

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 201*
PROPOSED COMMITTEE SUBSTITUTE S201-PCS85160-RN-3

Short Title: Alamance/Orange Boundary.

(Local)

Sponsors:

Referred to:

March 7, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE COMMON BOUNDARY BETWEEN ALAMANCE COUNTY AND ORANGE COUNTY SUBSEQUENT TO THE 2010/2011 RESURVEYS OF THE TRANSITIONED PROPERTIES, AS AUTHORIZED BY THE NORTH CAROLINA GENERAL ASSEMBLY BY SESSION LAW 2010-61 ENABLING THE CHANGES IN THE HISTORIC ORANGE COUNTY/ALAMANCE COUNTY BOUNDARY LINE AS DESCRIBED IN THE 1849 SURVEY ESTABLISHING ALAMANCE COUNTY, AND TO AMEND SOME SECTIONS OF SESSION LAW 2010-61.

The General Assembly of North Carolina enacts:

SECTION 1. The historic boundary line forming Alamance County from Orange County was described and surveyed in 1849. In the subsequent 160 years, this line became uncertain, resulting in unintentional modifications to the boundary line affecting taxation, school attendance, zoning maps, and elections within and among Alamance County, Orange County, and the Town of Mebane, North Carolina. Pursuant to G.S. 153A-18, entitled "Uncertain or Disputed Boundary," both county commissions passed resolutions (Alamance County, December 17, 2007, and Orange County, January 18, 2008) to request that North Carolina Geodetic Survey (NCGS) perform a preliminary resurvey and present a proposed map for consideration by both counties.

SECTION 2. The Alamance County Board of Commissioners agreed by vote on April 21, 2008, and Orange County on May 20, 2008, to approve authorizing NCGS to conduct the preliminary survey and the placing of monuments by NCGS consistent with their research to form a boundary baseline. On July 8, 2010, the North Carolina General Assembly enacted S.L. 2010-61, which enabled Alamance County and Orange County to transition properties between the two counties for the purpose of recommending to the North Carolina General Assembly a mutually agreed upon boundary line between the two counties.

SECTION 3. Section 3 of S.L. 2010-61 reads as rewritten:

"SECTION 3. In the 160 years since the initial survey of the Alamance County/Orange County boundary line, Alamance and Orange Counties have entered into multiple taxing agreements that have resulted in properties being taxed in one county by the adjoining county. Other situations have arisen in which children of one county attend school in the adjoining county and voters in one county have voted in the adjoining county. The General Assembly recognizes the difficulties in addressing these issues and authorizes Alamance County and



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1 Orange County to maintain the current taxing, elections, education, and any other recognized
2 government functions in place until July 1, 2011. 2012."

3 **SECTION 4.** Section 4 of S.L. 2010-61 reads as rewritten:

4 **"SECTION 4.(a)** ~~On and after July 1, 2011, all papers, documents, and instruments~~
5 ~~required or permitted to be filed or registered that involve residents and property located in~~
6 ~~areas affected by the resurvey of the boundary line that previously may have been recorded in~~
7 ~~the adjoining counties shall be recorded in the county to which the property has been annexed.~~
8 Except as otherwise provided in this act, on and after January 1, 2012, all papers, documents,
9 and instruments required or permitted to be filed or registered, involving residents and property
10 in areas affected by the resurvey of the boundary line, that previously may have been recorded
11 in the adjoining counties shall be recorded in the county to which the property has been
12 reassigned by this act.

13 **"SECTION 4.(b)** All public records related to residents and property located in areas
14 affected by the resurvey of the boundary line that were filed or recorded prior to July 1, 2011,
15 in the adjoining counties shall remain in those respective adjoining counties where filed or
16 recorded, and such records shall be valid public records as to the property and persons
17 involved, even though they are recorded in an adjoining county which is a county where the
18 property is no longer located as evidenced by the 2008 North Carolina Geodetic Survey and the
19 subsequent partial resurvey pursuant to Section 7 of this act.

