

NORTH CAROLINA GENERAL ASSEMBLY
1965 SESSION

CHAPTER 1151
HOUSE BILL 1113

AN ACT TO PROVIDE FOR THE CONSOLIDATION OF THE ASHEVILLE CITY BOARD OF EDUCATION AND THE BUNCOMBE COUNTY BOARD OF EDUCATION AND TO PROVIDE FOR ELECTION TO AUTHORIZE THE ASSESSMENT OF A SUPPLEMENTAL SCHOOL TAX IN BUNCOMBE COUNTY AND TO PROVIDE FOR ASHEVILLE-BUNCOMBE COUNTY BOARD OF EDUCATION AND FOR THE QUALIFICATIONS AND METHOD OF ELECTION OF THE MEMBERS OF THE ASHEVILLE-BUNCOMBE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina do enact:

Section 1. The purpose of this Act is to provide for the consolidation of the Asheville City Board of Education and the Buncombe County Board of Education. The consolidated board shall be the county board of education in and for Buncombe County and shall have county-wide jurisdiction over the public school system in Buncombe County, including all municipalities located therein. The name of the consolidated board shall be: Asheville-Buncombe County Board of Education. The word "Board", wherever used in this Act, shall refer to the Asheville-Buncombe County Board of Education.

Sec. 2. The persons, who on the first day of July, 1968, shall be the qualified and acting members of the Asheville City Board of Education and the Buncombe County Board of Education shall constitute the Asheville-Buncombe County Board of Education and shall serve until their successors are duly elected and qualified as hereinafter set forth.

Sec. 3. The terms of office of the four members of the Asheville-Buncombe County Board of Education as provided in Section 2 having the shortest remaining terms of office on their respective boards immediately prior to July 1, 1968, shall expire on the first Monday in December, 1970. The terms of office of the two members of the Asheville-Buncombe County Board of Education as provided in Section 2 having the longest remaining term of office on their respective boards immediately prior to July 1, 1968, shall expire on the first Monday in December, 1974. The terms of the remaining four members of the Asheville-Buncombe County Board of Education shall expire on the first Monday in December, 1972.

Sec. 4. At the time of the regular biennial general election for State officers in 1970, a number of persons equal to the number of terms expiring, less one, shall be

elected to the Asheville-Buncombe County Board of Education as reorganized. At the time of the regular biennial general election for State officers in 1972, a number of persons equal to the number of terms expiring, less one, shall be elected to the Asheville-Buncombe County Board of Education as reorganized. At the time of the regular biennial general election for State officers in 1974, and biennially thereafter, a number of persons equal to the number of terms expiring shall be elected to the Asheville-Buncombe County Board of Education as reorganized. Names of candidates shall be placed on a separate ballot bearing no party designation, and no party affiliation need be indicated at time of filing. Candidates shall file by six o'clock p.m. on or before the sixth Saturday before the date on which the election is to be held and each candidate shall pay a filing fee of five dollars (\$5.00). The persons elected shall qualify by taking the oath of office on the first Monday in December next succeeding their election and shall hold office for a term of six years and until their successors are elected and qualified.

Sec. 5. If vacancies occur, other than by expiration of term, the Buncombe County Board of Commissioners shall select a replacement to serve until the first Monday in December which follows the last day for filing for the next regular biennial election. At the next regular biennial election a person, or persons, shall be elected to fill the unexpired term or terms.

Sec. 6. Election to the board shall be determined by a majority of votes cast. If there should be more candidates than places to be filled, then the majority within the meaning of this Section shall be ascertained by dividing the total votes cast for all candidates by the number of places to be filled, and then dividing by two. Any excess of the sum so ascertained shall be a majority within the meaning of this Section.

Sec. 7. If, in ascertaining the result in this way, it appears that more candidates have obtained this majority than there are places to be filled, then those having the highest vote, if beyond the majority just defined, shall be declared elected. When none of the candidates receive a majority as defined and set out in this Section, those candidates equal in number to the places to be filled and having the highest number of votes shall be declared elected.

Sec. 8. When, in any election, by reason of an unexpired term or terms, more than two members of the board are to be elected, those two persons receiving the highest number of votes in the election shall be declared elected for full six-year terms, and the person or persons receiving the next highest number of votes shall be declared to be elected to the unexpired term or terms; those receiving the highest number of votes being elected to the longer of the unexpired terms.

Sec. 9. Members of the Asheville-Buncombe County Board of Education shall be residents of Buncombe County. Members of the board shall meet all eligibility requirements as prescribed by Section 115-25 of the Public School Laws of North Carolina and Article XIV, Section 7 of the Constitution.

