

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 202

Short Title: Supt. Public Instruction Member of SBE. (Public)

Sponsors: Representatives Holloway, Elmore, Cotham, and Glazier (Primary Sponsors).  
*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

Referred to: Education - K-12.

March 11, 2015

A BILL TO BE ENTITLED

AN ACT TO MAKE THE SUPERINTENDENT OF PUBLIC INSTRUCTION A MEMBER  
OF THE STATE BOARD OF EDUCATION AND TO MAKE CONFORMING  
CHANGES TO THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 4 of Article IX of the North Carolina Constitution reads as  
rewritten:

**"Sec. 4. State Board of Education.**

(1) Board. The State Board of Education shall consist of the Superintendent of Public Instruction, the Lieutenant Governor, the Treasurer, and eleven~~ten~~ members appointed by the Governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and ~~three~~two shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) Superintendent of Public Instruction. The Superintendent of Public Instruction shall be the ~~secretary and~~ chief administrative officer of the State Board of Education."

**SECTION 2.** G.S. 115C-10 reads as rewritten:

**"§ 115C-10. Appointment of Board.**

The State Board of Education shall consist of the Superintendent of Public Instruction, the Lieutenant Governor, the State Treasurer, and ~~four~~ten members appointed by the Governor, subject to confirmation by the General Assembly in joint session. Not more than two public school employees paid from State or local funds may serve as appointive members of the State Board of Education. No spouse of any public school employee paid from State or local funds and no spouse of any employee of the Department of Public Instruction may serve as an appointive member of the State Board of Education. Of the appointive members of the State Board of Education, one shall be appointed from each of the eight educational districts and ~~three~~two shall be appointed as members at large. Appointments shall be for terms of eight years and shall be made in four classes. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, on or before the sixtieth legislative day of the General Assembly, the names of the persons appointed by the Governor and submitted to the General Assembly for confirmation; thereafter, pursuant to joint resolution, the Senate and the House of



1 Representatives shall meet in joint session for consideration of an action upon such  
2 appointments."

3 **SECTION 3.(a)** G.S. 7B-1402(b) reads as rewritten:

4 "(b) The Task Force shall be composed of 35 members, 11 of whom shall be ex officio  
5 members, four of whom shall be appointed by the Governor, 10 of whom shall be appointed by  
6 the Speaker of the House of Representatives, and 10 of whom shall be appointed by the  
7 President Pro Tempore of the Senate. The ex officio members other than the Chief Medical  
8 Examiner shall be nonvoting members and may designate representatives from their particular  
9 departments, divisions, or offices to represent them on the Task Force. The members shall be as  
10 follows:

- 11 (1) The Chief Medical Examiner;
- 12 (2) The Attorney General;
- 13 (3) The Director of the Division of Social Services;
- 14 (4) The Director of the State Bureau of Investigation;
- 15 (5) The Director of the Division of Maternal and Child Health of the  
16 Department of Health and Human Services;
- 17 (6) The Director of the Governor's Youth Advocacy and Involvement Office;
- 18 (7) The Superintendent of Public Instruction;
- 19 (8) The ~~Chairman~~Chair, or Vice-Chair if the Superintendent of Public  
20 Instruction is the Chair, of the State Board of Education;
- 21 (9) The Director of the Division of Mental Health, Developmental Disabilities,  
22 and Substance Abuse Services;
- 23 (10) The Secretary of the Department of Health and Human Services;
- 24 (11) The Director of the Administrative Office of the Courts;
- 25 (12) A director of a county department of social services, appointed by the  
26 Governor upon recommendation of the President of the North Carolina  
27 Association of County Directors of Social Services;
- 28 (13) A representative from a Sudden Infant Death Syndrome counseling and  
29 education program, appointed by the Governor upon recommendation of the  
30 Director of the Division of Maternal and Child Health of the Department of  
31 Health and Human Services;
- 32 (14) A representative from the North Carolina Child Advocacy Institute,  
33 appointed by the Governor upon recommendation of the President of the  
34 Institute;
- 35 (15) A director of a local department of health, appointed by the Governor upon  
36 the recommendation of the President of the North Carolina Association of  
37 Local Health Directors;
- 38 (16) A representative from a private group, other than the North Carolina Child  
39 Advocacy Institute, that advocates for children, appointed by the Speaker of  
40 the House of Representatives upon recommendation of private child  
41 advocacy organizations;
- 42 (17) A pediatrician, licensed to practice medicine in North Carolina, appointed by  
43 the Speaker of the House of Representatives upon recommendation of the  
44 North Carolina Pediatric Society;
- 45 (18) A representative from the North Carolina League of Municipalities,  
46 appointed by the Speaker of the House of Representatives upon  
47 recommendation of the League;
- 48 (18a) A representative from the North Carolina Domestic Violence Commission,  
49 appointed by the Speaker of the House of Representatives upon  
50 recommendation of the Director of the Commission;