20 **"SECTION 4.(c)** ~~On and after July 1, 2011, all real and personal property located in areas~~
21 ~~affected by the resurvey of the boundary line that was subject to ad valorem taxation on~~
22 ~~January 1, 2011, shall be subject to ad valorem taxes in the county to which the property is~~
23 ~~annexed for the fiscal year beginning July 1, 2011, to the same extent as it would have been had~~
24 ~~it been correctly recognized by the tax departments of each county on January 1, 2011, except~~
25 ~~as hereinafter provided with respect to classified registered motor vehicles. On July 1, 2011, the~~
26 ~~tax administrators of the adjoining counties shall transfer to the respective county tax assessors~~
27 ~~the ad valorem tax listings and valuations for all real and personal property subject to ad~~
28 ~~valorem taxation in areas affected by the resurvey of the boundary line, except classified motor~~
29 ~~vehicles that were registered in the adjoining counties prior to July 1, 2011. For the fiscal year~~
30 ~~that begins July 1, 2011, all real and personal property located in areas affected by the resurvey~~
31 ~~of the boundary line that was subject to ad valorem taxation in that area on January 1, 2011,~~
32 ~~shall be assessed and taxed as follows:~~

- 33 (1) ~~The ad valorem property taxes assessed on all classified registered motor~~
34 ~~vehicles registered or listed in adjoining counties between January 1, 2011,~~
35 ~~and June 30, 2011, shall be collected by the appropriate adjoining county tax~~
36 ~~collector, and all such taxes shall be retained by that adjoining county. The~~
37 ~~taxes on all classified registered motor vehicles registered after June 30,~~
38 ~~2011, shall be assessed and collected by the county tax department in the~~
39 ~~county to which the real property wherein the classified registered motor~~
40 ~~vehicles are situated has been annexed.~~
- 41 (2) ~~The values established by the particular adjoining county tax administrator~~
42 ~~on all personal property other than classified registered motor vehicles shall~~
43 ~~be used by the county tax assessor without adjustment in computing taxes~~
44 ~~due for the fiscal year beginning July 1, 2011. All such taxes shall be~~
45 ~~assessed and collected by the appropriate county tax department.~~
- 46 (3) ~~For the interim time period between the annexation of properties into their~~
47 ~~respective counties and until such time as the next regularly scheduled~~
48 ~~reevaluation period, Alamance County and Orange County may select either~~
49 ~~of two methods of valuating the property annexed into their respective~~
50 ~~county by this act. The selection of either method by a county shall not give~~

1 any individual or entity grounds for challenging such temporary valuation.
2 Such methods are delineated as follows:

3 a. The values established by the adjoining counties' tax administrators
4 on all real property formerly taxed in their respective county shall be
5 adjusted by the appropriate county tax assessor by applying the
6 difference between one hundred percent (100%) of such values and
7 the appropriate county median ratio, as established by the Sales
8 Assessment Ratio Study compiled by the North Carolina Department
9 of Revenue as of January 1, 2012. The taxes determined by applying
10 this method will be collected and retained by the appropriate county
11 tax collector. The value of such property shall then be revalued
12 according to the regularly scheduled revaluation period for each
13 county.

14 b. The values established by the adjoining counties' tax administrators
15 on all real property formerly taxed in their respective county shall be
16 adopted by the appropriate county tax assessor upon the transition of
17 property to the adjoining county. The valuation of such property shall
18 then be revalued according to the regularly scheduled revaluation
19 period for each county.

20 (4) Beginning January 1, 2012, all property in areas affected by the resurvey of
21 the boundary line that is subject to ad valorem taxation shall be listed,
22 assessed, and taxed by the appropriate county tax administrator in the same
23 manner as is prescribed by law for all other property located within each
24 county.

25 (5) The final tax values of property subject to ad valorem taxation in areas
26 affected by the resurvey of the boundary line as of January 1, 2011, shall be
27 determined by the adjoining county tax administrator. Appeals to the North
28 Carolina Property Tax Commission or to the courts by property owners of
29 properties affected by the boundary line change shall be defended by both
30 counties, and both counties shall be responsible for their costs and expenses,
31 including attorneys' fees, incurred in connection with such appeals.

32 (6) Any unpaid taxes or tax liens for the fiscal year ending June 30, 2011, or for
33 prior years on property subject to taxation in areas affected by the resurvey
34 of the boundary line shall continue to be valid and enforceable by the
35 respective adjoining county, including (i) the foreclosure remedies provided
36 for in G.S. 105-374 and G.S. 105-375 and (ii) the remedies of attachment
37 and garnishment provided for in G.S. 105-366 through G.S. 105-368. The
38 Alamance County and Orange County tax administrators shall supply one
39 another with a list of unpaid taxes as of July 1, 2011. Any such taxes
40 collected by either county shall be promptly paid to the appropriate
41 adjoining county, including accrued interest. The provisions of
42 G.S. 105-352(d) shall not apply to: those areas in an adjoining county
43 previously taxed by either county outside the areas affected by the resurvey
44 of the boundary line that shall forthwith be properly listed and taxed in the
45 county to which they have been annexed; and those areas within each county
46 that were in the past improperly listed and taxed by the adjoining county due
47 to uncertainty as to the exact location of the true historic Alamance
48 County/Orange County boundary line. Under the discovery process, each
49 county may waive any interest and penalties accrued for tax years
50 2006-2011 in its sole discretion.

