

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 721
SENATE BILL 308

AN ACT TO AMEND CHAPTER 559, PUBLIC-LOCAL LAWS OF 1935, RELATING TO THE ISSUANCE OF SCHOOL BUILDING BONDS IN BEHALF OF SCHOOL DISTRICTS AND SPECIAL BOND TAX UNITS AND THE LEVY OF TAXES WITHIN SUCH DISTRICTS AND UNITS FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST OF SUCH BONDS, BY PROVIDING FOR THE DISSOLUTION OF SCHOOL DISTRICTS, THE SEPARATION FROM AND ANNEXATION TO SCHOOL DISTRICTS, THE CONSOLIDATION OF SCHOOL DISTRICTS, THE ENLARGEMENT OF SCHOOL DISTRICTS, THE AUTHORIZATION OF SCHOOL BUILDING BONDS, AND THE VALIDATION OF SCHOOL DISTRICTS HERETOFORE CREATED UNDER SAID CHAPTER.

The General Assembly of North Carolina do enact:

Section 1. That Chapter 559, Public-Local Laws of 1935, be and the same is hereby amended by adding a Section thereto to be numbered 10-C and to be as follows:

"Sec. 10-C. In any school district created as authorized by this Act which has no outstanding indebtedness fifty-one per centum (51%) or more of the qualified voters therein may petition the County Board of Education of the county in which such school district is located to dissolve such school district. Upon receipt of such petition, the County Board of Education shall cause notice to be given, by posting at the courthouse door and at three public places in such school district and by three weekly publications in a newspaper circulating therein, that on a date named in such notice, which shall not be earlier than twenty (20) days after the posting and first publication of such notice, it will hold a public hearing, at a place in the county designated in such notice, upon the question of dissolving the school district comprising the territory described in such petition and set forth in such notice, and that any taxpayer or other interested person in the school district may appear and be heard. At the time and place stated in such notice, the County Board of Education shall hear all interested persons and may adjourn the hearing from time to time.

"If, after such hearing, the County Board of Education shall deem it advisable to comply with the request of such petition it shall adopt a resolution to that effect, whereupon the school district shall be deemed dissolved. Said County Board of Education shall certify a copy of such resolution to the Board of County Commissioners of the county in which the school district was located and shall cause a notice in substantially the following form to be published once in a newspaper circulating in the territory formerly embraced in the school district:

"Pursuant to the provisions of Chapter 559, of the Public-Local Laws of North Carolina of 1935, as amended, and by resolution of the County Board of Education adopted on _____, 19____, the _____ School District of _____County has been dissolved.

Any action or proceeding questioning the validity of the dissolution of said school district must be commenced within thirty (30) days after the publication of this notice.

Secretary
County Board of Education.

Any action or proceeding in any court to set aside the dissolution of a school district or to obtain any other relief upon the ground that such dissolution is invalid must be commenced within thirty (30) days after the publication of such notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of such dissolution shall be asserted nor shall the validity of such dissolution be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period."

Sec. 2. That said Chapter 559, Public-Local Laws of 1935, be and the same is hereby further amended by adding a Section thereto to be numbered 10-D and to be as follows:

"Sec. 10-D. Upon its receipt of a petition, signed by ten per centum (10%) or more of the qualified voters in any contiguous area of a school district created as authorized by this Act (such school district being hereinafter in this Section called the 'original school district'), describing such area (hereinafter in this Section called the 'petitioning area') and requesting that the petitioning area be separated from the original school district and annexed to another school district in the same county created as authorized by this Act which is contiguous to the petitioning area (such other school district being hereinafter in this Section called the 'annexing school district'), the County Board of Education of the county in which such school districts are located shall cause notice to be given, by posting at the courthouse door and at three public places in the petitioning area and by three weekly publications in a newspaper circulating in such school districts, that on a date named in such notice, which shall not be earlier than twenty (20) days after the posting and first publication of such notice, it will hold a public hearing, at a place in the county designated in such notice, upon the question of separating the petitioning area from the original school district and annexing the petitioning area to the annexing school district, and that any taxpayer or other interested person in the petitioning area or in either of such school districts may appear and be heard. The notice of such public hearing shall state that if the petitioning area shall be separated from the original school district and annexed to the annexing school district the property in the petitioning area shall, from and after the annexation of the petitioning area to the annexing school district, be taxable for payment of all indebtedness of the annexing school district then outstanding and thereafter incurred and shall continue to be taxable for payment of the then outstanding indebtedness of the original school district. At the time and place stated in such notice, the County Board of Education shall hear all interested persons and may adjourn the hearing from time to time.

