

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 404
SENATE BILL 498

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

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

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

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

(e) The Interim Board shall have the duty and power to enter into such contracts for personnel, personal and professional services, and operational functions as it deems appropriate, including the authority to employ an Interim Superintendent, such other clerical support staff and contracted services, including but not limited to legal services, as may be deemed necessary and appropriate by the Interim Board pursuant to such appropriations as may be made by the State Board of Education or the Edgecombe County Commissioners; provided, a person who was Superintendent of the Edgecombe County School Administrative Unit or the Tarboro City School Administrative Unit on January 1, 1991, is not eligible to serve as Interim Superintendent. The term of the contract for the Interim Superintendent and such other interim personnel as may be employed pursuant to this section shall terminate no later than the effective date of merger.

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

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

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

- (1) Adopt such policies, not inconsistent with the General Statutes, as it deems appropriate for the operation of the Interim Board and the Merged Unit; provided, however, that any change in the policies of the existing administrative units related to assignment of students to classes within individual schools shall not be made by the Interim Board except by a three-fourths affirmative vote;
- (2) Employ a superintendent and such other personnel as may be deemed appropriate for the Merged Unit, consistent with the General Statutes;
- (3) Draft and propose a budget for the Merged Unit;
- (4) Establish the procedures and provisions for the election of a permanent board of education for the Merged Unit;
- (5) Establish student assignment boundaries for the Merged Unit, provided, however, that any changes in student assignment boundaries shall not be made by the Interim Board except by a three-fourths affirmative vote; and

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

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

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

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

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

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

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

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

(d) Upon the effective date of merger the Merged Board and its successor Permanent Board shall assume and be assigned the title(s) to all property of the existing city and county administrative units. All claims and demands of every kind that the two existing city and county boards may have at the time of merger shall pass and be transferred to the Merged Unit, and the Merged Board and its successor Permanent Board shall have the same authority to enforce those claims and demands as the existing city and county boards of education would have had they continued to exist. Any obligations and liabilities, including but not limited to existing personnel contracts, of the existing city and county boards of education shall become the obligations and

liabilities of the Merged Board and its successor Permanent Board, and those obligations and liabilities may be enforced against the Merged Board and its successor Permanent Board to the same extent they might be enforced against the existing city and county boards of education had they continued to exist.

In addition:

- (1) The contracts of the existing superintendents with the city and county boards of education at the time of the ratification of this act shall become the obligation of the Merged Board; provided, however, that as long as the terms and conditions of these contracts are otherwise fulfilled by the Merged Board, the board may assign such duties and responsibilities to the existing superintendents as the Merged Board may deem appropriate.
- (2) Upon the ratification of this act and subsequent preclearance by the United States Attorney General, the term of duration of the existing superintendents' contracts shall be made the same as the longer of the contracts for either existing superintendent, however, said contract shall expire no later than June 30, 1994. The State Board of Education is authorized and directed to continue the State allotments for the existing superintendent positions for the duration of said contracts or for a period of two years following the effective date of merger, whichever shall be longer.

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

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

(g) The Interim Board shall prepare and submit to the 1992 Session of the 1991 General Assembly a plan for the organization and election of the Permanent Board of Education in 1994. It is the intent of the General Assembly that the Permanent Board shall be organized and structured in such a manner, and the apportionment and manner of election be done in a way, so as to insure as much as possible that black citizens will have the opportunity to elect candidates of their choice for at least the same proportion

of seats as the proportion of minority representatives on the Interim Board. Vacancies on the Permanent Board shall be filled in a manner prescribed by the plan created for the Permanent Board. Members of the Merged Board shall continue to serve until their successors are duly elected and sworn in.

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

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

- (1) Student assignment boundaries for the Merged Unit shall not be changed by the Permanent Board for a period of eight years after the effective date of merger except by a three-fourths affirmative vote of the Permanent Board.
- (2) The selection and assignment of personnel filling certified positions shall be made by a simple majority vote of the Interim and Merged Boards. Any involuntary reassignment across previous administrative unit boundaries of persons filling certified positions by the Permanent Board shall be made only by a two-thirds affirmative vote during the first five years following the effective date of merger.
- (3) The adoption of the Annual Budget Resolution, and subsequent amendments, as required by G.S. 115C-425, shall be by a simple majority of the Interim and Merged Boards but shall require a two-thirds affirmative vote by the Permanent Board during the first five years following the effective date of merger.
- (4) The termination, reassignment, or replacement of the Merged Superintendent by the Permanent Board shall require a two-thirds vote for a period of three years after the installation of the Permanent Board.
- (5) The policies of the existing administrative units related to the assignment of students to classes within individual schools shall not be changed by the Permanent Board during the five years following the effective date of merger except by a three-fourths affirmative vote.

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

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 26th day of June, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives