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Prepared by _____

Approved by _____

RESOLUTION REQUESTING THE SHELBY COUNTY SCHOOL BOARD AND MEMPHIS CITY SCHOOL BOARD TO ESTABLISH A UNIFICATION EDUCATION PLANNING COMMISSION WITH REGARD TO CONSOLIDATION OF THE SHELBY COUNTY SCHOOLS AND THE MEMPHIS CITY SCHOOLS, AND THAT SAID PLANNING COMMISSION MAKE INTERIM RECOMMENDATIONS AND FILE A FINAL WRITTEN REPORT WITH THE SHELBY COUNTY SCHOOL BOARD WITHIN ONE YEAR. SPONSORED BY COMMISSIONER MIKE RITZ AND COMMISSIONER STEVE MULROY .

WHEREAS, A majority of the commissioners of the Memphis City School (MCS) Board have voted pursuant to Chapter 375 of the 1961 Private Acts to surrender the Charter for the Memphis City Schools and have further voted to transfer the Memphis City Schools to the Shelby County School (SCS) Board pursuant to Tenn. Code Ann. § 49-2-205, and have submitted this proposed action to the electorate in the City of Memphis for ratification; and

WHEREAS, if the MCS Board's proposal to transfer its school system to Shelby County Schools is ratified by the electorate in the City of Memphis in a referendum to be held March 8, 2011, the Memphis City Schools will immediately become part of the Shelby County Schools System; and

WHEREAS, the merger or consolidation of the Memphis City Schools, with more than 105,000 students, with the much smaller Shelby County School District will create a challenging opportunity for an environment conducive to effective learning for the students in the two school districts if done without adequate planning and preparation; and

WHEREAS, the procedure under Tenn. Code Ann. § 49-2-205 does not provide for or require the establishment of an entity to plan and provide for the orderly merger of the systems, such as the one provided by the establishment of the unification education planning commission as set forth in Tenn. Code Ann. § 49-2-1201 et seq.; and

WHEREAS, the Shelby County Board of Commissioners deems it in the best interest of the students of both the Memphis City Schools and the Shelby County Schools as well as the parents, teachers, taxpayers, citizens, and voters of Shelby County that there be adequate support from the whole Shelby County community for the merger or consolidation of the two school districts should that occur through the surrender of the Charter of the Memphis City School District and the transfer of MCS to SCS.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the Shelby County Commission hereby requests the Shelby County School Board and the Memphis City School Board to agree to establish a Shelby County Unification Education Planning Commission (Shelby UEPC), modeled generally after the unification education planning commission provided by Tenn. Code Ann. § 49-2-1201 et seq., and requests that said Shelby UEPC be constituted within the following guidelines:

Section 1. That the Shelby County Unification Education Planning Commission Shelby County be comprised of a total of fifteen (15) members as follows: three (3) members of the current Shelby County School Board elected by the Shelby County School Board; three (3) members of the current Memphis City School Board elected by the Memphis City School Board; three (3) citizens jointly appointed by the Mayor of Shelby County and the Mayor of the City of Memphis; three (3) citizens appointed by the Memphis City Council; and three (3) citizens appointed by the Shelby County Commission. The nine (9) citizen members will have a public education orientation.

Section 2. It shall be the duty of the Shelby UEPC to study and consider the potential challenges and/or potential opportunities that may result with consolidation of all public schools within Shelby County into a unified school system, and to make or cause to be made comprehensive recommendations to concerning the needs, issues and/or potential opportunities that may result with school consolidation including, but not limited to, curricula, administration, facilities, teacher compensation, equipment, etc.

Section 3. It shall be the duty of the Shelby UEPC to make and file a final comprehensive written report with Shelby County School Board within one (1) year, or no later than January 31, 2011.

Section 4. Should for any reason the electorate in the City of Memphis fail to ratify the Memphis City Schools Charter surrender within sixty (60) calendar days of February 1, 2011, then the work of the Shelby UEPC shall be suspended for thirty (30) calendar days. Thereafter, the work of the Shelby UEPC shall resume only if requested by a majority of the members of the Board of the Shelby County School District and a majority of the members of the Board of the City of Memphis School District.

Section 5. The Shelby UEPC shall elect such officers as it deems appropriate from among its members and establish its own rules for its proceedings. All meetings of the Shelby UEPC shall be deemed public meetings held in accordance with applicable Sunshine Laws of this state, and all records of the Shelby UEPC shall be deemed open for public inspection in accordance with the provisions of the Tennessee Public Records Act. The School Boards are encouraged to allow the meetings to take place at their headquarters facilities.

