

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 767
SENATE BILL 1081

AN ACT TO VALIDATE SCHOOL MERGERS AND CLARIFY MERGER LAWS
SO AS TO ELIMINATE THE NEED FOR SUBSTANTIAL APPROPRIATIONS
FOR SEPARATE CENTRAL STAFFS, AND SO AS TO CLARIFY A 1991
SPECIAL BUDGET PROVISION.

The General Assembly of North Carolina enacts:

Section 1. Pending litigation threatens to disrupt the well-settled school mergers of Morganton/Glen Alpine/Burke County, Marion/McDowell County, Sanford/Lee County, North Wilkesboro/Wilkes County, New Bern/Craven County, Concord/Cabarrus County, Fayetteville/Cumberland County, Salisbury/Rowan County, Tryon/Polk County, and Statesville/Iredell County, and the recently approved school mergers of Hendersonville/Henderson County, Goldsboro/Wayne County, Kinston/Lenoir County, Durham/Durham County, and Monroe/Union County, all approved under a general law giving county boards of commissioners or the State Board of Education or both a role in the mergers, and threatens to disrupt the well-settled school mergers for Elm City/Wilson/Wilson County and Raleigh/Wake County, which were approved under local acts requiring approval of the county commissioners and the State Board of Education. The case, if affirmed by the appellate courts, would greatly increase State funding for school administrative staffs when numerous long-dissolved school units are revived by court order. It is clear that the 1967, 1969, and 1991 school merger legislation was designed as alternative procedures for the manner of electing school boards than the general law procedures on board composition, and the procedures of these acts are in conformance with the long accepted trend of granting home rule and allowing local issues to be handled outside of local legislation. Arguments in litigation that G.S. 115C-35, 115C-37 and 153A-76(4) should restrict local settlement of merger issues need to be disposed of so the mere presence of the litigation will not disrupt past, current, and future mergers and the ongoing implementation of merger in numerous school units.

Sec. 2. Article 7 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-68.3. Validation of plans of consolidation and merger.

All plans for consolidation and merger of school administrative units entered into between June 9, 1969, and May 26, 1992, under G.S. 115C-67, 115C-68.1, 115C-68.2, former G.S. 115-74.1, or under any local act authorizing such mergers, are ratified and considered to have been adopted by act of the General Assembly. This Article prevails over G.S. 153A-76(4)."

Sec. 3. For the purpose of clarification, G.S. 115C-67(3)b. reads as rewritten:
"b. The method of constituting and continuing the board of ~~education,~~
education; the manner of selection of board members, including (i) the
number of members of the board, (ii) the method of their election or
appointment, (iii) whether members shall be nominated, elected, or
appointed from districts or at large, (iv) the manner of determining the
nominee, and (v) whether the election shall be partisan or nonpartisan;
the length of the members' terms of ~~office,~~ office; the dates of
induction into ~~office,~~ office; the organization of the ~~board,~~ board; the
procedure for filling ~~vacancies,~~ vacancies; and the compensation to be
paid members of the board for expenses incurred in performance of
their duties. To the extent that the method conflicts with G.S. 115C-35,
G.S. 115C-37, or with any local act concerning any of the units being
merged and consolidated, the plan of merger and consolidation shall
prevail."

Sec. 4. Nothing in this act is intended to alter legislative intent relative to local funding level requirements.

Sec. 5. Sections 1 and 2 of this act are effective upon ratification. Section 3 of this act becomes effective July 1, 1981.

In the General Assembly read three times and ratified this the 17th day of June, 1992.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives