

# LOCAL BOARDS IN NORTH CAROLINA SUBJECT TO JUDGMENTS OR CONSENT ORDERS IN VOTING RIGHTS CASES

Michael Crowell\*

May 2021

**Note:** *This list is based mostly on court orders and session laws in UNC School of Government files or my personal files. If the text says a consent decree or other order is “reportedly” the basis for the current election method, it means we do not have a copy of the court document and instead are relying on a report of what it contains.*

*This list does not include local boards that changed their election method in response to a threatened or filed voting rights lawsuit. It only includes those cases where a court ordered the new election method.*

*This list may be incomplete. Additions and corrections are welcome.*

## I. JUDGMENTS AND ORDERS STILL IN EFFECT

**Ahoskie Town Council** — In *Hines v. Mayor and Town Council of Ahoskie*, 998 F2d 1266 (4<sup>th</sup> Cir. 1993), the Fourth Circuit ordered the district court to accept the town’s remedial election plan providing for a five-member council with two elected from each of two districts and one elected at large in plurality elections. The town had stipulated to the Section 2 violation, leaving only the issue of the proper remedial plan for the court.

**Albemarle City Council** — Session Law 1987-881 provides for four members elected from single-member districts, three at large. The title of the act says it is “to carry out a federal court judgement [sic],” but the act provides no other information about the case.

**Anson County Board of Education** — Reportedly a consent decree entered in *United States v. Anson County Board of Education*, US Dist Ct, WDNC, No. 3:93CV210, in 1994 is the basis for the nine-member board, seven elected from single-member districts and two elected at large with limited voting. All candidates for the two at-large seats are listed on the ballot together and each voter is limited to one vote.

**Beaufort County Board of Commissioners** — In *Moore v. Beaufort County, North Carolina*, 936 F2d 159 (4<sup>th</sup> Cir. 1991), the Fourth Circuit ordered enforcement of a consent judgment providing for a seven-member board elected through at-large limited voting for staggered, four-year terms. At each election cycle all candidates are to be listed together on the ballot and each voter is limited to one vote. After the plaintiffs had accepted the county’s proposed settlement the board of commissioners attempted to reject the agreement, but the Fourth Circuit ordered it enforced.

---

\* Former UNC School of Government faculty member and former partner at Tharrington Smith, LLP, in Raleigh.

**Benson Board of Commissioners** — Consent decree entered by Judge Franklin Dupree in November 1988 in *Johnson v. Town of Benson*, US Dist Ct, EDNC, No. 88-240-CIV-5, provides for three commissioners elected from single-member districts, and three elected at large with limited voting, for staggered four-year terms in nonpartisan plurality elections. Candidates for the three at-large seats are to be listed together on the ballot and each voter limited to one vote.

**Bladen County Board of Commissioners** — Reportedly a consent order entered by Judge Franklin Dupree in April 1988 in *Harry v. Bladen County, North Carolina*, US Dist Ct, EDNC, No. 87-72-CIV-7, is the basis for a nine-member board, with two members elected from each of three districts and three members elected at large with limited voting. The at-large seats are to be elected as a group in a plurality election in which each voter is limited to voting for one candidate. This election method is codified in Session Law 1987-926, enacted in June 1988.

**Bladen County Board of Education** — Reportedly a consent order entered by Judge Franklin Dupree in April 1988 in *Harry v. Bladen County, North Carolina*, US Dist Ct, EDNC, No. 87-72-CIV-7, as discussed above for the Bladen County Board of Commissioners, also affected the election of the county school board. Whether or not the order specifically addressed the school board, reportedly the board on April 21, 1988, adopted a resolution stating that it would follow the same election method as the county commissioners, i.e., a nine-member board with two members elected from each of three districts and three members elected at large with limited voting. This election method is codified in Session Law 1989-29 which says that it was derived from the federal court order. Because of the uncertainty of the court's involvement in the origin of the school board election method, it is not clear whether the board remains subject to court control.

**Caswell County Board of Commissioners** — Session Law 1987-1016 provides for five commissioners to be elected from single-member districts, and two at large, for staggered, four-year terms to implement a federal court order. The order was entered April 13, 1988, by Judge Richard Erwin in *NAACP v. Caswell County, North Carolina, et al.*, and *NAACP v. Caswell County Board of Education, et al.*, US Dist Ct, MDNC, No. C-86-676-G and No. C-86-708-G. The wording of the order is ambiguous, however, as to whether it anticipates continued court control, only ordering the county to submit the agreed-upon plan for preclearance and to seek legislation enacting the plan.

