

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 1090*
PROPOSED COMMITTEE SUBSTITUTE H1090-PCS11371-TMx-28

Short Title: Orange-Alamance Remaining 9% Boundary.

(Local)

Sponsors:

Referred to:

May 24, 2012

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE REMAINING NINE PERCENT OF THE COMMON BOUNDARY BETWEEN ALAMANCE COUNTY AND ORANGE COUNTY NOT ADDRESSED BY SESSION LAW 2011-88 AND AS AUTHORIZED BY THE 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.

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(a) entitled "Uncertain or Disputed Boundary", both county boards of commissioners passed resolutions (Alamance County, December 17, 2007 and Orange County, January 18, 2008) to request that North Carolina Geodetic Survey perform a preliminary resurvey and present a proposed map for consideration by both counties.

SECTION 2. In the 2011 session, the General Assembly, through S.L. 2011-88, ratified and adopted ninety-one percent (91%) of the boundary line between Alamance County and Orange County. Also in the 2011 session, the General Assembly, through S.L. 2011-87, authorized the boards of commissioners of Alamance County and Orange County to determine the most appropriate location for the remaining nine percent (9%) of the boundary line.

SECTION 3. The General Assembly recognizes the difficulties in addressing the issues associated with adopting a county boundary line and authorizes Alamance County and Orange County to maintain the current taxing, elections, education and any other recognized government functions in place in the transition areas affected by this act, if so needed, until July 1, 2013.

SECTION 4.(a) Except as otherwise provided in this act, on and after January 1, 2013, all papers, documents, and instruments required or permitted to be filed or registered, involving residents and property in areas affected by the resurvey of the boundary line, which previously may have been recorded in the adjoining counties, shall be recorded in the county to which the property has been reassigned by this act.

SECTION 4.(b) On and after January 1, 2013, all real and personal property in areas affected by the resurvey of the boundary line that was subject to ad valorem taxation on



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1 January 1, 2013, shall be subject to ad valorem taxes in the county to which the property is
2 reassigned for the fiscal year beginning July 1, 2013, to the same extent as it would have been
3 had it been correctly recognized by the tax departments of each county on March 1, 2013,
4 except as hereinafter provided with respect to classified registered motor vehicles. On
5 September 1, 2012, the adjoining county tax administrators shall commence the transfer to the
6 respective county tax assessors the ad valorem tax listings and valuations for all real and
7 personal property subject to ad valorem taxation in areas affected by the resurvey of the
8 boundary line, except classified motor vehicles which were registered in the adjoining counties
9 prior to July 1, 2012. For the fiscal year that begins July 1, 2012, all real and personal property
10 in areas affected by the resurvey of the boundary line, which was subject to ad valorem taxation
11 in that area on January 1, 2013, shall be assessed and taxed as follows:

- 12 (1) The ad valorem property taxes assessed on all classified registered motor
13 vehicles registered or listed in adjoining counties between January 1, 2012,
14 and March 1, 2013, shall be collected by the appropriate adjoining county
15 tax collector, and all such taxes shall be retained by that adjoining county.
16 The taxes on all classified registered motor vehicles registered after March 1,
17 2013, shall be assessed and collected by the county tax department in the
18 county to which the real property wherein the classified registered motor
19 vehicles are situated has been reassigned.
- 20 (2) The values established by the particular adjoining county tax administrator
21 on all personal property other than classified registered motor vehicles shall
22 be used by each county tax assessor without adjustment in computing taxes
23 due for the fiscal year beginning July 1, 2013. All such taxes shall be
24 assessed and collected by the appropriate county tax department.
- 25 (3) For the interim time period between the reassignment of properties into their
26 respective counties and until such time as the next regularly scheduled
27 revaluation period, Alamance County and Orange County may select either
28 of two methods of valuating the property reassigned into their respective
29 counties by this act. The selection of either method by a county shall not
30 give any individual or entity grounds for challenging such temporary
31 valuation. Such methods are delineated as follows:
 - 32 a. The values established by the adjoining county tax administrators on
33 all real property formerly taxed in their county shall be adjusted by
34 the appropriate county tax assessor by applying the difference
35 between one hundred percent (100%) of such values and the
36 appropriate county median ratio, as established by the Sales
37 Assessment Ratio Study compiled by the North Carolina Department
38 of Revenue as of January 1, 2009. The taxes determined by applying
39 this method will be collected and retained by the appropriate county
40 tax collector. The value of such property shall then be revalued
41 according to the regularly scheduled revaluation period for each
42 county.
 - 43 b. The values established by the adjoining county tax administrators on
44 all real property formerly taxed in their county shall be adopted by
45 the appropriate county tax assessor upon the transition of property to
46 the adjoining county. The valuation of such property shall then be
47 revalued according to the regularly scheduled revaluation period for
48 each county.
- 49 (4) Beginning January 1, 2014, all property in areas affected by the resurvey of
50 the boundary line that is subject to ad valorem taxation shall be listed,
51 assessed, and taxed by the appropriate county tax administrator in the same

1 manner as is prescribed by law for all other property located within each
2 county.

3 (5) The final tax values of property subject to ad valorem taxation in areas
4 affected by the resurvey of the boundary line as of January 1, 2014, shall be
5 determined by the adjoining county tax administrator. Appeals to the North
6 Carolina Property Tax Commission or to the courts by property owners of
7 properties affected by the boundary line change shall be defended by both
8 counties, and both counties shall be responsible for the counties' costs and
9 expenses, including attorneys' fees, incurred in connection with such
10 appeals.

11 (6) Any unpaid taxes or tax liens for the fiscal year ending June 30, 2013, or for
12 prior years on property subject to taxation in areas affected by the resurvey
13 of the boundary line shall continue to be valid and enforceable by the
14 respective adjoining county, including the foreclosure remedies provided for
15 in G.S. 105-374 and G.S. 105-375, and the remedies of attachment and
16 garnishment provided for in G.S. 105-366 through G.S. 105-368. The
17 Alamance County and Orange County tax administrators shall supply one
18 another with a list of unpaid taxes for properties in areas of the boundary line
19 affected by the resurveys for the tax year 2012 on or before July 1, 2013.
20 Any such taxes collected by either county shall be promptly paid to the
21 appropriate adjoining county including accrued interest. The provisions of
22 G.S. 105-352(d) shall not apply to (i) those areas in adjoining county
23 previously taxed by either county outside the areas affected by the resurvey
24 of the boundary line, that shall forthwith be properly listed and taxed in the
25 county to which they have been reassigned by this act; and (ii) those areas
26 within each county that were in the past improperly listed and taxed by the
27 adjoining counties due to uncertainty as to the exact location of the true
28 historic Alamance County-Orange County boundary line.

29 **SECTION 4.(c)** No cause of action, including criminal actions, involving persons
30 or property in areas affected by the resurvey of the boundary line that is pending on July 1,
31 2013, shall be abated, and such actions shall continue in the appropriate adjoining county. In
32 no event shall a defense to a criminal act be maintained where such defense alleges a lack of
33 jurisdiction due to any act or failure to act related to the adjustment of the boundary line by this
34 act, regardless of when such criminal act is alleged to have occurred.

35 **SECTION 4.(d)** The board of elections of each adjoining county shall, effective
36 July 1, 2013, transfer the voter registration records pertaining to persons residing in areas
37 affected by the resurvey of the boundary line and located in either county to the adjoining
38 county's board of elections, and thereafter the registered voters so transferred shall be validly
39 registered to vote in that adjoining county. Persons in areas affected by the resurvey of the
40 boundary line shall continue to be in the same State House, State Senate, and United States
41 House of Representatives Districts as they were prior to the resurvey.

42 **SECTION 4.(e)** The Jury Commission of each adjoining county shall revise its
43 jury lists to add to or eliminate therefrom those persons subject to jury duty who reside in areas
44 affected by the resurvey of the boundary line, said revised jury lists to be effective July 1, 2013.

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

49 (1) Property owners of any such dually taxed properties may, pursuant to the
50 terms of G.S. 105-381, demand refund and/or release of taxes paid to the
51 county from which their property, or portion thereof, was transitioned.

