

## SUBCHAPTER III. SCHOOL DISTRICTS AND UNITS.

### Article 7.

#### Organization of Schools.

#### **§ 115C-65. State divided into districts.**

The State of North Carolina shall be divided into eight educational districts, which shall match the composition of the zones set forth in G.S. 143B-28.1. (1955, c. 1372, art. 1, s.3; 1981, c. 423, s.1; 2014-18, s. 3.4.)

#### **§ 115C-66. Administrative units classified.**

Each county of the State shall be classified as a county school administrative unit, the schools of which, except in city administrative units, shall be under the general supervision and control of a county board of education with a county superintendent as the administrative officer.

A city school administrative unit shall be classified as an area within a county or adjacent parts of two or more contiguous counties which has been or may be approved by the State Board of Education as such a unit for purposes of school administration. The general administration and supervision of a city administrative unit shall be under the control of a board of education with a city superintendent as the administrative officer.

All local school administrative units, whether city or county, shall be dealt with by the State school authorities in all matters of school administration in the same way.

For purposes of eligibility for federal grant funds, the Department of Health and Human Services is hereby classified as a public authority, which is the school administrative agency for the schools that it operates, and shall be considered as such by the State school authorities in the administration and distribution of federal grant funds. (1955, c. 1372, art. 1, s. 4; 1981, c. 423, s. 1; 2005-276, s. 7.54(b).)

#### **§ 115C-66.5. Merger of county school administrative units by the State Board of Education.**

(a) Consolidation and Merger. – The State Board of Education shall have the authority to consolidate and merge contiguous county school administrative units or a group of county school administrative units in which each county unit is contiguous with at least one other county unit in the group. The State Board shall adopt a written plan setting forth the conditions of the merger. A merger of county units and reorganization of those units under this section shall not have the effect of abolishing any special taxes that may have been voted in any such units.

(b) Effective Date. – The merger shall become effective on July 1 immediately following the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the State Board approved the merger. If a bill that specifically disapproves the merger is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the merger becomes effective on the July 1 immediately following the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the merger. A merger that is specifically disapproved by a bill enacted into law before it becomes effective does not become effective.

(c) Legislative Disapproval of Merger. – A bill specifically disapproves a merger if it contains a provision that refers to the written plan of merger and states that the merger is disapproved. Notwithstanding any rule of either house of the General Assembly, any member of

the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove a merger that has been approved by the State Board and that has not become effective. (2015-241, s. 8A.5.)

**§ 115C-67. Merger of units in same county.**

City school administrative units may be consolidated and merged with contiguous city school administrative units and with county school administrative units upon approval by the State Board of Education of a plan for consolidation and merger submitted by the boards of education involved and bearing the approval of the board of county commissioners.

County and city boards of education desiring to consolidate and merge their school administrative units may do so by entering into a written plan which shall set forth the conditions of merger. The provisions of the plan shall be consistent with the General Statutes and shall contain, but not be limited to, the following:

- (1) The name by which the merged school administrative unit shall be identified and known.
- (2) The effective date of the merger.
- (3) The establishment and maintenance of a board of education which shall administer all the public schools of the newly created unit, including:
  - a. The termination of any terms of office proposed in the reorganization of the board.
  - b. The method of constituting and continuing the board of 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; the dates of induction into office; the organization of the board; the procedure for filling 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.
- (4) The authority, powers, and duties of the board of education with respect to the employment of personnel, the preparation of budgets, and any other related matters which may be particularly applicable to the merged unit not inconsistent with the General Statutes.
- (5) The transfer of all facilities, properties, structures, funds, contracts, deeds, titles, and other obligations, assets and liabilities to the board of education of the merged unit.
- (6) Whether or not there shall be continued in force any supplemental school tax which may be in effect in either or all local school administrative units involved.
- (7) A public hearing, which shall have been announced at least 10 days prior to the hearing, on the proposed plan of merger.

- (8) A statement as to whether the question of merger, in accordance with the projected plan, is to be contingent upon approval of the voters in the affected area.
- (9) Any other condition or prerequisite to merger, together with any other appropriate subject or function that may be necessary for the orderly consolidation and merger of the local school administrative units involved.

