

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1991**

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**SENATE BILL 1081\***

Short Title: School Mergers Validated.

(Public)

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Sponsors: Senator Hunt.

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Referred to: Education.

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June 2, 1992

**A BILL TO BE ENTITLED**

**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.

1 Arguments in litigation that G.S. 115C-35, 115C-37 and 153A-76(4) should restrict  
2 local settlement of merger issues need to be disposed of so the mere presence of the  
3 litigation will not disrupt past, current, and future mergers and the ongoing  
4 implementation of merger in numerous school units.

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

7 "**§ 115C-68.3. Validation of plans of consolidation and merger.**

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

13 Sec. 3. For the purpose of clarification, G.S. 115C-67(3)b. reads as rewritten:

14 "b. The method of constituting and continuing the board of ~~education,~~  
15 ~~education;~~ the manner of selection of board members, including (i) the  
16 number of members of the board, (ii) the method of their election or  
17 appointment, (iii) whether members shall be nominated, elected, or  
18 appointed from districts or at large, (iv) the manner of determining the  
19 nominee, and (v) whether the election shall be partisan or nonpartisan;  
20 the length of the members' terms of ~~office,~~ ~~office;~~ the dates of  
21 induction into ~~office,~~ ~~office;~~ the organization of the ~~board,~~ ~~board;~~ the  
22 procedure for filling ~~vacancies,~~ ~~vacancies;~~ and the compensation to be  
23 paid members of the board for expenses incurred in performance of  
24 their duties. To the extent that the method conflicts with G.S. 115C-35,  
25 G.S. 115C-37, or with any local act concerning any of the units being  
26 merged and consolidated, the plan of merger and consolidation shall  
27 prevail."

28 Sec. 4. Sections 1 and 2 of this act are effective upon ratification. Section 3  
29 of this act becomes effective July 1, 1981.