

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 729*

Short Title: Franklin/Franklinton School Merger.

(Local)

Sponsors: Senator Speed.

Referred to: Education/Higher Education.

April 7, 1993

A BILL TO BE ENTITLED

**AN ACT TO MERGE THE FRANKLIN COUNTY AND FRANKLINTON CITY
SCHOOL ADMINISTRATIVE UNITS.**

The General Assembly of North Carolina enacts:

Section 1. Effective Date.

The existing Franklin County School Administrative Unit (the "county unit") and the existing Franklinton City School Administrative Unit (the "city unit") are merged effective July 1, 1994. The resulting merged administrative unit shall be known as the Franklin County School Administrative Unit (the "merged unit").

Sec. 2. Implementation Policy.

As a part of the merger of the Franklinton City and Franklin County Administrative units the Franklin County Board of Commissioners shall adopt a Merger Implementation Policy which shall not be changed prior to June 30, 1999, except as herein provided. Once adopted by the Board of Commissioners the Implementation Policy may not be changed except by the Interim, Merged, or Permanent Boards of Education and shall be enforceable in the same manner as if a part of this act or as any other duly adopted policy of the Interim, Merged, or Permanent Boards.

Sec. 3. Voting Rights Preclearance.

The merger of the county and city units is subject to preclearance under the Federal Voting Rights Act of 1965 before it may be implemented. The attorneys for 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 of 1965 within 30 days of ratification of this act.

Sec. 4. Interim Board of Education.

1 (a) Upon ratification of this act there is created an Interim Franklin County Board
2 of Education (the "Interim Board") to consist of the following members representing
3 the county unit: James Dennis Eaves, Ted Gilbert Gupton, Chester McArthur Pace,
4 Warren Edward Massenburg, and John Marshall Simmons, with: Chester Davis and
5 Randolph Blake Wright, representing the city unit.

6 (b) The term of office of the members of the Interim Board commences upon the
7 ratification of this act and continues until the effective date of merger, July 1, 1994.

8 (c) Vacancies on the Interim Board shall be filled by appointment by the Franklin
9 County Board of Commissioners.

10 (d) The Interim Board shall elect a chair and vice-chair from among its members.
11 The chair may vote as any other member of the Interim Board.

12 (e) The Interim Board may enter into contracts for personnel professional
13 services and operational functions, including the authority to employ an Interim
14 Superintendent, support staff, an attorney, and other contracted services pursuant to
15 such appropriations and allotments as may be made by the State Board of Education or
16 the Franklin County Board of Commissioners. The terms of the contracts for the
17 Interim Superintendent and other interim personnel shall terminate no later than the
18 effective date of merger.

19 (f) The State Board of Education shall allot to the Interim Board upon the
20 effective date of this act one superintendent position and one clerical support position,
21 and the Franklin County Board of Commissioners may appropriate, at its discretion,
22 such funds to the Interim Board as are necessary for the effective implementation of this
23 act. The Interim Board may, at its discretion, use such allotments and appropriations as
24 provided for in this section to employ personnel or for contracted services.

25 (g) The Interim Board may organize itself and adopt policies and procedures
26 consistent with those powers possessed by county boards of education under the
27 General Statutes for the operation of the Interim Board and to govern the Merged Unit
28 subsequent to the effective date of merger; provided, however, that except as otherwise
29 provided for herein all policies adopted by the Interim Board shall be subject to review
30 and revision by the Merged Board. Specifically, the Interim Board shall:

31 (1) Adopt the school calendar for the 1994-95 school year;

32 (2) Develop and present a recommended long-range facilities plan for the
33 Merged Unit to the existing boards of education by September 1, 1994,
34 and to the Franklin County Board of Commissioners by January 1,
35 1995; and

36 (3) The Interim Board may change the Implementation Policy as provided
37 for in Section 2 of this act by an affirmative vote of no less than six
38 members.

39 (h) All meetings of the Interim Board, or any committee thereof, shall
40 comply with Article 33C of Chapter 143 of the General Statutes (Open Meetings Law);
41 provided, however, that any discussions of the Interim Board, or committee thereof,
42 regarding litigation related to either existing board of education or the Merged Unit
43 and/or matters related to the Voting Rights Act of 1965 may be held in executive
44 session.

1 (i) For purposes of dual office holding, the Interim Board shall be considered
2 a joint committee of the existing city and county boards of education. Compensation of
3 the Interim Board members shall be set by the Franklin County Board of
4 Commissioners. Those members of the Interim Board who also serve on the existing
5 boards of education shall be eligible for compensation for serving on the Interim Board
6 in addition to the compensation paid them for service on the existing city and county
7 boards of education.