Sec. 10. For the fiscal year beginning July 1 of the year of consolidation of the two boards of education, the members of the Buncombe County Board of Education and the members of the Asheville City Board of Education, acting jointly and by a

majority vote of all members present, shall determine the amount and contents of the supplemental budget requested for the fiscal year beginning July 1 of that year, and shall give the Board of Commissioners of Buncombe County due notice thereof in time to include said tax with all other taxes to be levied by said board of commissioners for that year, and the said two boards of education, acting in like manner, shall prepare and submit to the said board of commissioners the capital outlay, debt service, and current expense budgets for that fiscal year within the time prescribed by law. The Board of Commissioners of Buncombe County may approve or disapprove the supplemental budget in whole or in part and shall levy such tax as necessary to provide for the approved budget for supplemental purposes, not exceeding the amount of the tax levy authorized by vote of the people. The expenditure of the proceeds of said levy shall be in accordance with the aforesaid supplemental budget as approved by the Board of Commissioners of Buncombe County. In the event of a disagreement between the Buncombe County Board of Education and the Asheville City Board of Education acting jointly, on the one hand, and the Board of Commissioners of Buncombe County on the other hand, as to the amount of the supplemental tax levy to be made, such disagreement shall be resolved by the procedure provided by the General Statutes of North Carolina, Section 115-87 and Section 115-88.

Sec. 11. Each year following the consolidation of the two boards of education, at the same time the other budgets are filed, the Asheville-Buncombe County Board of Education shall file a supplemental budget and request that a sufficient levy be made by the Board of Commissioners of Buncombe County on all taxable property located within said county not to exceed the rate voted by the people in said county. The Board of Commissioners of Buncombe County may approve or disapprove the supplemental budget in whole or in part, and shall levy such taxes as necessary to provide for the approved budget for supplemental purposes, not exceeding the amount of the tax levy authorized by the vote of the people. The expenditure of the proceeds of said levy shall be in accordance with the aforesaid supplemental budget as approved by the Board of Commissioners of Buncombe County. In the event of a disagreement between the Asheville-Buncombe County Board of Education and the Board of Commissioners of Buncombe County as to the amount of the supplemental tax levy to be made, such disagreement shall be resolved by the procedure provided by the General Statutes of North Carolina, Section 115-87 and Section 115-88.

Sec. 12. The Asheville-Buncombe County Board of Education, following the consolidation as aforesaid, shall employ a Superintendent of Schools for a term not exceeding four years. The board shall employ a Comptroller-Treasurer who shall be bonded and subject to the administration and supervision of the Superintendent. The Comptroller-Treasurer shall serve as treasurer of all public and other funds accruing to the Asheville-Buncombe County Board of Education and maintain proper accounting records, including bank accounts, ledgers, journals and such other records as may be necessary, the establishment and maintenance of a system of internal controls for the proper protection of funds and property of the public school system; he shall assist with the preparation of the annual school budget; he shall keep up to date records of

unencumbered balances of appropriations and shall make such financial and statistical reports as may be required or appropriate for the information and guidance of all concerned; and he shall perform such other duties as may, from time to time, be assigned to him by the Superintendent of Schools or the Asheville-Buncombe County Board of Education.

Sec. 13. All tax monies, and all other funds, accruing to the Asheville-Buncombe County Board of Education, levied for current expense, capital outlay and special supplement, shall be deposited by the Buncombe County Tax Collector and/or the County Accountant and Treasurer into the bank account or accounts of the Asheville-Buncombe County Board of Education as collected and audited. All other funds which by law are to be used for school purposes (excluding debt service and capital reserve funds) and which are collected by the Buncombe County Auditor and Treasurer, Tax Collector, or any person or persons authorized by law to collect public monies, shall be paid directly upon collection to the Comptroller-Treasurer of the Asheville-Buncombe County Board of Education.

Sec. 14. In addition to the election of a Chairman in accordance with the provisions of Chapter 115-26 of the General Statutes, the Asheville-Buncombe County Board of Education may also select one of its members as Vice Chairman who shall preside at all meetings of the board in the absence of the Chairman, and whenever the board shall have duly authorized the execution of any contract, conveyance, or other instruments, the Vice Chairman shall have the same authority as the Chairman to execute the same on behalf of the board. In the event of absence or inability of both the Chairman and Vice Chairman, the board, by resolution duly adopted and spread upon the minutes of any meeting, may authorize any other member to preside at any regular meeting.

Sec. 15. The Superintendent of Schools shall be ex officio Secretary of the Board as provided by G. S. 115-56. The board may elect an Assistant Secretary to serve at the pleasure of the board. The Assistant Secretary may be, but shall not be required to be, a member of the board. Such Assistant Secretary may perform the duties of the Secretary of the board when the Secretary is absent from any meeting or for any other reason is unable to perform his duties as Secretary. The Assistant Secretary shall have authority to attest all contracts, conveyances, and other instruments which are required by law to be attested by the Secretary. The Secretary, or in his absence the Assistant Secretary, shall keep the minutes of all meetings of the board and it shall be the duty of such Secretary or Assistant Secretary to furnish each member of the board with a copy of the minutes as soon after any meeting as may be reasonably practicable.