- 1 (19) One public member, appointed by the Speaker of the House of  
2 Representatives;
- 3 (20) A county or municipal law enforcement officer, appointed by the President  
4 Pro Tempore of the Senate upon recommendation of organizations that  
5 represent local law enforcement officers;
- 6 (21) A district attorney, appointed by the President Pro Tempore of the Senate  
7 upon recommendation of the President of the North Carolina Conference of  
8 District Attorneys;
- 9 (22) A representative from the North Carolina Association of County  
10 Commissioners, appointed by the President Pro Tempore of the Senate upon  
11 recommendation of the Association;
- 12 (22a) A representative from the North Carolina Coalition Against Domestic  
13 Violence, appointed by the President Pro Tempore of the Senate upon  
14 recommendation of the Executive Director of the Coalition;
- 15 (23) One public member, appointed by the President Pro Tempore of the Senate;  
16 and
- 17 (24) Five members of the Senate, appointed by the President Pro Tempore of the  
18 Senate, and five members of the House of Representatives, appointed by the  
19 Speaker of the House of Representatives."

20 **SECTION 3.(b)** G.S. 104-12 reads as rewritten:

21 **"§ 104-12. Acquisition of land for inland waterway from Cape Fear River; grant of State**  
22 **lands.**

23 For the purpose of aiding in the construction of the proposed inland waterway by the United  
24 States from the Cape Fear River at Southport to the North Carolina-South Carolina State line,  
25 the Secretary of State is hereby authorized to issue to the United States of America a grant to  
26 the land located within said inland waterway, right-of-way, which is to be 1,000 feet to 1,750  
27 feet wide insofar as such land is subject to grant by the State of North Carolina, the said grant  
28 to issue upon a certificate furnished to the Secretary of State by the Secretary of War, or by any  
29 authorized officer of the corps of engineers of the United States Army, or by any other  
30 authorized official, exercising control over the construction of the said waterway. Whenever in  
31 the construction of such inland waterway within this State, lands theretofore submerged shall  
32 be raised above the water by the deposit of excavated material, the land so formed shall become  
33 the property of the United States if within the limits of said inland waterway, right-of-way,  
34 herein set out 1,000 feet to 1,750 feet and the Secretary of State is hereby authorized to issue to  
35 the United States a grant to the land so formed within the limits above specified, the grant to  
36 issue upon a certificate furnished to the Secretary of State by some authorized official of the  
37 United States, as above provided. If said lands so required for the inland waterway right-of-way  
38 shall be marshlands, or sound lands, the title to which has heretofore been vested in the State  
39 Board of Education, the Governor of the State, as President thereof, and the Superintendent of  
40 Public Instruction as ~~Secretary~~, Chief Administrative Officer, are hereby authorized and  
41 required to execute proper conveyance to the United States of America for said marshlands or  
42 sound lands, free of cost, both to the State and to the United States government, upon a  
43 certificate furnished to said Board of Education by the Secretary of War, or by any authorized  
44 officer of the corps of engineers of the United States Army, or by any other authorized official  
45 exercising control over the construction of the said inland waterway."

