

WAKE COUNTY BOARD OF EDUCATION

Supplemental Resolution Requesting Legislation to Return to Odd-Year Elections for School Board Members with Staggered Four-Year Terms

WHEREAS, since the merger of the Wake County Schools Administrative Unit and the Raleigh City Schools Administrative Unit in 1975 (“the merger”), the Wake County Board of Education has been comprised of nine members elected from single-member districts;

WHEREAS, since the merger and until 2013, Board of Education members have been elected to four-year terms in odd-year elections at the time of the non-partisan municipal elections;

WHEREAS, since the merger and in order to promote continuity of governance, the terms for the members of the Board of Education elections have been staggered so that the entirety of the Board of Education do not stand for election at the same time;

WHEREAS, prior to 2013, members of the Wake County Board of Education were elected via the non-partisan election and runoff method;

WHEREAS, in 2013, the General Assembly adopted S.L. 2013-110, which adopted new electoral districts and a new electoral scheme, including moving the elections to even-years;

WHEREAS, a group of citizens in Wake County challenged S.L. 2013-110 in federal court, arguing that the law violated the constitutional principle of one-person one-vote;

WHEREAS, after a trial and an appeal to the Fourth Circuit Court of Appeals, S.L. 2013-110 was struck down as unconstitutional in 2016;

WHEREAS, with election deadlines looming for the 2016 elections, United States District Court Judge James Dever ordered the Wake County Board of Elections to use districts adopted by the Board of Education in 2011 in that election;

WHEREAS, under the remedial scheme adopted by Judge Dever, all nine members of the Board of Education stood for election for a two-year term in 2016;

WHEREAS, in 2017, the parties to the litigation entered into a Consent Decree approved by the Court which again had all nine members of the Board of Education elected for two-years terms in the 2018 election;

WHEREAS, again in 2020, all nine members of the Board of Education were elected to two-year terms;

WHEREAS, by its terms, the Consent Decree expires with the return of the 2020 census;

WHEREAS, the Census Bureau experienced a significantly delay in releasing the block level census data which is required for redistricting;

WHEREAS, the Board of Education has begun engaging in the redistricting process using the newly released block level census data;

WHEREAS, to promote clarity, stability, and to return to the electoral system in place from the time of the merger until 2013, the Wake County Board of Education adopted a resolution at its May 4, 2021 meeting seeking local legislation to return the Board of Education to four-year staggered terms elected via the non-partisan election and runoff method in odd years at the time of the non-partisan municipal elections;

WHEREAS, following the adoption of the Board's May 4, 2021 resolution, the General Assembly has drafted local legislation that aligns in substantial part with the Board's request, specifically in the form of House Bill 353 ("the Bill"), which has passed the House and is pending before the Senate;

WHEREAS, Wake County Board of Education appreciates the efforts of the General Assembly to develop local legislation substantially aligned with the Board's request;

WHEREAS, the Wake County Board of Education reaffirms its request for local legislation in line with its May 4, 2021 resolution;

WHEREAS, while appreciative of the efforts of the General Assembly, the Wake County Board of Education would like the General Assembly to consider revisions to House Bill 353 to address identified concerns with the Bill, in particular concerns about the process set forth in the Bill to establish the four-year staggered terms and odd-year elections;

WHEREAS, the Bill's process for establishing the four-year staggered terms creates ambiguity in the selection of the electoral districts that would receive a one-year term versus a three-year term—specifically, the Bill states that the "members in the four districts receiving the four highest total vote counts shall be elected to serve a three-year term. The members from the remaining five districts shall be elected to serve a one-year term";

WHEREAS, it is unclear whether the Bill would grant the three-year terms to the winning candidates in the four districts that have the highest cumulative number of votes regardless of the candidate's margin of victory or grant three-year terms to the four candidates with the highest number of votes regardless of the number of cumulative votes in that district;

WHEREAS, there are other concerns with the process of establishing the four-year staggered terms and odd-year elections in the Bill, including that (a) this process would mean that at the time of the election, voters would not know whether candidates from their districts would receive a one or three-year term if elected, and (b) the Bill would result in elections in all 9 districts in 2022, and then additional elections one-year later in 2023 for 5 of 9 districts;

WHEREAS, to address the identified concerns with House Bill 353 while preserving the noted benefits of the Bill, the Wake County Board of Education requests that the General Assembly consider revising the Bill in one of the following ways to establish four-year staggered terms in odd-year elections:

1. Elections in Districts 3, 4, 5, 6 and 8 in 2022 for three-year terms and extending the terms of Board members in Districts 1, 2, 7, and 9 by one-year, with elections in 2023 for four-year terms, with subsequent elections in all the districts for four-year terms; or

2. Elections in all districts in 2022 with three-year terms for candidates in Districts 3, 4, 5, 6 and 8, and five-year terms for candidates in Districts 1, 2, 7, and 9, with all subsequent elections for four-year terms.

WHEREAS, the Wake County Board of Education believes that the proposed revisions to House Bill 353 would bring about greater clarity for candidates and voters and would avoid elections in consecutive years;

NOW, THEREFORE, BE IT RESOLVED by the Wake County Board of Education that:

The Wake County Board of Education reiterates its request for local legislation in line with the Board's May 4, 2021 resolution, extends appreciation to the General Assembly for its efforts to accommodate the Board's request, and respectfully requests that the General Assembly revise House Bill 353 to bring about added clarity to candidates and voters in the process of establishing four-year staggered terms in odd-year elections, while also avoiding consecutive elections two years in a row in 5 of the 9 electoral districts. The Wake County Board of Education specifically asks the General Assembly to consider revising the process of establishing four-year staggered terms in odd-year elections in one of the following two approaches:

1. Elections in Districts 3, 4, 5, 6 and 8 in 2022 for three-year terms and extending the terms of Board members in Districts 1, 2, 7, and 9 by one-year, with elections in 2023 for four-year terms, with subsequent elections in all the districts for four-year terms; or

2. Elections in all districts in 2022 with three-year terms for candidates in Districts 3, 4, 5, 6 and 8, and five-year terms for candidates in Districts 1, 2, 7, and 9, with all subsequent elections for four-year terms.

WAKE COUNTY BOARD OF EDUCATION

By: _____
Keith Sutton, Chairman

ATTEST: _____
Cathy Moore, Secretary