

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

3

SENATE BILL 498
Second Edition Engrossed 5/7/91
House Committee Substitute Favorable 6/13/91

Short Title: Edgecombe/Tarboro School Merger.

(Local)

Sponsors:

Referred to:

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; provided, a person who was Superintendent of the Edgecombe
21 County School Administrative Unit or the Tarboro City School Administrative Unit on
22 January 1, 1991, is not eligible to serve as Interim Superintendent. The term of the
23 contract for the Interim Superintendent and such other interim personnel as may be
24 employed pursuant to this section shall terminate no later than the effective date of
25 merger.

26 (f) The State Board of Education is authorized and directed to allot to the
27 Interim Board upon the effective date of this act, one superintendent position and one
28 clerical support position, and the Edgecombe County Board of Commissioners is
29 authorized to appropriate such funds to the Interim Board as it deems appropriate and
30 necessary for the effective implementation of this act. The Edgecombe County Board
31 of Commissioners shall provide office space for the Interim Superintendent and the
32 Interim Board at a site other than the site of the existing administrative offices of the
33 existing county and city boards.

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

40 The authority of the Interim Board shall include, but is not restricted to, the
41 authority to:

42 (1) Adopt such policies, not inconsistent with the General Statutes, as it
43 deems appropriate for the operation of the Interim Board and the
44 Merged Unit; provided, however, that any change in the policies of the

1 existing administrative units related to assignment of students to
2 classes within individual schools shall not be made by the Interim
3 Board except by a three-fourths affirmative vote;

4 (2) Employ a superintendent and such other personnel as may be deemed
5 appropriate for the Merged Unit, consistent with the General Statutes;

6 (3) Draft and propose a budget for the Merged Unit;

7 (4) Establish the procedures and provisions for the election of a permanent
8 board of education for the Merged Unit;

9 (5) Establish student assignment boundaries for the Merged Unit,
10 provided, however, that any changes in student assignment boundaries
11 shall not be made by the Interim Board except by a three-fourths
12 affirmative vote; and

13 (6) Approve the recommendations of the Interim Superintendent for the
14 organization and assignment of staff for the Merged Unit.

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

20 (i) For purposes of determining dual office holding, the Interim Board shall
21 be deemed to constitute a joint committee of the existing city and county boards of
22 education. Nevertheless, those members serving on the Interim Board while also
23 serving on the existing boards of education shall be eligible for compensation for
24 serving on the Interim Board in addition to and equal to the compensation paid to them
25 by virtue of service on the existing city and county boards.

26 **Sec. 4. Merged Administrative Unit.** (a) Upon the effective date of merger the
27 Interim Board of Education shall become the Merged Board of Education of the Merged
28 Unit and shall be named the Edgecombe County Board of Education (herein referred to
29 as the "Merged Board").

30 (b) Prior to the effective date of merger the existing city and county boards of
31 education shall continue to exercise the same powers and duties for the existing city and
32 county administrative units as they did prior to merger, except as otherwise herein
33 provided. The terms of office of the existing city and county boards of education shall
34 be extended from the ratification of this act, subject to preclearance under the Voting
35 Rights Act, to the effective date of merger. Upon the effective date of merger the
36 existing city and county administrative units and the existing city and county boards of
37 education shall cease to exist.

38 (c) Upon the effective date of merger, the Merged Board shall exercise those
39 powers and duties ascribed to local boards of education by the General Statutes, except
40 as otherwise provided in this act.

41 (1) Student assignment boundaries for the Merged Unit shall not be
42 changed by the Merged Board except by a three-fourths affirmative
43 vote of the Merged Board.

1 (2) The policies of the existing administrative units related to the
2 assignment of students to classes within individual schools shall not be
3 changed by the Merged Board except by a three-fourths affirmative
4 vote of the Merged Board.

5 (d) Upon the effective date of merger the Merged Board and its successor
6 Permanent Board shall assume and be assigned the title(s) to all property of the existing
7 city and county administrative units. All claims and demands of every kind that the two
8 existing city and county boards may have at the time of merger shall pass and be
9 transferred to the Merged Unit, and the Merged Board and its successor Permanent
10 Board shall have the same authority to enforce those claims and demands as the existing
11 city and county boards of education would have had they continued to exist. Any
12 obligations and liabilities, including but not limited to existing personnel contracts, of
13 the existing city and county boards of education shall become the obligations and
14 liabilities of the Merged Board and its successor Permanent Board, and those
15 obligations and liabilities may be enforced against the Merged Board and its successor
16 Permanent Board to the same extent they might be enforced against the existing city and
17 county boards of education had they continued to exist.