46 **SECTION 3.(c)** G.S. 104-19 reads as rewritten:

47 **"§ 104-19. Acquisition of land for inland waterway from Beaufort Inlet; grant of State**  
48 **lands.**

49 For the purpose of aiding in the construction of the proposed inland waterway by the United  
50 States from Beaufort Inlet in the State of North Carolina to the Cape Fear River, the Secretary  
51 of State is hereby authorized to issue to the United States of America a grant to the land located

1 within said inland waterway, right-of-way, which is to be 1,000 feet wide, insofar as such land  
2 is subject to grant by the State of North Carolina, the said grant to issue upon a certificate  
3 furnished to the Secretary of State by the Secretary of War, or by any authorized officer of the  
4 corps of engineers of the United States Army, or by any other authorized official, exercising  
5 control over the construction of the said waterway. Whenever in the construction of such inland  
6 waterway within this State, lands theretofore submerged shall be raised above the water by the  
7 deposit of excavated material, the land so formed shall become the property of the United  
8 States if within the limits of said inland waterway, right-of-way, herein set out 1,000 feet, and  
9 the Secretary of State is hereby authorized to issue to the United States a grant to the land so  
10 formed within the limits above specified, the grant to issue upon a certificate furnished to the  
11 Secretary of State by some authorized official of the United States, as above provided. If said  
12 lands so required for the inland waterway right-of-way shall be marshlands, the title to which  
13 has heretofore been vested in the State Board of Education, the Governor of the State, as  
14 President thereof, and the Superintendent of Public Instruction as ~~Secretary, Chief~~  
15 Administrative Officer, are hereby authorized and required to execute a proper conveyance to  
16 the United States of America for said marshlands, free of cost, both to the State and to the  
17 United States government, upon a certificate furnished, to said Board of Education by the  
18 Secretary of War, or by any authorized officer of the corps of engineers of the United States  
19 Army, or by any other authorized official exercising control over the construction of the said  
20 inland waterway."

21 **SECTION 3.(d)** G.S. 115C-11 reads as rewritten:

22 "**§ 115C-11. Organization and internal procedures of Board.**

23 (a) Presiding Officer. – The State Board of Education shall elect from its membership a  
24 ~~chairman and vice-chairman, chair and vice-chair.~~ A majority of the Board shall constitute a  
25 quorum for the transaction of business. Per diem and expenses of the appointive members of  
26 the Board shall be provided by the General Assembly. The ~~chairman~~chair of the Board shall  
27 preside at all meetings of the Board. In the absence of the ~~chairman, chair,~~  
28 ~~vice-chairman~~vice-chair shall preside; in the absence of both the ~~chairman~~chair and the  
29 ~~vice-chairman, vice-chair,~~ the Board shall name one of its own members as ~~chairman~~chair pro  
30 tempore.

31 (a1) Secretary. – The State Board of Education shall elect from its membership a  
32 secretary. The secretary shall attend all meetings of the Board and keep the minutes of the  
33 proceedings of the Board in a well-bound and suitable book, which minutes shall be approved  
34 by the Board prior to its adjournment. As soon thereafter as possible, the secretary shall furnish  
35 to each member of the Board a copy of the minutes.

36 ...

37 (c) Special Meetings. – Special meetings of the Board may be set at any regular  
38 meeting or may be called by the ~~chairman~~chair or by the secretary upon the approval of the  
39 ~~chairman, chair.~~ Provided, a special meeting shall be called by the ~~chairman~~chair upon the  
40 request of any five members of the Board. In case of regular meetings and special meetings, the  
41 secretary shall give notice to each member, in writing, of the time and purpose of the meeting,  
42 by letter directed to each member at his or her home post-office address. Such notice must be  
43 deposited in the Raleigh Post Office at least three days prior to the date of meeting.

44 (d) Voting. – No voting by proxy shall be permitted. Except in voting on textbook  
45 adoptions, all voting shall be viva voce unless a record vote or secret ballot is demanded by any  
46 member, and a majority of those present and voting shall be necessary to carry a motion.

47 (e) Voting on Adoption of Textbooks. – A majority vote of the whole membership of  
48 the Board shall be required to adopt textbooks, and a roll call vote shall be had on each motion  
49 for such adoption or adoptions. A record of all such votes shall be kept in the minute book.

50 (f) Committees. – The Board may create from its membership such committees as it  
51 deems necessary to facilitate its business. The ~~chairman~~chair of the Board shall with approval

1 of the majority of the Board appoint members to the several committees authorized by the  
2 Board and to any additional committees which the ~~chairman~~chair may deem to be appropriate.

