALREADY GIVEN TO CITY AND COUNTY  
GOVERNING BOARDS.

The General Assembly of North Carolina enacts:

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

**"§ 115C-37.2. Optional forms.**

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

(1) Terms of office of members of the local board of education:

Members of the local board of education shall serve terms of office of  
two, four, or six years. All of the terms need not be of the same length,  
and all of the terms need not expire in the same year.

(2) Number of members of the local board of education:

The local board of education shall consist of any number of members  
not less than three or more than 12.

(3) Mode of election of the local board of education:

a. All candidates shall be nominated and elected by all the  
qualified voters of the local school administrative unit.

b. The local school administrative unit shall be divided into single-  
member electoral districts; local board of education members  
shall be apportioned to the districts so that each member  
represents the same number of persons to the extent required by  
the one person one vote mandate of the United States  
Constitution, except for members apportioned to the local  
school administrative unit at large, if any; the qualified voters of

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

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

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

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

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

7 (4) Elections:

8 a. Partisan. – Local school administrative unit primaries and  
9 general elections shall be conducted on a partisan basis as  
10 provided in Chapter 163 of the General Statutes for county  
11 boards of commissioners.

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

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

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

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

38 (5) Selection of chairman:

39 a. The chairman of the board shall be elected by the qualified  
40 voters of the local school administrative unit for a term of not  
41 less than two years nor more than six years.

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

1           Under option a., the chairman of the board may be given the right to vote on  
2 all matters before the board, or may be limited to voting only to break a tie. Under  
3 option b., the chairman of the board has the right to vote on all matters before the board  
4 unless board policy says otherwise. In both cases, the chairman of the board has no right  
5 to break a tie vote in which that person participated.

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

8           a. July of that same calendar year; or

9           b. December of that same calendar year.

10 **"§ 115C-37.3. Amendment by resolution.**

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

28 The local board of education may, but shall not be required to unless a referendum  
29 petition is received pursuant to G.S. 115C-37.4, make any resolution adopted pursuant  
30 to this section effective only if approved by a vote of the people and may, by resolution  
31 adopted at the same time, call a special election for the purpose of submitting the  
32 resolution to a vote. The date fixed for the special election shall be not more than 90  
33 days after adoption of the resolution.

34 Within 10 days after a resolution is adopted under this section, the local board of  
35 education shall publish a notice stating that a resolution amending the form of  
36 government has been adopted and summarizing its contents and effect. If the resolution  
37 is made effective subject to a vote of the people, the local board of education shall  
38 publish a notice of the election in accordance with G.S. 163-287 and need not publish a  
39 separate notice of adoption of the resolution.

40 The local board of education may not commence proceedings under this section  
41 between the time of the filing of a valid initiative petition pursuant to G.S. 160A-104  
42 and the date of any election called pursuant to such petition.

43 **"§ 115C-37.4. Referendum on form of government amendments by resolution.**

1 A resolution adopted under G.S. 115C-37.3 that is not made effective upon approval  
2 by a vote of the people shall be subject to a referendum petition. Upon receipt of a  
3 referendum petition bearing the signatures and residence addresses of a number of  
4 qualified voters of the local school administrative unit equal to at least ten percent  
5 (10%) of the whole number of voters who are registered to vote in local school  
6 administrative unit elections according to the most recent figures certified by the State  
7 Board of Elections or 5,000, whichever is less, the local board of education shall submit  
8 a resolution adopted under G.S. 115C-37.3 to a vote of the people. The date of the  
9 special election shall be fixed at not more than 120 nor fewer than 60 days after receipt  
10 of the petition. A referendum petition shall be addressed to the local board of education  
11 and shall identify the resolution to be submitted to a vote. A referendum petition must  
12 be filed with the local school administrative unit superintendent not later than 30 days  
13 after publication of the notice of adoption of the resolution.

14 **"§ 115C-37.5. Submission of propositions to voters; form of ballot.**

15 A proposition to approve a resolution shall be printed on the ballot in substantially  
16 the following form:

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

18 ( ) YES

19 ( ) NO"

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

21 If a majority of the votes cast on a proposition shall be in the affirmative, the plan  
22 contained therein shall be put into effect as provided in this Article. If a majority of the  
23 votes cast shall be against the proposition, the resolution or petition proposing the  
24 amendments shall be void and of no effect.

25 **"§ 115C-37.6. Amendment of form of government provisions dependent on form**  
26 **of government.**

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

35 **"§ 115C-37.7. Plan to continue for two years.**

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

39 **"§ 115C-37.8. Local school administrative unit officers to carry out plan.**

40 It shall be the duty of the local board of education, the local school administrative  
41 unit superintendent, and other local school administrative unit officials in office, and all  
42 boards of election and election officials, when any plan of government is adopted as  
43 provided by this Article or is proposed for adoption, to comply with all requirements of

1 this Article, to the end that all things may be done which are necessary for the  
2 nomination and election of the officers first to be elected under the new plan so adopted.

3 **"§ 115C-37.9. Effective date.**

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

9 **"§ 115C-37.10. Form of government to remain in force.**

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

15 **"§ 115C-37.11. Filing certified true copies of form of government amendments.**

16 The local school administrative unit superintendent shall file a certified true copy of  
17 any form of government amendment adopted under this Part with the Secretary of State  
18 and the Legislative Library."

19 **SECTION 2.** This act is effective when it becomes law.