**Caswell County Board of Education** — Session Law 1987-1016 provides for five board members to be elected from single-member districts, and two at large, to implement a federal court order. Members are to be elected by the nonpartisan election and runoff method and are to serve staggered, four-year terms. The order was entered April 13, 1988, by Judge Richard Erwin in *NAACP v. Caswell County, North Carolina, et al.*, and *NAACP v. Caswell County Board of Education, et al.*, US Dist Ct, MDNC, No. C-86-676-G and No. C-86-708-G. The wording of the order is ambiguous, however, as to whether it anticipates continued court control, only ordering the county to submit the agreed-upon plan for preclearance and to seek legislation enacting the plan.

**Clinton City Council** — Consent decree entered by Judge Malcolm Howard on July 18, 1989, in *Hall v. Kennedy*, US Dist Ct, EDNC, No. 88-117-CIV-3, provides for five council members elected from single-member districts in nonpartisan plurality elections for staggered, four-year terms, with the mayor elected separately at large. The consent decree specifically authorizes the city to redistrict after each census, saying that two of the five districts should continue to have a majority of black citizens "if the size and location of the black population in the city continues to justify doing so . . . ."

**Clinton City Board of Education** — Consent decree entered on August 14, 1989, by Judge Malcolm Howard in *Hall v. Kennedy*, US Dist Ct, EDNC, No. 88-117-CIV-3, provides for six members to be elected for staggered, four-year terms using at-large limited voting. Three seats are to be up each election; all candidates run at large and are listed on the ballot together; each voter is limited to one vote; and elections are determined by a plurality. The order specifies that the board or any three members may petition the court for addition of a seventh member if history shows that an even number of board members has led to stalemates.

**Columbus County Board of Commissioners** — Orders entered on February 26, 1992, and April 15, 1992, by Judge Earl Britt after trial in *Ward v. Columbus County, North Carolina*, US Dist Ct, EDNC, No. 90-20-CIV-7-BR, provide for seven commissioners to be elected from single-member districts for staggered, four-year terms.

**Duplin County Board of Commissioners** — A consent decree entered by Judge Franklin Dupree on February 4, 1998, in *NAACP v. Duplin County, North Carolina, et al.*, US Dist Ct, EDNC, No. 88-5-CIV-7, provided for six members elected from single-member districts for staggered, four-year terms. In February 2012 Judge Louise Flanagan rejected a legislative attempt to add a seventh, at-large member to the board (see SL 2011-112), but in 2014 the parties agreed upon and the judge accepted a modification from six to five single-member districts, codified as SL 2013-320. See Amended Order Modifying Consent Decree (Jan. 7, 2014).

**Duplin County Board of Education** — A consent decree entered by Judge Franklin Dupree on February 4, 1998, in *NAACP v. Duplin County, North Carolina, et al.*, US Dist Ct, EDNC, No. 88-5-CIV-7, provided for six members elected from single-member districts for staggered, four-year terms. In February 2012 Judge Louise Flanagan rejected a legislative attempt to add a seventh, at-large member to the board (see SL 2011-112), but in 2014 the parties agreed upon and the judge accepted a modification from six to five single-member districts, codified as SL 2013-320. See Amended Order Modifying Consent Decree (Jan. 7, 2014).

**Forsyth County Board of Commissioners** — Session Law 1989-260 provides for a seven-member board, two elected from one district and four elected from another district, and one elected at large, for staggered, four-year terms. The 1989 act apparently was agreed upon by the parties in *NAACP v. Forsyth County*, US Dist Ct, MDNC, No. C-86-803-WS, to supersede the consent judgment entered on June 29, 1988, by Judge Eugene Gordon. That consent judgment had provided for a five-member board, with party primaries held in districts and the general election at large.

**Granville County Board of Commissioners** — In *McGhee v. Granville County*, US Dist Ct, EDNC, No. 87-29-CIV-5, the parties stipulated to a violation of Section 2 of the Voting Rights Act but could not agree on a remedial plan. In *McGhee v. Granville County*, 860 F2d 110 (4<sup>th</sup> Cir. 1988), the Fourth Circuit ordered that the Board of Commissioners' remedial plan, calling for seven commissioners to be elected from single-member districts for staggered, four-year terms, be accepted. Orders implementing that plan and setting election schedules were signed by Judge James Fox on October 31, 1988, and January 13, 1989. The court orders have been codified in Session Law 1989-293, which provides that the districts may be redrawn after each census to comply with one-person/one-vote and must also comply with the Voting Rights Act.