Section 6. The ordinary and necessary expenses of the Shelby UEPC shall be borne equally by the County of Shelby. The County Commission allocates \$50,000 from its contingency for this purpose.

Section 7. Should a majority of the Board of the new Shelby County School District request the work of the Shelby UEPC to continue beyond January 31, 2017, the Shelby UEPC shall continue its mission for a period not to exceed an additional calendar 365 days and file such further and additional reports and studies with Shelby County School District, as deemed necessary to effectuate a smooth and workable transition to a unified school system in Shelby County.

Section 8. Members of the Shelby UEPC shall not receive per diem or other compensation for their services but shall be reimbursed for necessary expenses incurred by them.

BE IT FURTHER RESOLVED, That this resolution shall take effect immediately, the public welfare requiring the same.

Mark H. Luttrell, Jr., County Mayor

Date: _____

ATTEST:

Clerk of County Commission

ADOPTED: _____

49-2-1201. Planning commission. —

(a) (1) In all counties of this state wherein separate school systems are maintained by the county and by one (1) or more incorporated municipalities or one (1) or more special school districts, there may be created and established a unification educational planning commission, sometimes called "the planning commission" in this part.

(2) It is the duty of the planning commission to study and consider the need for and problems in conjunction with the consolidation of all public schools within the county into a unified school system, and to make and file a written report as provided in this section. If the report recommends consolidation, it may be accompanied by a proposed plan of consolidation, as provided in this section.

(b) (1) The county mayor, the mayor of each municipality operating a school system and the chair of the board of education of each special school district may each appoint five (5) competent citizens as members of the planning commission.

(2) The names of all appointees, other than those made by the county mayor, shall be certified to the county mayor by the appointing authority.

(3) The county mayor shall furnish the commissioner of education with a certified list of all members of the planning commission promptly after all appointments have been made; or, if the appointments are incomplete, the county mayor shall furnish to the commissioner, within one (1) year from the date on which the first member of the planning commission was appointed, a certified list of all members who have been appointed to the planning commission.

(4) The certified list, whether complete or incomplete, together with the appointing officials, who shall be ex officio voting members, shall constitute the planning commission, subject to the right of the appointing authority thereafter to fill any vacancies not originally filled or that may subsequently occur.

(c) (1) Within thirty (30) days after the planning commission has been constituted, its members shall hold an organizational meeting at a time and place fixed by the county mayor, with notice of the organizational meeting to all members.

(2) The planning commission shall elect a chair, a secretary and other officers as it deems necessary.

(3) Future meetings of the planning commission shall be held at times and places it may determine, with special or additional meetings to be held upon call of its chair.

(d) (1) Members of the planning commission shall not receive per diem or other compensation for their services but shall be reimbursed for necessary expenses incurred by them.

(2) The expenses and other necessary expenses of the planning commission shall be paid from funds appropriated for those expenses by the county, together with other funds made available by municipalities and school districts.

(e) (1) The planning commission shall make or cause to be made a complete and comprehensive study of the needs for, issues in and problems of consolidation of the various school systems operating within the boundaries of the county.

(2) The study shall be completed and a written report made and filed with the commissioner within one (1) year after the first meeting of the commission, except as otherwise provided in this section.

(3) Where any study of consolidating school systems in a particular county has been made within five (5) years prior to the organizational meeting of a planning commission, and the planning commission determines that the study is sufficiently complete and comprehensive, the study may, in the discretion of the planning commission, be used as the study contemplated in this subdivision (e), as part of its written report and as the basis for its plan for consolidation, if any, as provided for in this part.

(f) (1) The planning commission shall be authorized, but not required, to prepare a plan for the consolidation of such school systems.

(2) The plan as agreed upon by a majority of the planning commission, or a report on its studies and findings, if no plan is prepared, shall be submitted to the department of education for appraisal.

(3) Recommendations that the department, through its commissioner, sees fit to make shall be received and considered by the planning commission and the plan of consolidation, if any, may be revised in the light of the recommendations.

(g) (1) In the event that the planning commission determines that it cannot complete an adequate study or report, or both, within one (1) year, it may, upon written request addressed to the commissioner, be permitted such additional time, not to exceed one (1) year, as in the commissioner's judgment the circumstances warrant.

