

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 729*

Education/Higher Education Committee Substitute Adopted 5/11/93

House Committee Substitute Favorable 7/7/93

Fourth Edition Engrossed 7/12/93

Short Title: Franklin/Franklinton School Merger.

(Local)

Sponsors:

Referred to:

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 July 1, 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 Franklin County Attorney shall submit this act to the United States Attorney General for preclearance

1 under section 5 of the Voting Rights Act of 1965 within 90 days of ratification of this
2 act.

3 Sec. 4. Interim Board of Education.

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

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

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

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

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

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

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

- 35 (1) Adopt the school calendar for the 1994-95 school year; and
36 (2) Develop a recommended long-range facilities plan for the Merged
37 Unit, present that plan if completed before July 1, 1994, to the existing
38 boards of education, and in any event present that plan to the Franklin
39 County Board of Commissioners by January 1, 1995.

40 The Interim Board may change the Implementation Policy as provided for in
41 Section 2 of this act by an affirmative vote of no less than six members.

42 (h) All meetings of the Interim Board, or any committee thereof, shall
43 comply with Article 33C of Chapter 143 of the General Statutes (Open Meetings Law);
44 provided, however, that any discussions of the Interim Board, or committee thereof,

1 regarding litigation related to either existing board of education or the Merged Unit may
2 be held in executive session.

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

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

14 Sec. 5. Merged Administrative Unit.

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

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

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

32 The Merged Board or its successor Permanent Board shall not change the
33 student assignment boundaries prior to the 1995-96 school year except by an affirmative
34 vote of no less than six members, but shall revise the student attendance plan for the
35 1995-96 school year consistent with a long-range facility plan adopted pursuant to
36 Section 4(g)(2) of this act.

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

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

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

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

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

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

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

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

30 (h) All meetings of the Merged Board, or committees thereof, shall comply
31 with Article 33C of Chapter 143 of the General Statutes (Open Meetings Law);
32 provided, however, that any discussions of the Merged Board, or committee thereof,
33 regarding litigation related to either existing board of education or the Merged Unit may
34 be held in executive session.

35 Sec. 6. Permanent Board of Education.

36 (a) The Permanent Franklin County Board of Education shall be comprised of
37 seven members, five of whom are elected from districts, and two of whom are elected at
38 large.

39 (b) The members of the Permanent Board shall be elected for a term of four years
40 in partisan elections held at the time of the general election for county offices, in the
41 same manner as elections for county officers, including primary elections if required.
42 The primary elections shall be held on the dates provided by law for county elections.
43 Duly elected members of the Permanent Board shall take office the first Monday of
44 December immediately following their election and shall take the oath of office

1 prescribed in Article VI, Section 7 of the Constitution. Upon the members of the
2 Permanent Board being installed, the Permanent Board shall replace the Merged Board
3 and shall assume all of the duties, powers, assets, and liabilities of the Merged Board as
4 provided for in Section 5(d) of this act and the Merged Board shall cease to exist and
5 the terms of office of the members of the Merged Board shall end.

6 (c) The initial election for the Permanent Board shall be held at the time of the
7 general election in 1994. In 1994, the odd-numbered seats shall be elected for a four-
8 year term and the even-numbered seats shall be elected for a two-year term. In
9 subsequent elections each seat shall be elected for four-year terms.

10 (d) The electoral districts for elections to be held in 1994 and thereafter shall be
11 as follows:

12 District 1 is Louisburg and Franklinton Townships and elects two members.
13 Only qualified voters residing in Louisburg Township may be candidates for and serve
14 for Seat 1, but all the qualified voters of District 1 nominate and elect that seat. Only
15 qualified voters residing in Franklinton Township may be candidates for and serve for
16 Seat 2, but all the qualified voters of District 1 nominate and elect that seat.

17 District 2 is Hayesville, Sandy Creek, Gold Mine, and Cedar Rock
18 Townships, and elects one member. This district nominates and elects Seat 3, and any
19 qualified voter of the district may be a candidate for and serve for Seat 3.

20 District 3 is Dunn, Cypress Creek, Youngsville, and Harris Township, and
21 elects two members. Only qualified voters residing in Dunn or Cypress Creek
22 Townships may be candidates for and serve for Seat 4, but all the qualified voters of
23 District 3 nominate and elect that seat. Only qualified voters residing in Youngsville or
24 Harris Townships may be candidates for and serve for Seat 5, but all the qualified voters
25 of District 3 nominate and elect that seat.

26 Any change in District configuration approved under G.S. 115C-37(i) must
27 also be approved by the Franklin County Board of Commissioners.

28 (d1) The seats elected at large are Seats 6 and 7. Any qualified voter in
29 Franklin County may be a candidate for and serve in those seats.

30 (e) The Permanent Board is named the Franklin County Board of Education
31 and shall exercise those powers and duties as specified in the General Statutes for
32 county boards of education; provided, however, that the Permanent Board may change
33 the Merger Implementation Policy provided for in Section 2 of this act by an affirmative
34 vote with no more than one dissenting vote. On or after July 1, 1999, the Permanent
35 Board, in its sole discretion, may change the Implementation Policy as it would any
36 other duly adopted policy of the Permanent Board. Regardless of the Permanent
37 Board's action on the Implementation Policy, the Permanent Board shall, at least, every
38 five years, or as often as the State shall require a revision in the Long-Range Facilities
39 Plan, review and revise, at its discretion, the student assignment plan in conjunction
40 with the facilities plan.

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

43 (g) Vacancies on the Permanent Board shall be filled by appointment by the
44 remaining members of the Permanent Board. Any person appointed to fill an unexpired

1 term on the Permanent Board must be at the time of the appointment and must remain a
2 resident of the district for which he/she is appointed. Appointments to fill vacancies on
3 the Permanent Board shall be for the remainder of the unexpired term.

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

11 (i) All meetings of the Permanent Board, or committee thereof, shall comply
12 with Article 33C of Chapter 143 of the General Statutes (Open Meetings Law);
13 provided, however, that any discussions of the Permanent Board, or committee thereof,
14 regarding litigation related to either existing board of education or the Merged Unit may
15 be held in executive session.

16 Sec. 7. Severability and Remedy for Nullification.

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

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