3 ...."

4 **SECTION 3.(e)** G.S. 115C-19 reads as rewritten:

5 "**§ 115C-19. Chief administrative officer of the State Board of Education.**

6 As provided in Article IX, Sec. 4(2) of the North Carolina Constitution, the Superintendent  
7 of Public Instruction shall be the ~~secretary and~~ chief administrative officer of the State Board of  
8 Education. As ~~secretary and~~ chief administrative officer of the State Board of Education, the  
9 Superintendent manages on a day-to-day basis the administration of the free public school  
10 system, subject to the direction, control, and approval of the State Board. Subject to the  
11 direction, control, and approval of the State Board of Education, the Superintendent of Public  
12 Instruction shall carry out the duties prescribed under G.S. 115C-21."

13 **SECTION 3.(f)** G.S. 115C-21(b) reads as rewritten:

14 "(b) ~~Duties as Secretary~~ to the State Board of Education. – Subject to the direction,  
15 control, and approval of the State Board of Education, it shall be the duty of the Superintendent  
16 of Public Instruction:

- 17 (1) To administer through the Department of Public Instruction, the instructional  
18 policies established by the Board.
- 19 (1a) Repealed by Session Laws 1995, c. 72, s. 2.
- 20 (2) To keep the Board informed regarding developments in the field of public  
21 education.
- 22 (3) To make recommendations to the Board with regard to the problems and  
23 needs of education in North Carolina.
- 24 (4) To make available to the public schools a continuous program of  
25 comprehensive supervisory services.
- 26 (5) To collect and organize information regarding the public schools, on the  
27 basis of which he shall furnish the Board such tabulations and reports as may  
28 be required by the Board.
- 29 (6) To communicate to the public school administrators all information and  
30 instructions regarding instructional policies and procedures adopted by the  
31 Board.
- 32 (7) To have custody of the official seal of the Board and to attest all deeds,  
33 leases, or written contracts executed in the name of the Board. All deeds of  
34 conveyance, leases, and contracts affecting real estate, title to which is held  
35 by the Board, and all contracts of the Board required to be in writing and  
36 under seal, shall be executed in the name of the Board by the ~~chairman~~chair  
37 and attested by the secretary; and proof of the execution, if required or  
38 desired, may be had as provided by law for the proof of corporate  
39 instruments.
- 40 (8) ~~To attend all meetings of the Board and to keep the minutes of the  
41 proceedings of the Board in a well bound and suitable book, which minutes  
42 shall be approved by the Board prior to its adjournment; and, as soon  
43 thereafter as possible, to furnish to each member of the Board a copy of said  
44 minutes.~~
- 45 (9) To perform such other duties as the Board may assign to him or her from  
46 time to time."

47 **SECTION 3.(g)** G.S. 115C-64.15(b) reads as rewritten:

48 "(b) The Commission shall consist of the following 14 members:

- 49 (1) The Secretary of Commerce.
- 50 (2) The State Superintendent of Public Instruction.

- 1           (3)    The ~~Chair~~Chair, or Vice-Chair if the State Superintendent of Public  
2            Instruction is the Chair, of the State Board of Education.
- 3           (4)    The President of The University of North Carolina.
- 4           (5)    The President of the North Carolina Community College System.
- 5           (6)    Three members appointed by the Governor who have experience in  
6            education.
- 7           (7)    Three members appointed by the General Assembly upon recommendation  
8            of the Speaker of the House of Representatives, as provided in G.S. 120-121,  
9            who have experience in businesses operating in North Carolina.
- 10          (8)    Three members appointed by the General Assembly upon the  
11          recommendation of the President Pro Tempore of the Senate, as provided in  
12          G.S. 120-121, who have experience in businesses operating in North  
13          Carolina."

14          **SECTION 3.(h)** G.S. 115C-102.5(d) reads as rewritten:

15          "(d1) The ~~Chair of the State Board of Education~~Commission shall select the Commission  
16          member or members who shall serve as chair or cochairs of the Commission."