**Granville County Board of Education** — A January 13, 1988, consent decree and a February 17, 1989, supplemental consent decree entered by Judge Terrence Boyle in *United States v. Granville County Board of Education*, US Dist Ct, EDNC, No. 87-353-CIV-5, provide for seven members elected from single-member districts for staggered, six-year terms in nonpartisan elections using the election and run-off — method. The court order has been codified in Session Law 1989-292, which provides that the districts may be redrawn after each census to comply with one-person/one-vote and must also comply with the Voting Rights Act.

**Halifax County Board of Commissioners** — In *Johnson v. Halifax County*, 594 F Supp 161 (EDNC 1984) Judge James Fox enjoined the county from further use of its election method, finding a likely violation of Section 2. The county currently has a six-member board, three elected from districts and three at large. Apparently the current election method resulted from the lawsuit.

**Harnett County Board of Commissioners** — Consent decree entered on November 22, 1989, by Judge Franklin Dupree in *Porter v. Stewart*, US Dist Ct, EDNC, No. 89-950-CIV-5, provides five commissioners to be elected from single-member districts for staggered, four-year terms.

**Harnett County Board of Education** — Consent decree entered on November 22, 1989, by Judge Franklin Dupree in *Porter v. Stewart*, US Dist Ct, EDNC, No. 89-950-CIV-5, provides five members to be elected from single-member districts for staggered, four-year terms.

**Jamesville Town Board of Commissioners** — Consent decree entered by Judge Malcolm Howard on February 5, 1992, in *Daniels v. Board of Commissioners of Martin County, et al.*, US Dist Ct, EDNC, No. 89-137-CIV-4-H, provides for five members elected for two-year terms in at-large, nonpartisan plurality elections using limited voting, and a mayor elected separately. All candidates for the five commissioner seats are to be listed on the ballot together, with each voter limited to voting for two.

**Jones County Board of Commissioners** — Consent decree entered by Judge Louis Flanagan on August 23, 2017, in *Hall v. Jones County Board of Commissioners*, US Dist Ct, EDNC, No. 4:17-cv-18, replaces five-member board elected at large to concurrent terms with seven single-member districts beginning with 2018 elections.

**Lenoir County Board of Commissioners** — Session Law 1989-291 provides for a seven-member board with five commissioners elected from single-member districts and two at large, all for staggered, four-year terms. The act says it is implementing the consent decree entered by Judge Earl Britt on December 23, 1987, in *United States v. Lenoir County*, US Dist Ct, EDNC, No. 87-105-CIV-84. That consent decree enjoined use of the previous at-large election method and ordered the board of commissioners to adopt and implement a remedial plan but did not specify what the plan was to be.

**Lenoir County Board of Education** — Session Law 1989-73 provides for a seven-member board, all elected at large, in partisan elections, with members serving staggered, four-year terms. The act specifies that all seats up for election in a given year are to be listed on the ballot together rather than being separate, numbered seats. The act implements the consent decree entered on December 15, 1988, by Judge Franklin Dupree in *Holmes v. Lenoir County Board of Education*, US Dist Ct, EDNC, No. 86-120-CIV-4.

**Martin County Board of Commissioners** — Consent order entered in July 1990 by Judge Malcolm Howard in *Daniels v. Board of Commissioners of Martin County, et al.*, US Dist Ct, EDNC, No. 89-137-CIV-4-H, provides for five-member board of commissioners elected for staggered, four-year terms, using limited voting. Two commissioners are to reside in a western district and be elected together with each voter limited to one vote, and three commissioners are to reside in an eastern district and be elected together with each voter limited to two votes. There is to be no second primary. The consent order has been codified as Session Law 1991-302.

**Onslow County Board of Commissioners** — Order entered by three-judge panel of Judges Sam Ervin, Earl Britt and Franklin Dupree on April 19, 1983, in *United States v. Onslow County*, US Dist Ct, EDNC, No. 87-135-CIV-4, enjoins the county from implementing Session Laws 1969-151 and -167 providing for staggered terms for county commissioners, because the 1969 acts were not precleared pursuant to Section 5 of the Voting Rights Act.

**Pamlico County Board of Commissioners** — Session Law 1987-939 provides for a seven-member board with five commissioners elected from single-member districts and two at large, all for staggered, four-year terms. Party primaries are to be determined by plurality vote, with no run-offs. The title of the act says it is to implement a federal court judgment but does not otherwise provide any information about the case.

**Pamlico County Board of Education** — Session Law 1987-939 provides for a seven-member board with five members elected from single-member districts and two at large, all for staggered, four-year terms, in nonpartisan plurality elections. The title of the act says it is to implement a federal court judgment but does not otherwise provide any information about the case.

