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SENATE BILL 498
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Short Title: Edgecombe/Tarboro School Merger.

(Local)

Sponsors: Senator Martin of Pitt.

Referred to: Education.

April 8, 1991

A BILL TO BE ENTITLED

AN ACT TO MERGE THE EDGECOMBE COUNTY AND TARBORO CITY
SCHOOL ADMINISTRATIVE UNITS.

The General Assembly of North Carolina enacts:

Section 1. **Effective Date.** The existing Edgecombe County School Administrative Unit (hereinafter referred to as the "county unit") and the existing Tarboro City School Administrative Unit (hereinafter referred to as the "city unit") shall be merged effective July 1, 1993. The resulting merged administrative unit shall be known as the Edgecombe County School Administrative Unit (hereinafter referred to as the "merged unit").

Sec. 2. **Voting Rights Preclearance.** The merger of the county and city units into a merged unit is subject to preclearance under the Federal Voting Rights Act before it may be implemented. The attorneys of the existing county and city units shall submit this act to the United States Attorney General for preclearance under section 5 of the Voting Rights Act within 30 days of ratification of this act. In the event this act is not precleared by the Attorney General by the effective date of this merger as provided for in Section 1 above, then merger shall take effect upon preclearance.

Sec. 3. **Interim Merged Board of Education.** (a) Upon ratification of this act there shall be created an Interim Merged Edgecombe County Board of Education (hereinafter referred to as the "Interim Board") to consist of the following 12 members. Representing the County Unit are: Lawrence Bradley, Lynn Boyette, Charlie Cobb, Jasper Proctor, Glenn Warren, and Evelyn Wilson. Representing the City Unit are:

1 George A. Goodwyn, Thomas B. Anderson, Clifford Coles, William T. Ricks, Sharon
2 B. Sondergard, and Katherine R. Winslow.

3 (b) The term of office of the members of the Interim Board shall commence upon
4 the ratification of this act, pursuant to Section 2 above, and continue until the effective
5 date of merger.

6 (c) Any vacancies on the Interim Board shall be filled by the board of the
7 previously existing county or city administrative unit in which the vacancy occurred.

8 (d) The Interim Board shall elect a chairman and vice-chairman from among its
9 members. The duties of the vice-chairman shall be prescribed by the Interim Board and
10 he/she shall have the same voting rights and privileges as any other member of the
11 Interim Board. The chairman shall exercise those duties prescribed by the Interim
12 Board not inconsistent with the General Statutes. The chair, or member acting as chair
13 at any meeting, shall have the right to vote.

14 (e) The Interim Board shall have the duty and power to enter into such
15 contracts for personnel, personal and professional services, and operational functions as
16 it deems appropriate, including the authority to employ an Interim Superintendent, such
17 other clerical support staff and contracted services, including but not limited to legal
18 services, as may be deemed necessary and appropriate by the Interim Board pursuant to
19 such appropriations as may be made by the State Board of Education or the Edgecombe
20 County Commissioners. The term of the contract for the Interim Superintendent and
21 such other interim personnel as may be employed pursuant to this section shall
22 terminate no later than the effective date of merger.

23 (f) The State Board of Education is authorized and directed to allot to the
24 Interim Board upon the effective date of this act, one superintendent position
25 administrator and one clerical support position, and the Edgecombe County Board of
26 Commissioners is authorized to appropriate such funds to the Interim Board as it deems
27 appropriate and necessary for the effective implementation of this act.

28 (g) The Interim Board shall have the authority to organize itself and adopt
29 such policies and procedures as it deems appropriate not inconsistent with those powers
30 possessed by local boards of education under the General Statutes, for the purposes of
31 the operation of the Interim Board and for the adoption of such policies as may be
32 deemed appropriate to govern the Merged Unit subsequent to the effective date of
33 merger.

34 The authority of the Interim Board shall include, but is not restricted to, the
35 authority to:

- 36 (1) Adopt such policies, not inconsistent with the General Statutes, as it
37 deems appropriate for the operation of the Interim Board and the
38 Merged Unit; provided, however, that any change in the policies of the
39 existing administrative units related to assignment of students to
40 classes within individual schools shall not be made by the Interim
41 Board except by a three-fourths affirmative vote;
- 42 (2) Employ a superintendent and such other personnel as may be deemed
43 appropriate for the Merged Unit, consistent with the General Statutes;
- 44 (3) Draft and propose a budget for the Merged Unit;

- 1 (4) Establish the procedures and provisions for the election of a permanent
2 board of education for the Merged Unit;
- 3 (5) Establish student assignment boundaries for the Merged Unit,
4 provided, however, that any changes in student assignment boundaries
5 shall not be made by the Interim Board except by a three-fourths
6 affirmative vote; and
- 7 (6) Approve the recommendations of the Interim Superintendent for the
8 organization and assignment of staff for the Merged Unit.
- 9 (h) All meetings of the Interim Board shall comply with Article 33C of
10 Chapter 143 of the General Statutes (Open Meetings Law); provided, however, that any
11 discussions of the Interim Board regarding litigation related to either existing board of
12 education or the Merged Unit and/or potential litigation related to the Voting Rights Act
13 may be held in executive session.
- 14 (i) For purposes of determining dual office holding, the Interim Board shall
15 be deemed to constitute a joint committee of the existing city and county boards of
16 education. Nevertheless, those members serving on the Interim Board while also
17 serving on the existing boards of education shall be eligible for compensation for
18 serving on the Interim Board in addition to and equal to the compensation paid to them
19 by virtue of service on the existing city and county boards.
- 20 **Sec. 4. Merged Administrative Unit.** (a) Upon the effective date of merger the
21 Interim Board of Education shall become the Merged Board of Education of the Merged
22 Unit and shall be named the Edgecombe County Board of Education (herein referred to
23 as the "Merged Board").
- 24 (b) Prior to the effective date of merger the existing city and county boards of
25 education shall continue to exercise the same powers and duties for the existing city and
26 county administrative units as they did prior to merger, except as otherwise herein
27 provided. The terms of office of the existing city and county boards of education shall
28 be extended from the ratification of this act, subject to preclearance under the Voting
29 Rights Act, to the effective date of merger. Upon the effective date of merger the
30 existing city and county administrative units and the existing city and county boards of
31 education shall cease to exist.
- 32 (c) Upon the effective date of merger, the Merged Board shall exercise those
33 powers and duties ascribed to local boards of education by the General Statutes, except
34 as otherwise provided in this act.
- 35 (1) Student assignment boundaries for the Merged Unit shall not be
36 changed by the Merged Board except by a three-fourths affirmative
37 vote of the Merged Board.
- 38 (2) The policies of the existing administrative units related to the
39 assignment of students to classes within individual schools shall not be
40 changed by the Merged Board except by a three-fourths affirmative
41 vote of the Merged Board.
- 42 (d) Upon the effective date of merger the Merged Board and its successor
43 Permanent Board shall assume and be assigned the title(s) to all property of the existing
44 city and county administrative units. All claims and demands of every kind that the two

1 existing city and county boards may have at the time of merger shall pass and be
2 transferred to the Merged Unit, and the Merged Board and its successor Permanent
3 Board shall have the same authority to enforce those claims and demands as the existing
4 city and county boards of education would have had they continued to exist. Any
5 obligations and liabilities, including but not limited to existing personnel contracts, of
6 the existing city and county boards of education shall become the obligations and
7 liabilities of the Merged Board and its successor Permanent Board, and those
8 obligations and liabilities may be enforced against the Merged Board and its successor
9 Permanent Board to the same extent they might be enforced against the existing city and
10 county boards of education had they continued to exist.

11 In addition:

12 (1) The contracts of the existing superintendents with the city and county
13 boards of education at the time of the ratification of this act shall
14 become the obligation of the Merged Board; provided, however, that
15 as long as the terms and conditions of these contracts are otherwise
16 fulfilled by the Merged Board, the board may assign such duties and
17 responsibilities to the existing superintendents as the Merged Board
18 may deem appropriate.

19 (2) Upon the ratification of this act and subsequent preclearance by the
20 United States Attorney General, the term of duration of the existing
21 superintendents' contracts shall be made the same as the longer of the
22 contracts for either existing superintendent, however, said contract
23 shall be no longer than two years from the effective date of merger.
24 The State Board of Education is authorized and directed to continue
25 the State allotments for the existing superintendent positions for the
26 duration of said contracts or for a period of two years following the
27 effective date of merger, whichever shall be longer.

28 (e) Notwithstanding any other provision herein, the Interim Board may act as
29 the Merged Board at any time following the formation of the Interim Board for the
30 purpose of employing a Merged Superintendent. Such action shall require at least a
31 simple majority vote of the Interim or Merged Board and shall not be inconsistent with
32 Article 18 of Chapter 115C of the General Statutes, except as otherwise provided in this
33 act. Nothing herein contained shall prohibit the Merged Board from employing the
34 Interim Superintendent as the Merged Superintendent, and nothing herein contained
35 shall require the Merged Board to employ the Interim Superintendent as the Merged
36 Superintendent.

37 (f) For purposes of filling vacancies on the Merged Board, the Merged Board
38 shall be divided into two classes: those from the county unit and those from the city
39 unit. In the event of a vacancy in either class, the remaining members of the Merged
40 Board from that class shall fill the vacancy. Any person appointed to fill the vacancy
41 shall reside in the previously existing administrative unit in which the vacancy occurred.

