

# *A Short Constitutional History of Public School Governance in North Carolina, 1776-1990*

North Carolina's three state constitutions (1776, 1868, and 1971) have dealt in increasing detail with public education, and the 1868 and 1971 constitutions have dictated the roles of the state superintendent of public instruction and the State Board of Education.

1. **The Constitution of 1776.**<sup>1</sup> Section 41 of North Carolina's first constitution established the public school system:

"That a school or schools shall be established by the legislature, for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices; and, all useful learning shall be duly encouraged and promoted in one or more universities."

2. **The Constitution of 1868.** Article IX of this constitution established a State Board of Education which including these popularly elected members: governor, lieutenant governor, secretary of state, state treasurer, state auditor, superintendent of public works (a position abolished in 1873), attorney general, and superintendent of public instruction.

The responsibilities of the board were to "make all needful rules and regulations in relation to Free Public Schools and the Educational Fund of the State."

The responsibilities of the superintendent of public instruction were to direct operations and enforce laws; to report to the governor annually; to study school systems in other states and countries; and to be responsible for sectional needs of the state.

■ **Statutory changes, 1927-1945.**

—In 1927, the General Assembly created a State Board of Equalization<sup>2</sup> which relieved the State Board of Education of its responsibility to distribute money to counties using the equalizing fund. The equalizing fund had been created in 1901 to subsidize education in the poorer counties.

—In 1933, the General Assembly created the State School Commission<sup>3</sup> to succeed the State Board of Equalization. The commission included the governor, lieutenant governor, state treasurer, superintendent of public instruction, and one member, appointed by the governor, from each congressional district. The commission's task was to manage the public school system's fiscal affairs.

—In 1943, the statutes were amended to abolish the State School Commission, and the constitution was amended to change the membership of the State Board of Education. The board now included the lieutenant governor, the state

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treasurer, the superintendent of public instruction, and one member from each congressional district. In addition, the constitutional amendment created the position of controller, who would assume the fiscal responsibility for the school system in lieu of the State School Commission.<sup>4</sup>

— In 1945, the General Assembly described the board's responsibilities in the reorganization of 1943:<sup>5</sup>

"Those relating to the supervision and administration of the public school system of which the superintendent shall be the administrative head, except as they relate to the supervision and management of the fiscal affairs of the board.

"Those relating to the supervision and administration of fiscal affairs of the public school funds committed to the administration of the State Board of Education, of which the controller shall have supervision and management."

**3. The Constitution of 1971.** Article IX recreated the State Board of Education which would "supervise and administer a free public school system and the educational funds provided for its support . . . and shall make all needed rules and regulations in relation, thereto . . ." The state board included the lieutenant governor, treasurer, and 11 members appointed by the governor, one from each of the eight education districts and three at-large members. The superintendent of public instruction was the chief administrator and secretary of the board, but was not an official member and no longer had a vote. The controller, answering to the board, continued to manage the fiscal affairs of the public schools.

■ **Statutory changes, 1988-89.** In the 1988 Act to Provide a Governance Structure for the Department of Public Instruction, the General Assembly granted the superintendent these duties:<sup>6</sup>

— As administrator of the Department of Public Instruction: To organize and establish a Department of Public Instruction including the divisions and departments needed for supervision and administration of the public school system, to administer the funds for the operation of the Department of Public Instruction, and to enter into contracts.

— As secretary of the State Board of Education (the superintendent already held this post by constitutional provision, but the legislature's 1988 action enhanced the post with these duties): To administer through the Department of Public Instruction all policies established by the board; and to administer the funds appropriated to the Department of Public Instruction for the operations of the state board and for aid to local school administrative units.

## FOOTNOTES

<sup>1</sup>For those wishing to read more about the three constitutions (1776, 1868, and 1971) adopted in North Carolina, copies can be found in a number of places, including the *North Carolina Manual*, published biennially by the Department of the Secretary of State, and in various sources in most public libraries in North Carolina. For an excellent source for key constitutional provisions and statutory changes regarding N.C. education law, see E. Michael Latta, *The Constitutional and Statutory Development of the State Board of Education and the State Superintendent of Public Instruction (as well as the Defunct Office of the Controller)*, first presented to the Select Committee on Education of the N.C. General Assembly, Oct. 4, 1982. Reissued Nov. 17, 1989 with amendments, and available from the State Advisory Council on Vocational Education in Raleigh at (919) 733-2064.

<sup>2</sup>Chapter 256, Public Laws and Resolutions, 1927 General Assembly.

<sup>3</sup>Chapter 562, Public Laws and Resolutions, 1933 General Assembly.

<sup>4</sup>Chapter 721, Session Laws and Resolutions, 1943 General Assembly.

<sup>5</sup>Chapter 530, Session Laws and Resolutions, 1945 General Assembly.

<sup>6</sup>Chapter 1025, 1987 Session Laws (Second Session 1988), now codified as GS 115C-19 and 115C-23.