1 (2) Any claim for relief pursuant to this section and under the terms of
2 G.S. 105-381 may be made for taxes assessed January 1, 2007, through
3 December 31, 2012. All such claims for relief must be made in writing to the
4 county from which the affected property was transitioned on or before
5 February 28, 2013. Should a claim for relief pursuant to this section not be
6 made by February 28, 2013, such claim is waived and no further relief shall
7 be granted pursuant to this or any other act. Alamance County and Orange
8 County shall not grant refunds or releases pursuant to this section for any
9 claims made after February 28, 2013, and are released from all liability, and
10 no court action shall be maintained for any such claims made for any act or
11 failure to act pursuant to this section.

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

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

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

24 **SECTION 6.** Any child who was a resident of any area reassigned by this act on its
25 date of ratification and who was a student in the Orange or Alamance school system during the
26 2011-2012 school year, and the siblings of any such person, may attend school in the same
27 school system attended in the 2011-2012 school year without necessity of a release or payment
28 of tuition. Any such student, while attending the Orange County school system, shall be
29 considered a resident of Orange County for all public school purposes, including transportation,
30 athletics, and funding formulas. Any such student, while attending the Alamance County
31 School system, shall be considered a resident of Alamance County for all public school
32 purposes, including transportation, athletics, and funding formulas. Notice must be given to all
33 affected school systems by the parent or guardian in order to exercise the privilege granted by
34 this section.

35 **SECTION 7.** The establishment of a county boundary line is, pursuant to Section 1
36 of Article VII of the North Carolina Constitution, the sole responsibility of the General
37 Assembly. Further, it is vital to the State of North Carolina and all affected local governments
38 that county boundary lines be fixed and any uncertainty as to the location of county boundary
39 lines be resolved. For this reason and in the interest of justice, neither Alamance County nor
40 Orange County, nor any agent, employee, or appointed or elected official thereof, shall be
41 liable to any individual, group, organization, for-profit or not-for-profit business entity of any
42 kind, governmental entity or agency of any type or kind for any damages, costs, fees, or fines,
43 and or court action shall be maintained against said counties, officials, employees, and agents
44 for any recommendation, act, failure to act, or conduct related to S. L. 2010-61, S.L. 2011-88,
45 or this act and/or the adoption of a fixed boundary line separating the two counties. Except as
46 set out in Section 5 of this act, and effective upon this act becoming law, Alamance County and
47 Orange County, their officials, employees, and agents are released from all liability for any
48 claims made, and no court action shall be maintained against said officials, employees, and
49 agents for any act or failure to act pursuant to the terms of this act, S.L. 2011-88, or S.L.
50 2010-61, and no further relief shall be granted or cause of action sustained except as provided
51 herein.

1 **SECTION 8.** Should any provision of S.L. 2010-61, as amended by S.L. 2011-88,
2 conflict with any provision of this act, the provisions of this act shall control. Should any line
3 marking the area of the nine percent (9%) reflected in the surveys referenced herein conflict
4 with any line shown on the surveys describing the area of the ninety-one percent (91%), the
5 surveys marking the area of the nine percent (9%) shall control.

6 **SECTION 9.** Pursuant to Section 1 of Article VII of the North Carolina
7 Constitution, any boundary line between Alamance County and Orange County previously
8 surveyed, recognized, adopted, described, utilized, or ratified, save and except the ninety-one
9 percent (91%) of the boundary line adopted by S.L. 2011-88, is modified as set forth herein
10 upon ratification of this act.

11 **SECTION 10.** Pursuant to Section 1 of Article VII of the North Carolina
12 Constitution, the official boundary line regarding the remaining nine percent (9%) of the line
13 separating Alamance County and Orange County, as recommended by the Alamance County
14 Board of Commissioners at its meeting of December 6, 2010, and the Orange County Board of
15 Commissioners at its meeting of December 14, 2010, is hereby formally recognized and
16 adopted by the General Assembly.

17 **SECTION 11.** Upon adoption, the survey plats reflecting the boundary line shall
18 be filed with the Alamance County Register of Deeds, with the Orange County Register of
19 Deeds, and in the office of the Secretary of State as provided in G.S. 153A-18(a).

20 **SECTION 12.** This act is effective when it becomes law.