42 (g) The Interim or Merged Board shall prepare and submit to the 1993
43 Session of the General Assembly a plan for the organization and election of the
44 Permanent Board of Education. It is the intent of the General Assembly that the

1 Permanent Board shall be organized and structured in such a manner, and the
2 apportionment and manner of election be done in a way, so as to insure as much as
3 possible that black citizens will have the opportunity to elect candidates of their choice
4 for at least the same proportion of seats as the proportion of minority representatives on
5 the Interim Board. Vacancies on the Permanent Board shall be filled in a manner
6 prescribed by the plan created for the Permanent Board. Members of the Merged Board
7 shall continue to serve until their successors are duly elected and sworn in.

8 (h) All meetings of the Merged Board shall comply with Article 33C of
9 Chapter 143 of the General Statutes (Open Meetings Law); provided, however, that any
10 discussions of the Merged Board regarding litigation related to either existing board of
11 education or the Merged Unit and/or potential litigation related to the Voting Rights Act
12 may be held in executive session.

13 **Sec. 5. Permanent Board of Education.** (a) Upon installation of the
14 Permanent Board as provided for in Section 4 above, the Permanent Board shall assume
15 the full duty and responsibility for the governance of the Merged Unit as provided for in
16 the General Statutes for local boards of education; provided, however, that the following
17 temporary restrictions shall be placed on the Permanent Board:

- 18 (1) Student assignment boundaries for the Merged Unit shall not be
19 changed by the Permanent Board for a period of eight years after the
20 effective date of merger except by a three-fourths affirmative vote of
21 the Permanent Board.
- 22 (2) The selection and assignment of personnel filling certified positions
23 shall be made by a simply majority vote of the Interim and Merged
24 Boards. Any involuntary reassignment across previous administrative
25 unit boundaries of persons filling certified positions by the Permanent
26 Board shall be made only by a two-thirds affirmative vote during the
27 first five years following the effective date of merger.
- 28 (3) The adoption of the Annual Budget Resolution, and subsequent
29 amendments, as required by G.S. 115C-425, shall be by a simple
30 majority of the Interim and Merged Boards but shall require a two-
31 thirds affirmative vote by the Permanent Board during the first five
32 years following the effective date of merger.
- 33 (4) The termination, reassignment, or replacement of the Merged
34 Superintendent by the Permanent Board shall require a two-thirds vote
35 for a period of three years after the installation of the Permanent
36 Board.
- 37 (5) The policies of the existing administrative units related to the
38 assignment of students to classes within individual schools shall not be
39 changed by the Permanent Board during the five years following the
40 effective date of merger except by a three-fourths affirmative vote.

41 (b) The compensation paid to members of the Merged and Permanent Boards
42 shall be the same as that set by and paid to the members of the Edgecombe County
43 Board of Commissioners.

1 (c) The existing authorized supplemental school tax levy of twenty-five cents
2 (25¢) per one hundred dollars (\$100.00) of assessed valuation within the city unit is
3 hereby extended throughout the Merged Unit to be assessed at an annual rate set by the
4 Edgecombe County Board of Commissioners.

5 Prior to the effective date of merger, the Edgecombe County Board of
6 Commissioners may, at its discretion, adopt an annual budget resolution which provides
7 for a supplemental tax rate in the existing Edgecombe County Administrative Unit
8 which may be less than that assessed in the Tarboro Administrative Unit; provided,
9 however, in each fiscal year following the effective date of merger any supplemental tax
10 assessed pursuant to this act shall be uniform throughout the Merged Unit.

11 (d) It is the intent of the General Assembly that the Board of Commissioners of
12 Edgecombe County shall insure that the per pupil appropriations from county
13 appropriations to the Merged Unit shall be, and remain, at least as high as the per pupil
14 county appropriations of the higher of the appropriations to either the existing city or
15 county unit in the three years prior to merger.

16 (e) All meetings of the Permanent Board shall comply with Article 33C of
17 Chapter 143 of the General Statutes (Open Meetings Law); provided, however, that any
18 discussions of the Permanent Board regarding litigation related to either existing board
19 of education or the Merged Unit and/or potential litigation related to the Voting Rights
20 Act may be held in executive session.

21 Sec. 6. **Severability and Remedy for Nullification.** In the event that any
22 section or portion of this act shall be found to be invalid by a court of competent
23 jurisdiction or be objected to by the Attorney General of the United States pursuant to
24 section 5 of the Voting Rights Act, such findings or objectives shall in no way nullify
25 any other section or portion of this act not found to be invalid or objected to. The
26 Interim Board, Merged Board or Permanent Board is authorized and directed to take
27 whatever action(s) necessary to correct any invalidation, not inconsistent with the
28 General Statutes.

29 Sec. 7. **Repeal of Conflicting Laws.** All laws and clauses of laws in conflict
30 with this act are hereby repealed.

31 Sec. 8. **Effective Date.** This act is effective upon ratification.