**Pasquotank County Board of Commissioners** — An April 10, 1984, consent order in *NAACP v. County of Pasquotank*, US Dist Ct, EDNC, No. 84-14-CIV-2, finds the method of electing commissioners specified by Session Law 1965-664 (four commissioners elected from residency districts, one from the county at large) to violate Section 2 and provides for the county commissioners to design a new electoral system for the 1986 elections. A subsequent consent order dated December 16, 1985, provides for four commissioners to be elected from districts, three at large, as a temporary election plan for the 1986 election. Because these orders refer only to the 1986 election and no other orders in the case have been found it is unclear whether the court intended to retain jurisdiction. Session Law 1987-306 codifies the method of electing four commissioners from districts and three at large.

**Person County Board of Education** — Consent decree entered on November 30, 1995, by Judge Carlton Tilley in *Webster v. Board of Education of Person County*, US Dist Ct, MDNC, No. 1:91CV554, provides for a five-member board with all members being elected as a group in a nonpartisan at-large plurality election every four years. The consent decree included an opportunity for plaintiffs to seek an evaluation of the new election method after the 2000 election and to have the case reopened if the new election method had a discriminatory effect.

**Pitt County Board of Commissioners** — Consent decree entered on February 26, 1988, by Judge Earl Britt in *Pitt County Concerned Citizens for Justice v. Pitt County*, US Dist Ct, EDNC, No. 87-129-CIV-4, provides for a nine-member board, with six members elected from single-member districts and three members being elected from consolidated districts consisting of pairs of the six single-member districts, all for staggered, four-year terms.

**Richmond County Board of Commissioners** — Consent decree entered December 9, 1988, by Judge Richard Erwin in *NAACP v. Richmond County Board of Commissioners*, US Dist Ct, MDNC, No. C-87-484-R, provides for a seven-member board, all elected at large for staggered, four-year terms, with all candidates at each election to be listed together on the ballot and voted upon as a group. The party primaries are to be determined by plurality vote with no run-offs. The election plan is codified in Session Law 1989-88.

**Richmond County Board of Education** — Consent decree entered December 9, 1988, by Judge Richard Erwin in *NAACP v. Richmond County Board of Education*, US Dist Ct, MDNC, No. C-87-483-R, provides for a seven-member board, all elected at large for staggered, four-year terms in nonpartisan plurality elections, with all candidates at each election to be listed together on the ballot and voted upon as a group. The election plan is codified in Session Law 1989-88.

**Robersonville Town Board of Commissioners** — Consent decree entered on March 12, 1991, by Judge Malcolm Howard in *Daniels v. Board of Commissioners of Martin County, et al.*, US Dist Ct, EDNC, No. 89-137-CIV-4-H, provides for a five-member board with two each elected from two districts and one elected from the town at large for concurrent, two-year terms in nonpartisan plurality elections. The consent decree specifically authorizes the town to redraw district lines after receiving 1990 census data upon consulting with the plaintiffs, with any dispute to be resolved by the court.

**Roanoke Rapids City Council** — Consent decree entered on December 1, 1991, by Judge Terrence Boyle in *NAACP v. City of Roanoke Rapids, North Carolina*, US Dist Ct, EDNC, No. 91-36-CIV-2-BO, provides for a five-member council with two members each being elected from two-member districts and one member elected from a single-member district, for staggered, four-year terms in nonpartisan plurality elections. The consent decree specifies that districts may be redrawn as permitted by state law and the Voting Rights Act.

**Rowan-Salisbury Board of Education** — Consent decree entered April 29, 1994, by Judge Frank Bullock in *NAACP v. Rowan-Salisbury Board of Education*, US Dist Ct, MDNC, No. 4:91CV293, provides for a seven-member board elected for staggered, four-year terms in nonpartisan plurality elections. All members are to be elected countywide but six are required to reside in districts described in the consent decree; the seventh member may reside anywhere in the county. The consent decree specifically authorizes the school board to alter the residency district boundaries after each census but in doing so the board is to attempt to maintain as high a percentage of black citizens in the residency district for Seat 6 as in the 1990 census.

**Sampson County Board of Commissioners** — Session Law 1989-969 provides for a five-member board all elected from single-member districts for staggered, four-year terms. The act specifies that the board may redraw districts after each census pursuant to GS 153A-22 to comply with constitutional requirements and the Voting Rights Act. The title of the act says it is intended to “reflect the system adopted under a Consent Decree in the case of *United States of America v. Sampson County Board of Commissioners*” but does not provide any other information about the lawsuit.

**Sampson County Board of Education** — Session Law 1989-971 provides for a seven-member board elected in nonpartisan at-large elections using limited voting, for staggered, four-year terms. In each election cycle all candidates are to be listed together on the ballot but each voter is limited to one vote.