1 "SECTION 4.(c) On and after January 1, 2012, all real and personal property in areas
2 affected by the resurvey of the boundary line which was subject to ad valorem taxation on
3 January 1, 2012, shall be subject to ad valorem taxes in the county to which the property is
4 reassigned for the fiscal year beginning July 1, 2012, to the same extent as it would have been
5 had it been correctly recognized by the tax departments of each county on March 1, 2012,
6 except as hereinafter provided with respect to classified registered motor vehicles. On July 1,
7 2011, the adjoining county tax administrators shall transfer to the respective county tax
8 assessors the ad valorem tax listings and valuations for all real and personal property subject to
9 ad valorem taxation in areas affected by the resurvey of the boundary line except classified
10 motor vehicles which were registered in the adjoining counties prior to July 1, 2011. For the
11 fiscal year which begins July 1, 2011, all real and personal property in areas affected by the
12 resurvey of the boundary line which was subject to ad valorem taxation in that area on January
13 1, 2012, shall be assessed and taxed as follows:

14 (1) The ad valorem property taxes assessed on all classified registered motor
15 vehicles registered or listed in adjoining counties between January 1, 2011,
16 and March 1, 2012, shall be collected by the appropriate adjoining county
17 tax collector, and all such taxes shall be retained by that adjoining county.
18 The taxes on all classified registered motor vehicles registered after March 1,
19 2012, shall be assessed and collected by the county tax department in the
20 county to which the real property wherein the classified registered motor
21 vehicles are situated has been reassigned.

22 (2) The values established by the particular adjoining county tax administrator
23 on all personal property other than classified registered motor vehicles shall
24 be used by each county tax assessor without adjustment in computing taxes
25 due for the fiscal year beginning July 1, 2012. All such taxes shall be
26 assessed and collected by the appropriate county tax department.

27 (3) For the interim time period between the reassignment of properties into their
28 respective counties and until such time as the next regularly scheduled
29 revaluation period, Alamance County and Orange County may select either
30 of two methods of valuating the property reassigned into their respective
31 counties by this act. The selection of either method by a county shall not
32 give any individual or entity grounds for challenging such temporary
33 valuation. Such methods are delineated as follows:

34 a. The values established by the adjoining county tax administrators on
35 all real property formerly taxed in their county shall be adjusted by
36 the appropriate county tax assessor by applying the difference
37 between one hundred percent (100%) of such values and the
38 appropriate county median ratio, as established by the Sales
39 Assessment Ratio Study compiled by the North Carolina Department
40 of Revenue as of January 1, 2009. The taxes determined by applying
41 this method will be collected and retained by the appropriate county
42 tax collector. The value of such property shall then be revalued
43 according to the regularly scheduled revaluation period for each
44 county.

45 b. The values established by the adjoining county tax administrators on
46 all real property formerly taxed in their county shall be adopted by
47 the appropriate county tax assessor upon the transition of property to
48 the adjoining county. The valuation of such property shall then be
49 revalued according to the regularly scheduled revaluation period for
50 each county.

- 1 (4) Beginning January 1, 2013, all property in areas affected by the resurvey of
2 the boundary line which is subject to ad valorem taxation, shall be listed,
3 assessed, and taxed by the appropriate county tax administrator in the same
4 manner as is prescribed by law for all other property located within each
5 county.
- 6 (5) The final tax values of property subject to ad valorem taxation in areas
7 affected by the resurvey of the boundary line as of January 1, 2013, shall be
8 determined by the adjoining county tax administrator. Appeals to the North
9 Carolina Property Tax Commission or to the courts by property owners of
10 properties affected by the boundary line change shall be defended by both
11 counties, and both counties shall be responsible for their costs and expenses,
12 including attorneys' fees, incurred in connection with such appeals.
- 13 (6) Any unpaid taxes or tax liens for the fiscal year ending June 30, 2012, or for
14 prior years on property subject to taxation in areas affected by the resurvey
15 of the boundary line shall continue to be valid and enforceable by the
16 respective adjoining county, including the foreclosure remedies provided for
17 in G.S. 105-374 and G.S. 105-375 and the remedies of attachment and
18 garnishment provided for in G.S. 105-366 through G.S. 105-368. The
19 Alamance County and Orange County Tax Administrators shall supply one
20 another with a list of unpaid taxes for properties in areas of the boundary line
21 affected by the resurveys for the tax year 2011 on or before July 1, 2012.
22 Any such taxes collected by either county shall be promptly paid to the
23 appropriate adjoining county, including accrued interest. The provisions of
24 G.S. 105-352(d) shall not apply to (i) those areas in the adjoining county
25 previously taxed by either county outside the areas affected by the resurvey
26 of the boundary line that shall forthwith be properly listed and taxed in the
27 county to which they have been reassigned by this act and (ii) those areas
28 within each county that were in the past improperly listed and taxed by the
29 adjoining counties due to uncertainty as to the exact location of the true
30 historic Alamance County/Orange County boundary line.