8 (j) The terms of office of members of the Interim Board shall continue until
9 their successors on the Merged Board take office; whereupon the Interim Board shall
10 cease to exist and the terms of office of the members of the Interim Board shall be
11 terminated.

12 Sec. 5. Merged Administrative Unit.

13 (a) Upon the effective date of merger the Interim Board shall become the Merged
14 Board and the members of the Interim Board of Education at that time shall become the
15 members of the Board of Education of the Merged Unit and shall be named the Franklin
16 County Board of Education (the "Merged Board").

17 (b) Until the effective date of merger the existing city and county boards of
18 education shall continue to exercise the same powers and duties for the existing city and
19 county administrative units, except as otherwise herein provided. The terms of office of
20 the existing city and county boards of education are extended from the effective date of
21 this act to the date of merger. No further elections for either of the existing boards shall
22 take place. Upon the effective date of merger, the existing city and county
23 administrative units and the existing city and county boards of education shall cease to
24 exist and the terms of office of the members of the existing city and county boards of
25 education shall terminate.

26 (c) Upon merger, the Merged Board shall exercise the powers and duties of a
27 county board of education under the General Statutes; provided, however, that the
28 Merged Board may change the Implementation Policy provided for in Section 2 of this
29 act by an affirmative vote of no less than six members.

30 The Merged Board shall not change the student assignment boundaries prior
31 to the 1995-96 school year except by an affirmative vote of no less than six members,
32 but shall revise the student attendance plan for the 1995-96 school year consistent with a
33 long-range facility plan adopted pursuant to Section 4(g)(2) of this act.

34 (d) As of 12:01 a.m. on the effective date of merger, the Merged Board and its
35 successor Permanent Board, as provided for herein, shall assume the title to all property
36 of the existing city unit and county unit. All claims and demands that the existing city
37 unit and county unit may have at the time of merger shall be transferred to the Merged
38 Unit, and the Merged Board and its successor Permanent Board shall have the same
39 authority to enforce those claims and demands as the existing city and county boards of
40 education would have had, had they continued to exist. Any obligations and liabilities,
41 including existing personnel contracts, of the existing city unit and county unit shall
42 become the obligations and liabilities of the Merged Board and its successor Permanent
43 Board and those obligations and liabilities may be enforced against the Merged Board

1 and its successor Permanent Board to the same extent they might be enforced against
2 the existing city and county boards of education had they continued to exist.

3 A copy of this act shall be recorded in the Office of the Register of Deeds of
4 Franklin County by the attorney for the Franklin County Board of Commissioners and
5 the failure of either the Franklinton City Board of Education or the Franklin County
6 Board of Education to make any conveyance shall not cause the title of the property to
7 remain in either of said boards of education.

8 The State Board of Education shall allot to the Merged Unit for two years
9 following the date of merger, or for the duration of contracts existing at the time of
10 ratification of this act, the allotments that would have been allotted to the two existing
11 administrative units had merger not occurred or those allotments to which the Merged
12 Unit shall be entitled, whichever is higher, regardless of the persons employed to fill
13 such positions, except that persons filling positions from such allotments may not be
14 paid from more than one such allotment at the time.

15 If the Interim or Merged Board shall employ either of the existing
16 superintendents as Interim Superintendent while that person continues to serve as
17 superintendent of either existing administrative unit then the allotments to either
18 existing administrative unit or the Merged Unit shall not be reduced as a result of such
19 employment and assignment; provided, however, that persons filling positions from
20 such allotments may not be paid from more than one allotment at the time.

21 Nothing herein shall be construed to compel nor restrict the Interim or
22 Merged Board in the payment of locally funded supplements, subject to appropriations
23 therefor.

24 (e) Regardless of any other provision of this act, the Interim Board may act
25 as the Merged Board at any time following the formation of the Interim Board for the
26 purpose of employing a Merged Superintendent. Such action shall not be inconsistent
27 with Article 18 of Chapter 115C of the General Statutes. Nothing herein shall prohibit
28 the Merged Board from employing the Interim Superintendent as the Merged
29 Superintendent, and nothing herein contained shall require the Merged Board to employ
30 the Interim Superintendent as the Merged Superintendent.

31 (f) Vacancies on the Merged Board shall be filled by appointment by the
32 remaining members of the Merged Board.

33 (g) Compensation paid to members of the Merged Board shall be determined
34 as provided for by the General Statutes for county boards of education.

