

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 420

Short Title: CC Bd. of Trustees/Governance. (Public)

Sponsors: Senators Curtis and Barefoot (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 29, 2017

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR CIRCUMSTANCES IN WHICH THE STATE BOARD OF COMMUNITY COLLEGES MAY APPOINT AN INTERIM BOARD OF TRUSTEES TO ASSUME THE POWERS AND DUTIES OF A BOARD OF TRUSTEES; TO REQUIRE THAT A BOARD OF TRUSTEES MEET AT LEAST ONCE EVERY TWO MONTHS; AND TO AUTHORIZE THE STATE BOARD OF COMMUNITY COLLEGES TO REQUIRE FINANCIAL AUDITS IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"§ 115D-6.5. Notice of noncompliance; appointment of an interim board of trustees.

(a) Notice. – The State Board of Community Colleges is responsible for assuring that boards of trustees of the community colleges comply with applicable State laws, rules, and sound fiscal and management practices, as defined in State Board policy. In addition to any actions taken by the State Board under G.S. 115D-6(3), if the State Board finds that a board of trustees of a community college has willfully, or as a result of gross negligence, failed to or refused to comply with applicable State laws, rules, and sound fiscal and management practices, the State Board may issue a written notice to the board of trustees of its findings and direct the board of trustees to take remedial action immediately to address those findings upon receipt of the notice. If the State Board finds the college needs assistance with taking remedial action, the State Board may also appoint an advisory committee to provide support and recommendations to the college. At a minimum, the advisory committee shall consist of representatives of the State Board of Community Colleges, the North Carolina Association of Community College Trustees, the North Carolina Association of Community College Presidents, and the System Office, and each shall make recommendations to the State Board on the appointment of their members to the advisory committee.

(b) Resolution. – If, after receipt of the notice issued under subsection (a) of this section, a board of trustees willfully, or as a result of gross negligence, persists in refusing or failing to comply with the State laws, rules, or sound fiscal and management practices identified in the notice, the State Board of Community Colleges may adopt a resolution, upon approval of at least two-thirds of the members of the State Board attending the meeting in which the resolution is considered, to vacate the terms of the leadership of the board of trustees to include, but not limited

1 to, chair and vice-chair. The respective appointing authorities shall appoint trustees to fulfill the
 2 vacated terms and shall not appoint members whose terms were vacated pursuant to this section.
 3 If, after the removal of the leadership of the board of trustees, a board of trustees willfully, or as a
 4 result of gross negligence, persists in refusing or failing to comply with the State laws, rules, or
 5 sound fiscal and management practices identified in the notice, the State Board of Community
 6 Colleges may adopt a resolution, upon approval of at least two-thirds of the members of the State
 7 Board attending the meeting in which the resolution is considered, to vacate the terms of the full
 8 board of trustees. Prior to adopting ~~the either~~ resolution, the State Board shall consult with the
 9 appointing authorities of the board of trustees and representatives of the North Carolina
 10 Association of Community College Trustees and the North Carolina Association of Community
 11 College Presidents regarding the proposed resolution. The State Board shall only exercise this
 12 authority as an extraordinary remedy utilized in the most extreme circumstances and after all of
 13 the following remediation actions have been taken without correction of the identified problems:

14 (1) the State Board has clearly delineated the failures to comply with applicable State
 15 laws, rules or sound fiscal and management practices;

16 (2) the advisory committee appointed consistent with subsection (a) of this section has
 17 met with the President of the college and the local board of trustees to discuss the problems in
 18 question and to assist the community college in question to resolve them;

19 (3) the State Board has vacated the terms of the leadership of the board of trustees, but
 20 the identified problems continue to persist;

21 (4) after replacement of the leadership of the board, the identified problems persist; and

22 (5) the State Board has issued a final warning providing the college with a deadline to
 23 resolve the identified problems.

24 (c) Interim Board Assumption of Powers and Duties. – The adoption of the resolution to
 25 remove the full board under this section shall have the effect of vacating the terms of all of the
 26 members serving on the board of trustees. Notwithstanding G.S. 115D-12, the State Board of
 27 Community Colleges shall appoint an interim five-member board of trustees for a period not to
 28 exceed 12 months with input from the advisory committee listed in subsection (a) of this section.
 29 To preserve local autonomy, the appointing authorities of the local administrative area of the
 30 community college under G.S. 115D-12 shall make recommendations to the State Board on the
 31 appointment of the members to the interim board of trustees. All appointees to the interim board
 32 of trustees shall be residents of the administrative area of the institution for which they are selected
 33 or of counties contiguous thereto with the exception of members provided for in subsection (a) of
 34 G.S. 115D-12, Group Four. At the end of the period of service of the interim board of trustees, a
 35 board of trustees for the community college shall be appointed in accordance with G.S. 115D-12.
 36 Initial terms of members of the new board of trustees shall be staggered to align with the remainder
 37 of the vacated terms of the members of the board of trustees.

38 (d) Notice to the General Assembly. – Within 60 days of the adoption of the resolution to
 39 remove the full board under this section, the State Board shall report to the General Assembly in
 40 accordance with G.S. 120-29.5 on the adoption of the resolution, the interim board of trustees
 41 appointed by the State Board, and any legislative recommendations necessary in regard to the
 42 future governance of the community college.

43 (e) State Board Policy. – The State Board of Community Colleges shall adopt any policies
 44 necessary to implement the provisions of this section."

45 SECTION 2. G.S. 115D-18 reads as rewritten:

46 "§ 115D-18. Organization of boards; meetings.

1 At the first meeting after its selection, each board of trustees shall elect from its membership a
2 ~~chairman, chair,~~ who shall preside at all board meetings, and a ~~vice-chairman, vice-chair,~~ who
3 shall preside in the absence of the ~~chairman, chair.~~ The trustees shall also elect a secretary, who
4 may be a trustee, to keep the minutes of all board meetings. All three officers of the board shall be
5 elected for a period of one year but shall be eligible for reelection by the board.

6 Each board of trustees shall meet as often as may be necessary for the conduct of the business
7 of the institution but shall meet at least once every ~~three-two~~ months. Meetings may be called by
8 the ~~chairman, chair~~ of the board, a majority of the trustees, or the chief administrative officer of the
9 institution."

10 **SECTION 3.** G.S. 115D-58.16(a) reads as rewritten:

11 "(a) Each community college shall be subject to a financial audit a minimum of once every
12 two years. Community colleges may use State funds to contract with the State Auditor or with a
13 certified public accountant to perform the audits. The colleges shall submit the results of the audits
14 to the State Board of Community Colleges. The State Board of Community Colleges may require
15 a community college to be audited annually after the community college has two consecutive
16 financial audits with findings.

17 The State Board of Community Colleges shall ensure that all colleges are audited in accordance
18 with this section."

19 **SECTION 4.** This act is effective when it becomes law.