The plan referred to above shall be mutually agreed upon by the city and county boards of education involved and shall be accompanied by a certification that the plan was approved by the board of education on a given day and that the action has been duly recorded in the minutes of said board, together with a certification to the effect that the public hearing required above was announced and held. The plan, together with the required certifications, shall then be submitted to the board of county commissioners for its concurrence and approval. After such approval has been received, the plan shall be submitted to the State Board of Education for the approval of said State Board and the plan shall not become effective until such approval is granted. Upon approval by the State Board of Education, the plan of consolidation and merger shall become final and shall be deemed to have been made by authority of law and shall not be changed or amended except by an act of the General Assembly. The written plan of agreement shall be placed in the custody of the board of education operating and administering the public schools in the merged unit and a copy filed with the Secretary of State.

The plan may be, but it is not required that it be, submitted for the approval of the voters of the geographic area affected in a referendum or election called for such purpose, and such elections or referendums if held shall be held under the provisions governing elections or referendums as set forth in G.S. 115C-507, with authority of the board of county commissioners to have such election or referendum conducted by the board of elections of the county.

Upon approval of the plan of consolidation or merger by the State Board of Education, or upon approval of the plan of consolidation or merger by the voters in a referendum or election called for such purpose, and as soon as a provisional or interim board of education of the merged unit, or a permanent board of education of the merged unit, enters in and upon the duties of the administration of the public schools of the consolidated or merged unit, then the former boards of education and all public officers of the former boards of education of the separate units thus merged shall stand abolished, and said separate boards of education or administrative units thus merged shall stand dissolved and shall cease to exist for any and all purposes. All consolidations and mergers of county and city boards of education and of county and city school administrative units heretofore agreed to and finally approved, and all consolidation or merger proceedings entered into prior to June 9, 1969, are hereby declared to be effective, legal and according to law notwithstanding any defect in the merger or consolidation proceedings and notwithstanding any dissolution of the separate boards of education and public officers of the former, separate school units. (1967, c. 643, s. 3; 1969, c. 742; 1981, c. 423, s. 1; 1991 (Reg. Sess., 1992), c. 767, s. 3.)

#### **§ 115C-68. Merger of units in adjoining counties.**

(a) Boards of education of contiguous counties or boards of education in a group of counties in which each county is contiguous with at least one other county in the group, and any city school administrative unit located in counties to be merged, may merge school administrative units upon approval by the State Board of Education of a written plan for merger submitted by the boards of education involved and bearing the approval of the tax-levying body for the school units. The plan shall be consistent with the General Statutes, shall contain

provisions covering those items listed in G.S. 115C-67 (providing for the merger of units in the same county), and shall contain any other provision deemed necessary or appropriate by the State Board of Education or the local boards of education for the merger of school units in two or more counties.

(b) The plan of merger, including any arrangements for financing or taxing for the schools in the new local school administrative unit, may be, but is not required to be, submitted for the approval of the voters of the geographic area affected in a referendum or election called for the purpose of approving these matters. Such elections or referendums, if held, shall be held under the provisions governing elections or referendums as set forth in G.S. 115C-507. Each board of county commissioners shall have authority to have such elections or referendums conducted by the board of elections of its county under the provisions set forth in G.S. 115C-507.

(c) If twenty percent (20%) of the qualified voters of a county to be merged petition the board of county commissioners of their county for an election as to whether their county shall be included in the proposed merger, the board of county commissioners shall call an election on this question for its county under the provisions of G.S. 115C-507. The petition must be submitted to the board of county commissioners within 10 days following the public hearing required by G.S. 115C-67 on the proposed plan of merger. The board of county commissioners shall have authority to have such an election conducted by the board of election of its county under the provisions set forth in G.S. 115C-507.

(d) Boards of education considering a merger of two or more counties may spend money necessary for studying and preparing for such a merger. (1969, c. 828; 1981, c. 423, s. 1.)

#### **§ 115C-68.1. Merger of units by the board of commissioners.**

(a) The board of commissioners of a county in which two or more local school administrative units are located, but all are located wholly within the county, may adopt a plan for the consolidation and merger of the units into a single countywide unit.

The plan adopted under this subsection shall require that the county adopting the plan provide local funding per average daily membership to the resulting local school administrative unit for subsequent years of at least the highest level of any local school administrative unit in the county during the preceding five fiscal years before the merger.

The board of commissioners shall forward a copy of the plan it adopts to the boards of education of all local school administrative units located within the county, immediately upon adoption.