35 (h) All meetings of the Merged Board, or committees thereof, shall comply
36 with Article 33C of Chapter 143 of the General Statutes (Open Meetings Law);
37 provided, however, that any discussions of the Merged Board, or committee thereof,
38 regarding litigation related to either existing board of education or the Merged Unit
39 and/or matters related to the Voting Rights Act of 1965 may be held in executive
40 session.

41 Sec. 6. Permanent Board of Education.

42 (a) The Permanent Franklin County Board of Education shall be comprised of
43 ___ members elected from districts.

1 (b) The members of the Permanent Board shall be elected for a term of four years
2 in nonpartisan plurality elections held at the time of the general election for county
3 offices. Duly elected members of the Permanent Board shall take office the first
4 Monday of December immediately following their election and shall take the oath of
5 office prescribed in Article VI, Section 7 of the Constitution. Upon the members of the
6 Permanent Board being installed, the Permanent Board shall replace the Merged Board
7 and shall assume all of the duties, powers, assets, and liabilities of the Merged Board as
8 provided for in Section 5(d) of this act and the Merged Board shall cease to exist and
9 the terms of office of the members of the Merged Board shall end.

10 (c) The initial election for the Permanent Board shall be held at the time of the
11 General Election in 1996. In 1996, those seats representing the even-numbered districts
12 shall be elected for a four-year term and those seats representing the odd-numbered
13 districts shall be elected for a two-year term. In subsequent elections each seat shall be
14 elected for four-year terms.

15 (d) The electoral districts for elections to be held in 1996 shall be as follows:
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19 (e) The Permanent Board is named the Franklin County Board of Education
20 and shall exercise those powers and duties as specified in the General Statutes for
21 county boards of education; provided, however, that Permanent Board may change the
22 Merger Implementation Policy provided for in Section 2 of this act by an affirmative
23 vote with no more than one dissenting vote. After July 1, 1999, the Permanent Board,
24 in its sole discretion, may change the Implementation Policy as it would any other duly
25 adopted policy of the Permanent Board. Regardless of the Permanent Board's action on
26 the Implementation Policy, the Permanent Board shall, at least, every five years, or as
27 often as the State shall require a revision in the Long Range Facilities Plan, review and
28 revise, at its discretion, the student assignment plan in conjunction with the facilities
29 plan.

30 (f) The compensation paid to members of the Permanent Board shall be
31 determined as provided for by the General Statutes for county boards of education.

32 (g) Vacancies on the Permanent Board shall be filled by appointment by the
33 remaining members of the Permanent Board. Any person appointed to fill an unexpired
34 term on the Permanent Board must be at the time of the appointment and must remain a
35 resident of the district for which he/she is appointed. Appointments to fill vacancies on
36 the Permanent Board shall be for the remainder of the unexpired term.

37 (h) Should any member of the Permanent Board change his/her residence,
38 that member shall notify the Secretary of the Permanent Board within 15 days of such
39 change who shall then immediately notify the Permanent Board of such notice. If the
40 Permanent Board determines that the member's change of residence has caused the
41 member to no longer be a resident of the district from which the member was elected or
42 appointed then that person shall no longer be eligible to serve on the Permanent Board
43 representing that district and the board shall declare a vacancy.

1 (i) All meetings of the Permanent Board, or committee thereof, shall comply
2 with Article 33C of Chapter 143 of the General Statutes (Open Meetings Law);
3 provided, however, that any discussions of the Permanent Board, or committee thereof,
4 regarding litigation related to either existing board of education or the Merged Unit
5 and/or matters related to the Voting Rights Act of 1965 may be held in executive
6 session.

7 Sec. 7. Severability and Remedy for Nullification.

8 In the event that any section or portion of this act shall be found to be invalid
9 by a court of competent jurisdiction or be objected to by the Attorney General of the
10 United States pursuant to section 5 of the Voting Rights Act of 1965, such findings or
11 objections shall in no way nullify any other section or portion of this act not found to be
12 invalid or objected to. If the Attorney General objects to any portion of this act
13 concerning the method of selecting the Interim, Merged, or Permanent Board, the
14 Franklin County Board of Commissioners may alter, by resolution, such portions of this
15 plan as necessary to achieve compliance with the Voting Rights Act of 1965. The
16 changes made by the Franklin County Board of Commissioners shall have the same
17 effect as if enacted by the General Assembly. Any resolution adopted by the Franklin
18 County Board of Commissioners pursuant to this section shall be filed by the attorney
19 for the Franklin County Board of Commissioners with the Secretary of State, the
20 Register of Deeds for Franklin County, the State Superintendent of Public Instruction,
21 and the Secretary of the Interim or Merged Board upon final approval of the merger
22 plan by the Attorney General.

23 Sec. 8. This act is effective upon ratification.