There are to be no run-offs. The act says it is intended to codify a plan adopted by the board pursuant to an order of July 10, 1989, in *United States of America v. Sampson County, North Carolina, et al.*, US Dist Ct, EDNC, No. 88-121-CIV-3.

**Statesville City Council** — Consent order entered by Judge James McMillan in 1985 in *NAACP v. City of Statesville, North Carolina*, 606 F Supp 569 (WDNC 1985), provides for an eight-member council with six members elected from single-member districts and two elected at large, for staggered, four-year terms. The parties had agreed upon the size of the council and election method but left it to the court to decide whether the two at large seats should be elected together or on separate cycles. The court decided that the two at-large seats would be elected at the same time with all candidates listed on the ballot together.

**Tyrrell County Board of Commissioners** — Consent decree entered on March 28, 1994, by Judge Franklin Dupree in *Rowsom v. Tyrrell County Board of Commissioners*, US Dist Ct, EDNC, No. 93-33-CIV-2-D, provides for a five-member board elected for staggered, four-year terms in at-large elections using limited voting. In each election cycle all candidates are to be listed together on the ballot in both the primaries and general election, and each voter is limited to one vote. There are to be no second primaries. The consent decree also provides that plaintiffs may move to modify the election plan within 18 months after the 1996 election, otherwise the plan is final.

**Tyrrell County Board of Education** — Consent decree entered on March 28, 1994, by Judge Franklin Dupree in *Rowsom v. Tyrrell County Board of Commissioners, et al.*, US Dist Ct, EDNC, No. 93-33-CIV-2-D, provides for a five-member board elected for staggered, four-year terms in nonpartisan, at-large elections using limited voting. In each election cycle all candidates are to be listed together on the ballot and each voter is limited to one vote. The consent decree also provides that plaintiffs may move to modify the election plan within 18 months after the 1996 election, otherwise the plan is final.

**Vance County Board of Commissioners** — Consent judgment and order entered on July 28, 1987, by Judge Franklin Dupree in *Ellis v. Vance County, North Carolina*, US Dist Ct, EDNC, No. 87-28-CIV-5, provides for a seven-member board elected from single-member districts for staggered, four-year terms. The order specifies that the board may redistrict after the 1990 census in compliance with state law and the Voting Rights Act.

**Washington County Board of Commissioners** — Consent decree entered on December 4, 1995, by Judge Terrence Boyle in *Wilkins v. Board of Commissioners of Washington County*, US Dist Ct, EDNC, No. 93-12-CIV-2-BO, provides for a five-member board with four commissioners elected from single-member districts and one elected from the county at large, for staggered, four-year terms. The consent decree specifies that the county may redistrict after each census and also that the board may alter the election method pursuant to state law, subject to preclearance under Section 5 of the Voting Rights Act.

## II. JUDGMENTS AND ORDERS NO LONGER IN EFFECT

**Montgomery County Board of Commissioners** — A supplemental order, agreed upon by the parties and entered on July 2, 2003, by Judge Frank Bullock in *Montgomery County NAACP v. Montgomery County*, US Dist Ct, MDNC, No. C-90-27-R, provides for a five-member board with three elected from single-member districts and two at large, for staggered, four-year terms. There are to be no second primaries

and the two at-large seats are to be elected together. The order provides that the case is to be dismissed in five years if no additional motions have been filed. The order replaces a consent decree entered on January 23, 1990. The 2003 supplemental order has been codified as Session Law 2004-59.

**Sanford Board of Aldermen** — Final judgment entered September 3, 1992, by Judge Frank Bullock in *Sellars v. Board of Commissioners of Lee County, et al.*, US Dist Ct, MDNC, No. C-89-294-D, approves election plan adopted by the city and dismisses the voting rights case. The plan adopted by the city by Ordinance 1991-14 provides for five members to be elected from single-member districts and two from the city at large for staggered, four-year terms.

**Thomasville City Council** — In *NAACP v. City of Thomasville, North Carolina*, 401 F Supp 2d 489 (MDNC 2005), Judge Frank Bullock vacated the March 18, 1987, consent judgment that had provided for a seven-member council with five elected from single-member districts for staggered, four-year terms and two elected at large for concurrent, two-year terms. Following a 2003 referendum in which voters of the city approved a change to at-large, nonpartisan plurality elections and concurrent two-year terms for all council members, the city moved to vacate the 1987 consent judgment. The court found that there was a significant change in facts and circumstances since 1987 that warranted vacating the judgment.

5/17/21(2)