"If the County Board of Education after such hearing shall find that the separation of the petitioning area from the original school district and its annexation to the annexing school district will be in the best interests of the inhabitants of the petitioning area and such school districts and shall approve the petition, it shall request the Board of County Commissioners of the county to call an election in the petitioning area, in the original school district and in the annexing school district upon the question of separating the petitioning area from the original school district and annexing the petitioning area to the annexing school district. Such election in the petitioning area, in the original school district and in the annexing school district shall be held on the same day, and such election and the registration of voters therefor shall be held pursuant to a single notice. A new registration of the qualified voters in such school districts shall be ordered by the Board of County Commissioners; provided, however, that if an election shall previously have been held in either of such school districts, a supplemental registration of all qualified voters not theretofore registered may, at the discretion of the Board of County Commissioners, be ordered and held in such school district. The notice of such election shall state the question to be submitted, the date of the election, the places at which the election will be held, the boundary lines of the petitioning area, the boundary lines of each of such school districts, unless either of such school districts is coterminous with a city or town in which event the notice shall so state, the boundary lines of the original school district outside the petitioning area, and the amount of the outstanding indebtedness, if any, of the original school district and of the annexing school district, and that if the petitioning area is separated from the original school district and annexed to the annexing school district the property in the petitioning area shall, from and after the annexation of the petitioning area to the annexing school district, be taxable for payment of all indebtedness of the annexing school district then outstanding and thereafter incurred and shall continue to be taxable for payment of the then outstanding indebtedness of the original school district. The form of the question, as stated on the ballot or ballots, shall be substantially in the following words:

'Shall the following described area: (here describe the area) be separated from the _____ School District of _____ County and annexed to the _____ School District of _____ County?', and squares shall be placed on the ballot opposite such question for the voter to indicate his approval or disapproval.

"The other provisions of this Act relating to the calling and holding of an election, to the giving of notice and to the making, canvassing and certifying the returns of such election shall be followed and shall apply to any election held under the provisions of this Section as nearly as the same can be made adaptable and applicable thereto.

"If a majority of the qualified voters voting at such election in the petitioning area and a majority of the qualified voters voting at such election in the original school district outside the petitioning area and a majority of the qualified voters voting at such election in the annexing school district shall vote in favor of the separation of the petitioning area from the original school district and its annexation to the annexing school district, the petitioning area shall be deemed to be separated from the original school district and annexed to the annexing school district from and after the date of such election, and from and after such date the property in the petitioning area shall be

taxable for payment of all indebtedness of the annexing school district then outstanding and thereafter incurred and shall continue to be taxable for payment of the then outstanding indebtedness of the original school district.

"The Board of County Commissioners shall canvass the returns of any such election in the petitioning area, in the original school district outside the petitioning area, and in the annexing school district, and shall judicially determine the result of such election. If the vote in the petitioning area, in the original school district outside the petitioning area, and in the annexing school district, shall be in favor of the separation of the petitioning area from the original school district and its annexation to the annexing school district, the Board of County Commissioners shall prepare and adopt a statement showing the number of votes cast in the affirmative and the number of votes cast in the negative in such election on such question in the petitioning area, in the original school district outside the petitioning area, and in the annexing school district, and shall declare the result of such election and state that the property in the petitioning area is and shall be from and after the date of such election taxable for payment of all indebtedness of the annexing school district then outstanding and thereafter incurred and shall continue to be taxable for payment of the then outstanding indebtedness of the original school district. Such statement shall be signed by the Chairman of the Board of County Commissioners and attested by the clerk of said board, who shall record it in the minutes of the Board of County Commissioners and file the original in his office and publish it once in a newspaper published or circulating in such school districts. A notice substantially in the following form shall be published with such statement:

"The foregoing statement was adopted by the Board of County Commissioners for _____ County on the ____ day of _____, 19____, and was published on the _____ day of _____, 19____.

"Any action or proceeding questioning the validity of the separation and annexation of the area mentioned in the foregoing statement must be commenced within thirty (30) days after the publication of said statement.

Clerk, Board of County Commissioners
for _____ County.