31 **"SECTION 4.(d)** No cause of action, including criminal actions, involving persons or
32 property located in areas affected by the resurvey of the boundary line that is pending on July 1,
33 ~~2011~~, 2012, shall be abated, and such actions shall continue in the appropriate adjoining
34 county. In no event shall a defense to a criminal act be maintained where such defense alleges a
35 lack of jurisdiction due to any act or failure to act related to the adjustment of the boundary line
36 by this act, regardless of when such criminal act is alleged to have been committed.

37 **"SECTION 4.(e)** The board of elections of each adjoining county shall, effective July 1,
38 ~~2011~~, 2012, transfer the voter registration records pertaining to persons residing in areas
39 affected by the resurvey of the boundary line and located in either county to the adjoining
40 county's board of elections, and thereafter the registered voters so transferred shall be validly
41 registered to vote in that adjoining county.

42 **"SECTION 4.(f)** The Jury Commission of each adjoining county shall revise its jury lists
43 to add to or eliminate therefrom those persons subject to jury duty who reside in areas affected
44 by the resurvey of the boundary line, said revised jury lists to be effective July 1, ~~2011~~, 2012.

45 **"SECTION 4.(g)** The areas affected by the resurvey of the boundary line and located in
46 each county shall be transferred into the appropriate superior court district, district court
47 district, and prosecutorial district. The areas affected by the resurvey of the boundary line shall
48 remain in the same congressional district, the same State House of Representatives district, and
49 the same State Senate district.

50 **"SECTION 4.(h)** Any cause of action relating to taxation as it is currently exercised by the
51 counties along or near the Alamance County/Orange County boundary, or any other cause of

1 action related in any way to the Alamance County/Orange County boundary or properties
2 affected by changes in the boundary, is stayed, and no new cause of action relating to these
3 matters shall be commenced until ratification of the official line by the North Carolina General
4 Assembly. Thereafter, causes of action related to the taxation of property shall be defended as
5 described in subdivision (5) of Section 4(c) of this act."

6 **SECTION 5.(a)** Any properties affected by S.L. 2010-61 or this act and which are
7 subject to taxation under G.S. 105-274 and which were taxed by both the Alamance County
8 and Orange County taxing authorities on or after January 1, 2007, are hereby granted the
9 following relief:

- 10 (1) Property owners of any such dually taxed properties may, pursuant to the
11 terms of G.S. 105-381, demand refund and/or release of taxes paid to the
12 county from which their property, or portion thereof, was transitioned.
- 13 (2) Any claim for relief pursuant to this section and under the terms of
14 G.S. 105-381 may be made for taxes assessed January 1, 2007, through
15 December 31, 2011. All such claims for relief must be made in writing to the
16 county from which the affected property was transitioned on or before
17 February 28, 2012. Should a claim for relief pursuant to this section not be
18 made by February 28, 2012, such claim is waived, and no further relief shall
19 be granted pursuant to this or any other act. Alamance County and Orange
20 County shall not grant refunds or releases pursuant to this section for any
21 claims made after February 28, 2012, and are released from all liability, and
22 no court action shall be maintained for any such claims made for any act or
23 failure to act pursuant to this section.

24 **SECTION 5.(b)** The provisions of this section shall apply only to properties
25 transitioned or reassigned from one county to the other, in whole or in part, by the resurveys of
26 individual qualifying properties pursuant to S.L. 2010-61 and this act.

27 **SECTION 5.(c)** For purposes of this section only, the term "property owner" shall
28 include any builder or developer that paid property taxes on real property to both counties and
29 subsequently sold said property or that as part of an escrow agreement in which the buyer of
30 such property paid taxes to one county and the builder or developer who sold the property paid
31 taxes on the same piece of property to the adjoining county.