17          **SECTION 3.(i)** G.S. 115C-296.6(a) reads as rewritten:

18          "(a) The NCCAT Board of Trustees shall be composed of the following membership:

- 19           (1)    Two ex officio members: the ~~Chairman~~Chair, or Vice-Chair if the State  
20            Superintendent of Public Instruction is the Chair, of the State Board of  
21            Education and the State Superintendent of Public Instruction or their  
22            designees;
- 23           (2)    Two members appointed by the General Assembly upon the  
24            recommendation of the President Pro Tempore of the Senate;
- 25           (3)    Two members appointed by the General Assembly upon the  
26            recommendation of the Speaker of the House of Representatives; and
- 27           (4)    Eight members appointed by the Governor, one from each of the eight  
28            educational regions.

29          The appointing authorities shall give consideration to assuring, through Board membership, the  
30          statewide mission of NCCAT."

31          **SECTION 3.(j)** G.S. 116C-1(b) reads as rewritten:

32          "(b) The Education Cabinet shall consist of the Governor, who shall serve as chair, the  
33          President of The University of North Carolina, the State Superintendent of Public Instruction,  
34          the ~~Chairman~~Chair, or Vice-Chair if the State Superintendent of Public Instruction is the Chair,  
35          of the State Board of Education, the President of the North Carolina Community Colleges  
36          System, the Secretary of Health and Human Services, and the President of the North Carolina  
37          Independent Colleges and Universities. The Education Cabinet may invite other representatives  
38          of education to participate in its deliberations as adjunct members."

39          **SECTION 3.(k)** G.S. 143A-44.3 reads as rewritten:

40          "**§ 143A-44.3. Superintendent of Public Instruction; creation; transfer of powers and**  
41          **duties.**

42          The office of the Superintendent of Public Instruction, as provided for by Article III,  
43          Section 7 of the Constitution, and the Department of Public Instruction are transferred to the  
44          Department of Public Instruction. The Superintendent of Public Instruction shall be the  
45          ~~Secretary and~~ Chief Administrative Officer of the State Board of Education, and shall have all  
46          powers and duties conferred by the Constitution, by the State Board of Education, Chapter  
47          115C of the General Statutes, and the laws of this State."

48          **SECTION 3.(l)** G.S. 143B-426.9 reads as rewritten:

49          "**§ 143B-426.9. North Carolina Agency for Public Telecommunications – Creation;**  
50          **membership; appointments, terms and vacancies; officers; meetings and**  
51          **quorum; compensation.**

1 The North Carolina Agency for Public Telecommunications is created. It is governed by the  
2 Board of Public Telecommunications Commissioners, composed of 26 members as follows:

- 3 (1) A Chairman appointed by, and serving at the pleasure of, the Governor;
- 4 (2) Ten at-large members, appointed by the Governor from the general public;
- 5 (3) Two members appointed by the General Assembly upon the  
6 recommendation of the Speaker of the House of Representatives in  
7 accordance with G.S. 120-121;
- 8 (4) Two members appointed by the General Assembly upon the  
9 recommendation of the President Pro Tempore of the Senate in accordance  
10 with G.S. 120-121;
- 11 (5) The Secretary of Administration, ex officio;
- 12 (6) The Chairman of the Board of Trustees of The University of North Carolina  
13 Center for Public Television (if and when established), ex officio;
- 14 (7) ~~The Chairman~~Chair, or Vice-Chair if the Superintendent of Public  
15 Instruction is the Chair, of the State Board of Education, ex officio;
- 16 (8) The Chairman of the OPEN/net Committee, ex officio, so long as such  
17 person is not a State employee;
- 18 (9) The Chairman of the North Carolina Utilities Commission, ex officio;
- 19 (10) The Director of the Public Staff of the North Carolina Utilities Commission,  
20 ex officio;
- 21 (11) Repealed by Session Laws 2011-266, s. 1.13(b), effective July 1, 2011.
- 22 (12) The Superintendent of Public Instruction, ex officio;
- 23 (13) The President of the University of North Carolina, ex officio;
- 24 (14) The President of the Community Colleges System, ex officio; and
- 25 (15) Two members ex officio who shall rotate from among the remaining heads  
26 of departments enumerated in G.S. 143A-11 or G.S. 143B-6, appointed by  
27 the Governor.