Any action or proceeding in any court to set aside the separation of the petitioning area from the original school district and the annexation of the petitioning area to the annexing school district or to obtain any other relief upon the ground that such separation and annexation are invalid must be commenced within thirty (30) days after the publication of such statement and notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of such separation or annexation shall be asserted nor shall the validity of such separation or annexation be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period."

Sec. 3. That said Chapter 559, Public-Local Laws of 1935, be and the same is hereby further amended by adding a Section thereto to be numbered 10-E and to be as follows:

"Sec. 10-E. Upon its receipt of petitions, signed by ten per centum (10%) or more of the qualified voters in each of two or more adjoining school districts in the same county created as authorized by this Act (such school districts being hereinafter in this Section called the 'petitioning school districts'), requesting that the petitioning school districts be consolidated into a single school district (hereinafter sometimes in this Section called the 'consolidated school district'), the County Board of Education of the county in which such school districts are located shall cause notice to be given, by posting at the courthouse door and at three public places in each of such school districts and by three weekly publications in a newspaper circulating in such school districts, that on a date named in such notice, which shall not be earlier than twenty (20) days after the posting and first publication of such notice, it will hold a public hearing, at a place in the county designated in such notice, upon the question of consolidating the petitioning school districts into a single school district, and that any taxpayer or other interested person in the petitioning school districts may appear and be heard. The notice of such public hearing shall state that if the petitioning school districts shall be consolidated into a single school district, the property in each petitioning school district shall continue to be taxable for payment of the then outstanding indebtedness of such petitioning school district and from and after the consolidation of the petitioning school districts into a single school district the property in the consolidated school district shall be taxable for payment of all indebtedness of the consolidated school district thereafter incurred. At the time and place stated in such notice, the County Board of Education shall hear all interested persons and may adjourn the hearing from time to time.

"If the County Board of Education after such hearing shall find that the consolidation of the petitioning school districts will be in the best interests of the inhabitants of the petitioning school districts and shall approve the petition, it shall request the Board of County Commissioners of the county to call an election in each petitioning school district upon the question of consolidating the petitioning school districts into a single school district. Such election in the petitioning school districts shall be held on the same day, and such election and the registration of voters therefor shall be held pursuant to a single notice. A new registration of the qualified voters in the petitioning school districts shall be ordered by the Board of County Commissioners; provided, however, that if an election shall previously have been held in any of the petitioning school districts, a supplemental registration of all qualified voters not theretofore registered may, at the discretion of the Board of County Commissioners, be ordered and held in such school district. The notice of such election shall state the question to be submitted, the date of the election, the places at which the election will be held, the boundary lines of each of the petitioning school districts, unless any such school district is coterminous with a city or town in which event the notice shall so state, and the amount of the outstanding indebtedness, if any, of each of the petitioning school districts, and that if the petitioning school districts shall be consolidated into a single school district, the property in each petitioning school district shall continue to be taxable for payment of the then outstanding indebtedness of such petitioning school district and from and after the consolidation of the petitioning school districts into a single school district the property in the consolidated school district shall be taxable for

payment of all indebtedness of the consolidated school district thereafter incurred. The form of the question, as stated on the ballot or ballots, shall be substantially in the following words: 'Shall the _____ School District of _____ County and the _____ School District of _____ County be consolidated into a single school district to be known as the (here insert the identifying names of the petitioning school districts) Consolidated school District of _____ County?', and squares shall be placed on the ballot opposite such question for the voter to indicate his approval or disapproval.

"The other provisions of this Act relating to the calling and holding of an election, to the giving of notice and to the making, canvassing and certifying the returns of such election shall be followed and shall apply to any election held under the provisions of this Section as nearly as the same can be made adaptable and applicable thereto.

"If a majority of the qualified voters voting at such election in each of the petitioning school districts shall vote in favor of the consolidation of the petitioning school districts into a single school district, the petitioning school districts shall be deemed to be consolidated into a single school district having the name set forth in the ballot or ballots used in such election, and from and after the date of such consolidation the property in the consolidated school district shall be taxable for payment of all indebtedness of the consolidated school district thereafter incurred, and the property in each petitioning school district shall continue to be taxable for payment of the then outstanding indebtedness of such petitioning school district.