18 In addition:

19 (1) The contracts of the existing superintendents with the city and county
20 boards of education at the time of the ratification of this act shall
21 become the obligation of the Merged Board; provided, however, that
22 as long as the terms and conditions of these contracts are otherwise
23 fulfilled by the Merged Board, the board may assign such duties and
24 responsibilities to the existing superintendents as the Merged Board
25 may deem appropriate.

26 (2) Upon the ratification of this act and subsequent preclearance by the
27 United States Attorney General, the term of duration of the existing
28 superintendents' contracts shall be made the same as the longer of the
29 contracts for either existing superintendent, however, said contract
30 shall expire no later than June 30, 1994. The State Board of Education
31 is authorized and directed to continue the State allotments for the
32 existing superintendent positions for the duration of said contracts or
33 for a period of two years following the effective date of merger,
34 whichever shall be longer.

35 (e) Notwithstanding any other provision herein, the Interim Board may act as
36 the Merged Board at any time following the formation of the Interim Board for the
37 purpose of employing a Merged Superintendent. Such action shall require at least a
38 simple majority vote of the Interim or Merged Board and shall not be inconsistent with
39 Article 18 of Chapter 115C of the General Statutes, except as otherwise provided in this
40 act. No person who was the Superintendent of the Edgecombe County School
41 Administrative Unit or the Tarboro City School Administrative Unit on January 1, 1991,
42 is eligible to serve as the Merged Superintendent before July 1, 1995. Nothing herein
43 contained shall prohibit the Merged Board from employing the Interim Superintendent

1 as the Merged Superintendent, and nothing herein contained shall require the Merged
2 Board to employ the Interim Superintendent as the Merged Superintendent.

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

8 (g) The Interim Board shall prepare and submit to the 1992 Session of the
9 1991 General Assembly a plan for the organization and election of the Permanent Board
10 of Education in 1994. It is the intent of the General Assembly that the Permanent Board
11 shall be organized and structured in such a manner, and the apportionment and manner
12 of election be done in a way, so as to insure as much as possible that black citizens will
13 have the opportunity to elect candidates of their choice for at least the same proportion
14 of seats as the proportion of minority representatives on the Interim Board. Vacancies
15 on the Permanent Board shall be filled in a manner prescribed by the plan created for
16 the Permanent Board. Members of the Merged Board shall continue to serve until their
17 successors are duly elected and sworn in.

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

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

- 28 (1) Student assignment boundaries for the Merged Unit shall not be
29 changed by the Permanent Board for a period of eight years after the
30 effective date of merger except by a three-fourths affirmative vote of
31 the Permanent Board.
- 32 (2) The selection and assignment of personnel filling certified positions
33 shall be made by a simply majority vote of the Interim and Merged
34 Boards. Any involuntary reassignment across previous administrative
35 unit boundaries of persons filling certified positions by the Permanent
36 Board shall be made only by a two-thirds affirmative vote during the
37 first five years following the effective date of merger.
- 38 (3) The adoption of the Annual Budget Resolution, and subsequent
39 amendments, as required by G.S. 115C-425, shall be by a simple
40 majority of the Interim and Merged Boards but shall require a two-
41 thirds affirmative vote by the Permanent Board during the first five
42 years following the effective date of merger.
- 43 (4) The termination, reassignment, or replacement of the Merged
44 Superintendent by the Permanent Board shall require a two-thirds vote

1 for a period of three years after the installation of the Permanent
2 Board.

3 (5) The policies of the existing administrative units related to the
4 assignment of students to classes within individual schools shall not be
5 changed by the Permanent Board during the five years following the
6 effective date of merger except by a three-fourths affirmative vote.

7 (b) The compensation paid to members of the Merged and Permanent Boards
8 shall be set by the members of the Edgecombe County Board of Commissioners.

9 (c) The existing authorized supplemental school tax levy of twenty-five cents
10 (25¢) per one hundred dollars (\$100.00) of assessed valuation within the city unit is
11 hereby extended throughout the Merged Unit to be assessed at an annual rate set by the
12 Edgecombe County Board of Commissioners.

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

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

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

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

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

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