32 **SECTION 5.(d)** The taxing authorities of Alamance County and Orange County
33 shall notify property owners affected by this section of the terms of this section within 30 days
34 after this act becomes law. Such notice shall be by United States mail at the mailing address to
35 which any tax bills were previously submitted. No other notice is or shall be required.

36 **SECTION 6.** Section 6 of S.L. 2010-61 reads as rewritten:

37 **"SECTION 6.** Any child who was a resident of any area ~~annexed by this act on its date of~~
38 ~~ratification~~ reassigned by this act on its date of enactment and who was a student in the Orange
39 County or Alamance County school system during the ~~2009-2010 or 2010-2011 school year~~
40 2010-2011 or 2011-2012 school year, and the siblings of any such person, may attend school in
41 the same school system as their siblings without necessity of a release or payment of tuition. ~~in~~
42 ~~the same school system previously attended without necessity of a release or payment of~~
43 ~~tuition.~~ Any such student, while attending the Orange County school system, shall be
44 considered a resident of Orange County for all public school purposes, including transportation,
45 athletics, and funding formulas. Any such student, while attending the Alamance County
46 school system, shall be considered a resident of Alamance County for all public school
47 purposes, including transportation, athletics, and funding formulas. Notice must be given to all
48 affected school systems by the parent or guardian in order to exercise the privilege granted by
49 this section."

50 **SECTION 7.** The establishment of a county boundary line is, pursuant to Section 1
51 of Article VII of the North Carolina Constitution, the responsibility of the General Assembly.

1 Further, it is vital to the State of North Carolina and all affected local governments that county
2 boundary lines be fixed and any uncertainty as to the location of county boundary lines be
3 resolved. For this reason and in the interest of justice, neither Alamance County nor Orange
4 County, nor any agent, employee, or appointed or elected official thereof, shall be liable to any
5 individual, group, organization, for-profit or not-for-profit business entity of any kind, or
6 governmental entity or agency of any type or kind, for any damages, costs, fees, or fines, and
7 no court action shall be maintained against said counties, officials, employees, and agents for
8 any recommendation, act, failure to act, or conduct related to S.L. 2010-61 or this act and/or the
9 adoption of a fixed boundary line separating the two counties. Except as set out in Section 5 of
10 this act, and effective upon enactment of this act, Alamance County and Orange County and
11 their officials, employees, and agents are released from all liability for any claims made, and no
12 court action shall be maintained against said officials, employees, and agents for any act or
13 failure to act pursuant to the terms of this act or S.L. 2010-61, and no further relief shall be
14 granted or cause of action sustained except as provided herein.

15 **SECTION 8.** Section 8 of S.L. 2010-61 reads as rewritten:

16 "**SECTION 8.** Alamance County and Orange County shall cause areas of the boundary line
17 to be resurveyed in areas where property owners have met the established administrative
18 criteria to be assigned to a specific county ~~and in areas where for practical or other reasons the~~
19 ~~North Carolina Geodetic Survey line is not reasonable or is unduly burdensome.~~ county but
20 shall not bear the cost of such resurveys. The costs of the resurveys shall be the responsibility
21 of the transitioned properties' owners."

22 **SECTION 9.** Except as amended by this act, S.L. 2010-61 continues in full force
23 and effect. In the case of any conflict between this act and S.L. 2010-61, this act controls to the
24 extent of the conflict.

25 **SECTION 10.** Pursuant to Section 1 of Article VII of the North Carolina
26 Constitution, any boundary line between Alamance County and Orange County previously
27 surveyed, recognized, adopted, described, utilized, or ratified is modified as set forth herein
28 upon ratification of this act.

29 **SECTION 11.** Pursuant to Section 1 of Article VII of the North Carolina
30 Constitution, the official boundary line between Alamance County and Orange County, as
31 described and approved by the Alamance County Board of Commissioners at its regular
32 meeting December 6, 2010, and the Orange County Board of Commissioners at its regular
33 meeting December 14, 2010, is hereby formally recognized and adopted by the North Carolina
34 General Assembly. The nine percent (9%) portion of the boundary line not described and
35 approved by the county commissioners shall be resurveyed pursuant to separate local
36 legislation.

37 **SECTION 12.** Upon completion of the resurveys in compliance with this act, a
38 complete description of the resurveyed line shall be filed in the office of the Register of Deeds
39 of Alamance County, the office of the Register of Deeds of Orange County, and the Secretary
40 of State, as provided in G.S. 153A-18(a).

41 **SECTION 13.** This act is effective when it becomes law.