"The Board of County Commissioners shall canvass the returns of any such election in the petitioning school districts, and shall judicially determine the result of such election. If the vote in each of the petitioning school districts shall be in favor of the consolidation of the petitioning school districts into a single school district, the Board of County Commissioners shall prepare a statement showing the number of votes cast in the affirmative and the number of votes cast in the negative in such election on such question in each of the petitioning school districts and shall declare the result of such election and state that the property in the consolidated school district shall be taxable for payment of all indebtedness of the consolidated school district thereafter incurred and the property in each petitioning school district shall continue to be taxable for payment of the then outstanding indebtedness of such petitioning school district. Such statement shall be signed by the Chairman of the Board of County Commissioners and attested by the clerk of said board, who shall record it in the minutes of the Board of County Commissioners and file the original in his office and publish it once in a newspaper published or circulating in the petitioning school districts. A notice substantially in the following form shall be published with such statement:

"The foregoing statement was adopted by the Board of County Commissioners for _____ County on the _____ day of _____, 19_____, and was published on the _____ day of _____, 19_____.

"Any action or proceeding questioning the validity of the consolidation of school districts mentioned in the foregoing statement must be commenced within thirty (30) days after the publication of said statement.

Clerk, Board of County Commissioners for
_____ County.

Any action or proceeding in any court to set aside the consolidation of the petitioning school districts into a single district or to obtain any other relief upon the ground that such consolidation is invalid must be commenced within thirty (30) days after the publication of such statement and notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of such consolidation shall be asserted nor shall the validity of such consolidation be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period.

"In determining the limitation on the amount of bonds that may be issued under the provisions of Section 8 of this Act by a consolidated school district, the indebtedness for schools thereof then outstanding shall include the indebtedness of the petitioning school districts then outstanding."

Sec. 4. That said Chapter 559, Public-Local Laws of 1935, be and the same is hereby further amended by adding a Section thereto to be numbered 10-F and to be as follows:

"Sec. 10-F. If, after any school district shall have been created as authorized by this Act, a petition signed by not less than ten per centum (10%) of the qualified voters of any contiguous territory, not a part of any school district, located in the same county in which such school district is located and adjoining such school district shall be presented to the County Board of Education of such county praying that the territory described in the petition be annexed to and included in the school district, the County Board of Education shall publish in a newspaper circulating in such territory and in such school district a notice of the receipt of such petition describing the territory proposed to be annexed to such school district and stating that on a date not less than thirty (30) days after such publication it will hold a hearing on such petition. If the County Board of Education after such hearing shall approve the petition, it shall request the Board of County Commissioners of the county to order an election to be held within the territory described in such petition for the purpose of voting on the question of whether or not such territory shall be annexed to and included within the boundaries of such school district, and the Board of County Commissioners upon being so requested shall order and provide for the holding of such election.

"If at or prior to such hearing there shall be filed with the County Board of Education a petition signed by not less than ten per centum (10%) of the qualified voters of such school district requesting a referendum to be held in such school district on the question of such annexation, the County Board of Education shall request the Board of County Commissioners of the county to cause the question of such annexation to be submitted to the voters within such school district voting separately, and the Board of County Commissioners upon being so requested shall order and provide for the

submission of such question to the voters within such school district. Any such election within a school district shall be held on the same day as the election in the territory proposed to be annexed, and both such elections and the registration of voters therefor shall be held pursuant to a single notice. A new registration of voters in the territory proposed to be annexed shall be ordered by the Board of County Commissioners; provided, however, that if an election shall previously have been held in such school district, a supplemental registration of all qualified voters not theretofore registered may, at the discretion of the Board of County Commissioners, be ordered and held in such school district. The notice of such election shall state (a) the boundary lines of the territory proposed to be annexed to and included within the school district, (b) the boundary lines of the school district after the annexation and inclusion therein of such additional territory, and (c) that if a majority of the qualified voters voting at said election in such territory and, if an election is being held in such school district, a majority of the qualified voters voting at said election in such school district, shall approve such annexation, the territory so annexed to and included within the school district shall be subject to all debts of such school district. The form of the question, as stated on the ballot or ballots, shall be substantially in the following words: 'For annexation to _____ School District of _____ County' and 'Against annexation to _____ School District of _____ County'.

"The other provisions of this Act relating to the calling and holding of an election, to the giving of notice and to the making, canvassing and certifying the returns of such election shall be followed and shall apply to any election held under the provisions of this Section as nearly as the same can be made adaptable and applicable thereto.

