



SENATE BILL 420: Community College Governance/Amend Medical Board.

2017-2018 General Assembly

Committee:		Date:	August 14, 2018
Introduced by:		Prepared by:	Brian Gwyn Staff Attorney
Analysis of:	S.L. 2018-92		

OVERVIEW: *S.L. 2018-92 (i) allows the State Board of Community Colleges (SBCC) to appoint an interim board of trustees to assume the powers and duties of a board of trustees of a local community college in certain instances; (ii) allows the SBCC to appoint an advisory committee; (iii) establishes remediation actions that must be completed prior to vacating the entire board; (iv) requires that the boards of trustees of local community colleges meet at least once every two months; (v) authorizes the SBCC to require financial audits in certain cases; and (vi) adjusts the membership of the North Carolina Medical Board.*

This act became effective June 25, 2018.

SECTION 1.(a)

CURRENT LAW: State law establishes the local boards of trustees for community colleges. There are 13 members on each board, including the president of the student body as an ex officio member. Of the remaining 12 members, they are appointed in groups of 4 respectively by the following entities: (i) the board(s) of education of the local school administrative unit(s) located in the administrative area of the institution; (ii) the boards of commissioners of the county or counties in the administrative area of the institution; and (iii) the Governor.

Under G.S. 115D-6, the SBCC can withdraw or withhold State financial and administrative support of a local community college if any of the following occur:

- The required local financial support of an institution is not provided.
- Sufficient State funds are not available.
- The officials of an institution refuse or are unable to maintain prescribed standards of administration or instruction.
- Local educational needs for such an institution cease to exist.

Members of the board of trustees of an institution can be removed if the SBCC has sufficient evidence that the member is not capable of discharging, or is not discharging, the duties of his or her office as required by law or lawful regulation, or is guilty of immoral or disreputable conduct. A board of trustees may also declare vacant the office of a member who does not attend three consecutive, scheduled meetings without justifiable excuse.

BILL ANALYSIS: S.L. 2018-92 establishes (i) a procedure by which the SBCC can provide a notice of noncompliance to a local board of trustees; (ii) a remediation process; (iii) and a way for the SBCC to

Karen Cochrane-Brown
Director



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remove board leadership or vacate the entire board as a result of failing to comply with State law, rules, or sound fiscal management practices.

Notice

If the SBCC finds that a local board of trustees has willfully, or as a result of gross negligence, failed to or refused to comply with State law, rules, and sound fiscal management practices, the SBCC may issue written notice to the board of trustees of these findings and direct the local board to take remedial action to address the issues.

Advisory Committee

The SBCC may also appoint an advisory committee to provide support and recommendations to the local board of trustees on taking remedial action. The advisory committee must consist, at a minimum, of a representative from each of the following:

- SBCC.
- North Carolina Association of Community College Trustees (NCACCT), appointed by the NCACCT.
- North Carolina Association of Community College Presidents (NCACCP), appointed by the NCACCP.
- Community College System Office.

Prior to Adopting a Resolution to Vacate Term

Before adopting any resolution to vacate the term of a member of the local board of trustees, the SBCC must consult with the appointing authorities of the board of trustees, and representatives of the NCACCT and NCACCP regarding the proposed resolution.

Resolution to Remove Board Leadership

If, after receipt of the notice, a board of trustees continues to willfully, or as a result of gross negligence, fail to or refuse to comply with applicable State laws, rules, and sound fiscal and management practices identified in the notice, the SBCC may adopt a resolution by a two-thirds vote of the SBCC members in attendance to vacate the terms of the leadership, including by not limited to the chair and vice-chair. The respective appointing authorities must appoint trustees to fill those vacated terms. Those appointees cannot be the members whose terms were vacated.

Resolution to Vacate Board

If, after removal of the leadership, the remaining board members continue to willfully, or as a result of gross negligence, fail to or refuse to comply with applicable State laws, rules, and sound fiscal and management practices, the SBCC may adopt a resolution by a two-thirds vote of the SBCC members in attendance to vacate the terms of the remaining members of the board.

The SBCC can only exercise removal authority of the entire local board of trustees as an extraordinary remedy in the most extreme circumstances, and after all of the following remediation actions have been taken without correction of the problem:

- SBCC has clearly delineated the failure to comply.
- The advisory committee has met with the college president and board of trustees to discuss and assist in resolving the problems.
- SBCC has vacated the terms of the leadership of the board, but the problems persist.

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- SBCC has issued a final warning providing the college with a deadline to resolve the problems.

Interim Board and Permanent Replacements

If the terms of the entire board are vacated, the SBCC must appoint an interim an interim 5 member board of trustees for a period of no longer than 12 months with input from the advisory committee. The appointing authorities of the local administrative area of the community college must make recommendations to the SBCC on the appointment of the interim board members. Interim board members must be residents of the college's administrative area, or of counties contiguous to the administrative area, with the exception of the president of the student government or the chair of the executive board of the student body. At the expiration of the terms of the interim board members, a new board of trustees for that community college must be appointed in accordance with State law, with the initial terms of the new members of the board of trustees staggered to align with the remainder of the vacated terms of the former members of the board.

Notice to the General Assembly

Within 60 days of removing the full board, the SBCC must notify the General Assembly on the adoption of the resolution and any necessary legislative recommendations addressing the future governance of that community college.

SECTION 1.(b)

CURRENT LAW: Each local board of trustees must meet as often as necessary for the conduct of the business of the community college, but must meet at least once every three months.

BILL ANALYSIS: S.L. 2018-92 requires local boards of trustees to meet at least once every two months.

SECTION 1.(c)

CURRENT LAW: Each community college is subject to a financial audit at a minimum of once every two years and must submit the results of the audits to the SBCC.

BILL ANALYSIS: S.L. 2018-92 allows the SBCC to require a community college to be audited annually after the community college has two consecutive audits with findings.

SECTION 2.(a)

CURRENT LAW: The North Carolina Medical Board consists of 13 members as follows:

- Seven duly licensed physicians recommended by the Review Panel and appointed by the Governor.
- Four members appointed by the Governor as follows:
 - One duly licensed physician who is a doctor of osteopathy, or a full-time member of one of the medical schools in North Carolina who utilizes integrative medicine in that person's clinical practice, or a member of The Old North State Medical Society.
 - One public member.
 - One physician assistant as recommended by the Review Panel.
 - One nurse practitioner as recommended by the Review Panel.
- Two public members appointed by the General Assembly.

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BILL ANALYSIS: The bill would adjust the membership of the North Carolina Medical Board as follows:

- Six duly licensed physicians recommended by the Review Panel and appointed by the Governor.
- Five members appointed by the Governor as follows:
 - One member of The Old North State Medical Society as recommended by the Review Panel.
 - One public member.
 - One physician assistant as recommended by the Review Panel.
 - One nurse practitioner as recommended by the Review Panel.
 - One duly licensed physician who is a doctor of osteopathy, or a full-time faculty member of one of the medical schools in North Carolina who utilized integrative medicine in that person's clinical practice, as recommended by the Review Panel.
- Two public members appointed by the General Assembly.

EFFECTIVE DATE: The act became effective June 25, 2018.