28 The 10 at-large members shall serve for terms staggered as follows: four terms shall expire  
29 on June 30, 1980; and three terms shall expire on June 30, 1982; and three terms shall expire on  
30 June 30, 1984. Thereafter, the members at large shall be appointed for full four-year terms and  
31 until their successors are appointed and qualified. In making appointments of members at large,  
32 the Governor shall seek to appoint persons from the various geographic areas of the State  
33 including both urban and rural areas; persons from various classifications as to sex, race, age,  
34 and handicapped persons; and persons who are representatives of the public broadcast,  
35 commercial broadcast, nonbroadcast distributive systems and private education communities of  
36 the State.

37 The terms of the ex officio members are coterminous with their respective terms of office.  
38 In the event that any of the offices represented on the Board ceases to exist, the successor  
39 officer to the designated member shall become an ex officio member of the Board; if there shall  
40 be no successor, then the position on the Board shall be filled by a member to be appointed by  
41 the Governor from the general public. The ex officio members shall have the right to vote.

42 The initial members appointed to the Board by the General Assembly shall serve for terms  
43 expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning  
44 July 1 of odd-numbered years.

45 The terms of the rotating ex officio members shall be of one-year duration, and the schedule  
46 of rotation is determined by the Governor.

47 Each State official who serves on the Board may designate a representative of his  
48 department, agency or institution to sit in his place on the Board and to exercise fully the  
49 official's privileges of membership.

50 The Secretary of Administration or his designee serves as secretary of the Board.

1 Vacancies in appointments made by the General Assembly shall be filled in accordance  
2 with G.S. 120-122. Other vacancies shall be filled in the same manner as the original  
3 appointment.

4 The Governor may remove any member of the Board from office in accordance with the  
5 provisions of G.S. 143B-16.

6 The Board meets quarterly and at other times at the call of the chairman or upon written  
7 request of at least six members.

8 A majority of the Board members shall constitute a quorum for the transaction of business."

9 **SECTION 4.(a)** Chapter 115C of the General Statutes is amended by deleting the  
10 word "chairman" wherever it appears and substituting "chair."

11 **SECTION 4.(b)** The General Statutes are amended by deleting the word  
12 "Chairman" wherever it appears and refers to the Chairman of the State Board of Education and  
13 substituting "Chair."

14 **SECTION 4.(c)** The Revisor of Statutes is authorized to make the substitutions  
15 enacted in this section.

16 **SECTION 5.** To implement the reduction in the number of appointments made by  
17 the Governor to the State Board of Education as required by this act, when the term of an  
18 at-large member appointed by the Governor expires on March 31, 2017, that vacancy shall not  
19 be filled.

20 **SECTION 6.** The amendments set out in Section 1 of this act shall be submitted to  
21 the qualified voters of the State at a statewide election to be conducted on November 8, 2016,  
22 which election shall be conducted under the laws then governing elections in the State. Ballots,  
23 voting systems, or both may be used in accordance with Chapter 163 of the General Statutes.  
24 The question to be used in the voting systems and ballots shall be:

25  FOR  AGAINST

26 Constitutional amendments to make the Superintendent of Public Instruction a  
27 member of the State Board of Education, to reduce the number of members appointed by the  
28 Governor to 10 members, and to allow for a secretary to be elected by the members."

29 **SECTION 7.** If a majority of votes cast on the question are in favor of the  
30 amendments set out in Section 1 of this act, the State Board of Elections shall certify the  
31 amendment to the Secretary of State. The Secretary of State shall enroll the amendments so  
32 certified among the permanent records of that office. The amendments set out in Section 1 of  
33 this act shall become effective April 1, 2017.

34 **SECTION 8.** Sections 2 through 5 of this act become effective only if the qualified  
35 voters approve the constitutional amendments set out in Section 1 of this act. If the voters  
36 approve the constitutional amendments, Section 5 becomes effective January 1, 2017, and  
37 Sections 2 through 4 of this act become effective April 1, 2017. The remainder of this act is  
38 effective when it becomes law.