(b) The boards of commissioners of two counties in which one local school administrative unit is located in both counties may jointly adopt plans for each of their counties, including a plan of consolidation and merger for such unit that is located in more than one county. The results of such consolidation and merger shall be that there is only one countywide local school administrative unit in each county, or that the entirety of the unit located within two counties is merged and consolidated with the county unit of one of the two counties. Such plans shall also merge and consolidate any other city school administrative unit located wholly within one of the two counties. Within the two-county area, all the plans shall take effect on the same day.

The plans jointly adopted under this subsection shall require that the counties jointly adopting the plans provide local funding per average daily membership to the resulting local

school administrative units for subsequent fiscal years of at least the highest level of any local school administrative unit being merged during the preceding five fiscal years before the merger.

The boards of commissioners of each of the two counties shall forward copies of the plans they adopt to the boards of education of all local school administrative units located within the county, immediately upon adoption.

(c) The plans under this section shall be prepared and approved in accordance with G.S. 115C-67 as provided by general law, or G.S. 115C-68 as provided by general law, as applicable, except that the county and city boards of education shall not participate by preparing, entering into, submitting, or agreeing to a plan, and the plan shall not be contingent upon approval of the voters.

(d) For the purpose of this section, local funding per average daily membership means the budgeted local expense per average daily membership. The State Board of Education shall establish guidelines for the computation of this amount and the amount shall be set out in the plan for consolidation and merger.

(e) If the State Board of Education fails to approve a plan submitted to it under this section, such failure to approve does not preclude the approval of the plan by the General Assembly by local act. (1991, c. 689, s. 37(b).)

#### **§ 115C-68.2. Merger of units by the local boards of education.**

If a city board of education notifies the State Board of Education that it is dissolving itself, the State Board of Education shall adopt a plan of consolidation and merger of that city school administrative unit with the county school administrative unit in the county in which the city unit is located; provided, however, if a city school administrative unit located in more than one county notifies the State Board of Education that it is dissolving itself, the State Board shall adopt a plan that divides the city unit along the county line and consolidates and merges the part of the city unit in each county with the county unit in that county and the plans shall take effect on the same day. The plans shall be prepared and approved in accordance with G.S. 115C-67 as provided by general law, and G.S. 115C-68 as provided by general law, as applicable, except that the county and city boards of education and the boards of commissioners shall not participate by preparing, entering into, submitting, or agreeing to a plan, and the plan shall not be contingent upon approval by the voters. (1991, c. 689, s. 37(c).)

#### **§ 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). (1991 (Reg. Sess., 1992), c. 767, s. 2; c. 1030, s. 51.2.)

#### **§ 115C-69. Types of districts defined.**

The term "district" here used is defined to mean any convenient territorial division or subdivision of a county, created for the purpose of maintaining within its boundaries one or more public schools. It may include one or more incorporated towns or cities, or parts thereof, or one or more townships, or parts thereof, all of which territory is included in a common boundary. There shall be three different kinds of districts:

- (1) The "nontax district" is a territorial division of a local school administrative unit under the control of the local board of education, having no special local tax fund voted by the people for supplementing State and county funds.
- (2) The "local tax district" is a territorial division of a local school administrative unit under the control of the local board of education, having in addition to State and county funds, a special local tax fund voted by the people for supplementing State and county funds.
- (3) The "administrative district" is a territorial division of a county school administrative unit under the control of a county board of education which is established for administrative purposes and which consists of any combination of one or more local tax districts, nontax areas or bond districts of the county school administrative unit. (1955, c. 1372, art. 1, s. 7; 1965, c. 584, s. 1; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 12.)

**§ 115C-70. Repealed by Session Laws 1985 (Regular Session, 1986), c. 975, s. 24.**

**§ 115C-71. Districts formed from portions of contiguous counties.**

School districts may be formed out of contiguous counties by agreement of the county boards of education of the respective counties subject to the approval of the State Board of Education. Rules for the organization, support and operation of districts so formed are subject to the agreement of the boards of education concerned, and as a guide to the working out of such agreements the formulas contained in G.S. 115C-510 should be followed as far as applicable. (1955, c. 1372, art. 8, s. 2; 1981, c. 423, s. 1.)

**§ 115C-72. Consolidation of districts and discontinuance of schools.**

(a) Local boards of education shall have the power and authority to close or consolidate schools located in the same district, and with the approval of the State Board of Education, to consolidate school districts or other school areas over which the board has full control, whenever and wherever in its judgment the closing or consolidation will better serve the educational interest of the local school administrative unit or any part of it.