Sec. 16. In addition to the election of a Superintendent of Schools in the manner provided by the general law, the board may employ, upon recommendation of the Superintendent, such Associate Superintendents and Assistant Superintendents and such other administrative officers as it may deem necessary and proper, and prescribe their duties. They may be elected to serve at the pleasure of the board or for such terms as may be fixed by the board, but the terms of any Associate Superintendents or Assistant Superintendents shall not exceed the term for which the Superintendent is

employed. All principals, supervisory personnel, and teachers shall be employed by the board, upon recommendation of the Superintendent. The board may delegate to the Superintendent of Schools, or to one or more Associate Superintendents or Assistant Superintendents or to other administrative officers, authority to employ and prescribe the duties of all other employees or classes of employees, including janitors and maids, and to fix the compensation within such limits as the board may prescribe and to determine the terms or periods for which they shall be employed. The compensation of administrative officers of the board shall be fixed by the board. Out of any local supplement the board may pay to any employee or employees such compensation, in addition to compensation paid such employee or employees by the State, as it may deem proper. Article 7 of Chapter 115 of the General Statutes (School Committees) shall not apply to Buncombe County.

Sec. 17. A majority of the full membership of the Asheville-Buncombe County Board of Education shall constitute a quorum.

Sec. 18. The Asheville-Buncombe County Board of Education may appoint an advisory council for any school or school district within the system. The purpose and function of an advisory council shall be to serve in an advisory capacity to the board on matters affecting the school or school district for which it is appointed. The organization, terms, composition and regulations for the operation of such advisory councils shall be determined by the board.

Sec. 19. Title to all property of the Asheville City Board of Education, both real and personal, of every kind and description, shall be vested in the Asheville-Buncombe County Board of Education as of the effective date of consolidation.

Sec. 20. All claims and demands of every kind which the Asheville City Board of Education may have as of the effective date of consolidation shall pass and be transferred to the Asheville-Buncombe County Board of Education and the Asheville-Buncombe County Board of Education shall have the same power and authority to enforce said claims and demands as the Asheville City Board of Education would have had in the event of its continuing existence. Any obligations or liabilities of the Asheville City Board of Education existing as of the effective date of consolidation shall be and become the obligations and liabilities of the Asheville-Buncombe County Board of Education, and such obligations and liabilities may be enforced against said Asheville-Buncombe County Board of Education to the same extent that they might have been enforced against the Asheville City Board of Education had the city board continued in existence.

Sec. 21. The preceding Sections of this Act shall become operative on July 1, 1968, provided all the following are met:

(1) An election is called and held in Buncombe County on a county-wide basis prior to January 1, 1968, on the question of providing a supplemental school tax not to exceed fifty cents (50¢) on the one hundred dollars (\$100.00) assessed valuation.

(2) A majority of the votes cast in the election favor said supplemental tax on a county-wide basis.

(3) The Asheville City Board of Education petition the Buncombe County Board of Education and the State Board of Education for consolidation of the Asheville City Administrative Unit and the Buncombe County Administrative Unit under this Act and the General Statutes of North Carolina, 115-74.

(4) The Buncombe County Board of Education approve said consolidation.

(5) The State Board of Education approve said consolidation.

Provided that in any county-wide supplemental school tax election in Buncombe County in the event that a majority of votes cast are in favor of the assessment of a supplemental school tax, not to exceed fifty cents (50¢) on the one hundred dollars (\$100.00) valuation of property, real and personal, the rate of such tax for any year prior to July 1, 1969, may be such as the Asheville City Board of Education and the Buncombe County Board of Education fix and determine by joint action, not to exceed fifty cents (50¢) on the one hundred dollars (\$100.00) valuation, real or personal; and for any year after July 1, 1969, the rate of such tax may be such as the Asheville-Buncombe County Board of Education shall fix and determine, not to exceed fifty cents (50¢) on the one hundred dollars (\$100.00) valuation of property, real and personal; and the Board of County Commissioners of Buncombe County shall have the authority to levy and collect a tax not exceeding the amount so authorized beginning with the fiscal year next succeeding said election.

Sec. 22. As of the effective date of consolidation, all provisions of the Charter of the City of Asheville relating to public schools shall be hereby repealed.

Sec. 23. The provisions of this Act shall prevail over any inconsistent provisions of Chapter 115 of the General Statutes of North Carolina and other general or special Acts.

Sec. 24. If any clause, sentence, paragraph or provision of this Act shall for any reason be adjudged by any court unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Act but shall be confined in its operation to the clause, sentence, paragraph or provision adjudged unconstitutional or invalid.

Sec. 25. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1965.