"If a majority of the votes cast at the election in the territory proposed to be annexed and if a majority of the votes cast at the election in the school district, in the event that an election was held in the school district, shall be in favor of the annexation of such territory to such school district, the school district shall be deemed to be enlarged from and after the date of declaration of the results of the election or elections and the territory so annexed to and included in the school district shall be subject to all debts of such school district.

"The Board of County Commissioners shall canvass the returns of any election held under the provisions of this Section, and shall judicially determine the result of such election. If the vote in the territory proposed to be annexed and the vote in the school district, if an election was held in the school district, shall be in favor of the annexation of such territory to the school district, the Board of County Commissioners shall prepare and adopt a statement showing the number of votes cast in the affirmative and the number of votes cast in the negative in the election on such question in the territory proposed to be annexed and in the election in the school district, if an election has been held in the school district, and shall declare the result of such election or elections and shall state that the school district shall be deemed to be enlarged from and after the declaration of the results of the election or elections and the territory so annexed to and included in the school districts shall be subject to all debts of such school district. Such statement shall be signed by the Chairman of the Board of County Commissioners and

attested by the clerk of said board, who shall record it in the minutes of the Board of County Commissioners and file the original in his office and publish it once in a newspaper published or circulating in such school district. A notice substantially in the following form shall be published with such statement:

"The foregoing statement was adopted by the Board of County Commissioners for _____ County on the _____ day of _____, 19_____, and was published on the _____ day of _____, 19_____.

"Any action or proceeding questioning the validity of the annexation of the territory mentioned in the foregoing statement must be commenced within thirty (30) days after the publication of said statement.

Clerk, Board of County Commissioners
for _____ County.

Any action or proceeding in any court to set aside the annexations of such territory to the school district or to obtain any other relief upon the ground that such annexation is invalid must be commenced within thirty (30) days after the publication of such statement and notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of such annexation shall be asserted nor shall the validity of such annexation be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period."

Sec. 5. That said Chapter 559, Public-Local Laws of 1935, be and the same is hereby further amended by adding a Section thereto to be numbered 10-G and to be as follows:

"Sec. 10-G. If, at any time or times after any petitioning area shall have been separated from the original school district and annexed to the annexing school district under the provisions of Sec. 10-D of this Act or any two or more petitioning school districts shall have been consolidated into a single school district under the provisions of Sec. 10-E of this Act, or a school district shall have been enlarged under the provisions of Sec. 10-F of this Act, a petition signed by not less than ten per centum (10%) of the qualified voters of such original school district or annexing school district after such separation and annexation or of such consolidated school district after such consolidation or of such enlarged school district after the enlargement thereof shall be presented to the County Board of Education of the county in which such school district is located representing that the issuance of bonds on behalf of such school district is necessary for any of the purposes provided in this Act, the County Board of Education may petition the Board of County Commissioners in which such school district is located to order a special election to be held in such school district for the purpose of voting upon the question of issuing bonds for the purpose or purposes set forth in such petition to the County Board of Education and levying a sufficient tax for the payment thereof. The other provisions of this Act relating to the calling and holding of an election, to the giving of notice, to the making, canvassing and certifying of the returns of such election, to the statement of the results of the election, to the issuing of bonds, and to the levying of taxes to pay the principal of and the interest on such bonds, shall

be followed and shall apply to the issuance of such bonds as nearly as the same can be made adaptable and applicable thereto.

"The provisions of this Act relating to the levying of taxes to pay the principal of and the interest on bonds issued hereunder shall apply to the levying of taxes on property in a petitioning area for payment of the principal of and the interest on bonds of the original school district for which such property is taxable under Sec. 10-D of this Act and to the levying of taxes on property in a petitioning school district for payment of the principal of and the interest on bonds of such petitioning school district for which such property is taxable under Sec. 10-E of this Act."

Sec. 6. Any school district heretofore created or purported to be created under the provisions of said Chapter 559 is hereby declared to be a valid school district, and all proceedings had in the creation or purported creation of any such school district are hereby validated, confirmed and approved and declared sufficient to constitute such school district a valid school district.

Sec. 7. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Sec. 7. (a). This Act shall be applicable only to Pitt County.

Sec. 8. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Sec. 9. 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 13th day of June, 1961.