In determining whether two or more public schools shall be consolidated, or in determining whether or not a school shall be closed and the pupils transferred therefrom, local boards of education of the several counties shall observe and be bound by the following rules:

- (1) In any question involving the closing or consolidation of any public school, the local board of education of the school administrative unit in which such school is located shall cause a thorough study of such school to be made, having in mind primarily the welfare of the students to be affected by a proposed closing or consolidation and including in such study, among other factors, geographic conditions, anticipated increase or decrease in school enrollment, the inconvenience or hardship that might result to the pupils to be affected by such closing or consolidation, the cost of providing additional school facilities in the event of such closing or consolidation, and such other factors as the board shall consider germane. Before the entry of any order of closing or consolidation, the local board of education shall provide for a public hearing in regard to such proposed closing or consolidation, at which hearing the public shall be afforded an opportunity to express their views.

Upon the basis of the study so made and after such hearing, said board may, in the exercise of its discretion, approve the closing or consolidation proposed.

- (2) The provisions of this section shall not deprive any local board of education of the authority to assign or enroll any and all pupils in schools in accordance with the provisions of G.S. 115C-366(b) and 115C-367 to 115C-370.

(b) This section does not govern merger of a city school administrative unit with another school administrative unit. Such merger is governed by G.S. 115C-67. (1955, c. 1372, art. 8, s. 3; 1981, c. 423, s. 1; 1983, c. 308; c. 752; 2009-570, s. 27.)

### **§ 115C-73. Enlarging tax districts and city units by permanently attaching contiguous property.**

The county boards of education with the approval of the State Board of Education may transfer from nontax territory and attach permanently to local tax districts or to city school administrative units, real property contiguous to said local tax districts or city school administrative units, upon the written petition of the owners thereof and the taxpayers of the families living on such real property, and there shall be levied upon the property of each individual in the area so attached, including landowners and tenants, the same tax as is levied upon other property in said district or unit: Provided, that such transfer shall be subject to the approval of the board of education of such city unit: Provided, the petition must be signed by a majority of the persons who are the owners thereof and a majority of the taxpayers of the families living on such real property on the date the petition is filed with the county board of education: Provided, further, that a person or corporation owning only an easement in real property shall not be considered an owner of said property within contemplation of this section: Provided, further that no right of action or defense founded upon the invalidity of such transfer shall be asserted, nor shall the validity of such transfer be open to question in any court upon any ground whatever, except in an action or proceeding commenced within 60 days after the approval of such transfer is given by the State Board of Education.

Any qualified voter residing in the area attached shall be permitted to vote in any election for members of the board of education having jurisdiction over the attached area. (1955, c. 1372, art. 8, s. 4; 1959, c. 573, s. 4; 1971, c. 672; 1973, c. 1155; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 13.)

### **§ 115C-74. School system defined.**

The school system of each local school administrative unit shall consist of 12 years of study or grades, and shall be graded on the basis of a school year of not less than nine months. Schools within the system may be organized in the discretion of the local board of education. (1955, c. 1372, art. 1, s. 5; 1959, c. 573, s. 1; 1981, c. 423, s. 1; 2001-97, s. 1.)

### **§ 115C-75. Recommended school classification.**

(a) The different types of public schools are classified and defined as follows:

- (1) An "elementary school" is a school that includes all or part of the first through eighth grade and that may have a kindergarten or other early childhood program.
- (2) A "high school" is a school that includes all or part of grades nine through 12 and that offers at least the minimum high school course of study prescribed by the State Board of Education.

- (3) Repealed by Session Laws 2001-97, s. 2.
- (4) A "junior high school" is a school that includes all or part of grades seven through nine.
- (4a) A "middle school" is a school that includes all or part of grades six through nine.
- (5) A "senior high school" is a school that includes the tenth, eleventh and twelfth grades.
- (6) A "union school" is a school that includes elementary, middle, and high school grades.

(b) The school classifications in subsection (a) of this section are recommendations only and do not prohibit local boards of education from classifying schools in other ways. (1955, c. 1372, art. 1, s. 6; 1959, c. 915, s. 1; 1963, c. 448, s. 24; 1969, c. 1213, s. 2; 1981, c. 423, s. 1; 2001-97, s. 2.)

**§ 115C-75.1:** Reserved for future codification purposes.

**§ 115C-75.2:** Reserved for future codification purposes.

**§ 115C-75.3:** Reserved for future codification purposes.

**§ 115C-75.4:** Reserved for future codification purposes.