(2) In the event the planning commission fails or refuses to make its report within the time specified, including any extension of time granted to it, then the planning commission may be terminated and discharged by notice to it from any original appointing authority; and after such notice, a new planning commission may be appointed to proceed with the study and make recommendations accordingly.

(h) (1) Before presentation of any proposed plan of consolidation or report to the department, the planning commission shall hold at least one (1) public hearing duly advertised at least one (1) week prior to the hearing in a newspaper of general circulation throughout the county.

(2) At any public hearing so conducted by the planning commission, minutes of the proceedings shall be recorded and preserved and a copy filed with the commissioner.

(i) In developing any consolidation plan, the planning commission shall consider and provide for the following:

(1) Administrative organization of the proposed consolidated system;

(2) A method to ensure no diminution in the level of the educational service in the schools in any of the systems involved;

(3) Appropriate means for the transfer of assets and liabilities of municipal and special school district systems;

(4) Plans for disposition of existing bonded indebtedness that shall not impair the rights of any bondholder;

(5) Plans for preserving the existing pension rights of all teachers and nonteaching personnel in the respective systems;

(6) Plans for preserving the existing tenure rights, sick leave rights and salary schedule rights of all teachers and nonteaching personnel in the respective systems;

(7) Appropriate plans for contributions by municipalities or special school districts to the county for the operation of a unified system of schools during the period of transition following unification, which period shall not exceed three (3) years;

(8) Appropriate plans for reapportionment after each federal decennial census of districts for election of members of the school board; and

(9) Any other matters deemed by the planning commission to be pertinent.

[Acts 1963, ch. 246, §§ 1-5; 1965, ch. 73, § 1; T.C.A., §§ 49-415 — 49-419; Acts 2003, ch. 90, § 2.]

49-2-1204. Rights of employees. —

(a) (1) Any plan of consolidation shall require continuation of a local retirement system for all officers, teachers and other employees who elect to remain in the system.

(2) The plan shall also provide:

(A) For continuation of the local retirement system for new officers, teachers and other employees; or

(B) For a new retirement system or coverage under the Tennessee consolidated retirement system for all new officers, teachers and other employees and those present officers, teachers and other employees who elect to be transferred to the other system.

(b) No plan of consolidation adopted under this part shall in any way abridge, diminish or impair any tenure right or sick leave right that an officer, teacher or other employee may have earned during service in any component system.

(c) Any plan of consolidation shall guarantee that the salary schedule under which the teachers and other employees of a component part of any consolidated school system were employed shall continue to apply for the teachers and other employees, and no such salary schedule may be lower than it was prior to consolidation. The plan shall provide that within three (3) years after the establishment of the new consolidated school system, a new salary schedule shall be established for the consolidated school system, which shall be no lower than the highest salary schedule maintained by a component part of the system prior to the establishment of the new consolidated school system.

[Acts 1963, ch. 246, § 8; T.C.A., § 49-423.]

49-2-1206. Consolidation plan. —

(a) (1) Where the planning commission has submitted a plan of consolidation to the department of education and has thereafter approved the plan with or without revision, after receiving the recommendations of the department, the proposed plan of consolidation shall be submitted to the governing body of the county and of all affected municipalities, and to the boards of education of all affected special school districts.

(2) Before taking action upon the proposed plan of consolidation, each of the governing bodies and boards of education shall hold at least one (1) public hearing duly advertised one (1) week or more prior to the hearing, in a newspaper of general circulation throughout the county.

(3) Subsequent to the public hearing, each governing body and affected board of education shall consider and act upon the proposed plan of consolidation at its next regular meeting or at an adjourned session of the regular meeting.

(4) The governing body is authorized to:

(A) Approve the proposed plan of consolidation and recommend its adoption to the electorate; or

(B) Disapprove the proposed plan of consolidation and recommend its rejection by the electorate.

(5) Where the governing body of any affected county or municipality or the board of education of any affected special school district has approved the proposed plan of consolidation, the proposed plan of consolidation shall be voted upon at a referendum election as provided in subsection (b), and may be adopted by the result of the election as provided in subsection (b).

(6) Where the governing bodies of the affected county and of all affected municipalities and the boards of education of all affected special school districts have disapproved the proposed plan of consolidation, the proposed plan of consolidation shall be deemed rejected and finally disposed of, unless a referendum is called by petition as provided in subsection (c).

(7) Those counties with metropolitan governments in which the principal city is not the county seat shall be permitted to adopt a consolidation plan for school systems with approval of the governing body of the metropolitan government and approval by all affected school boards.

(b) (1) Any governing body or board of education that approves a plan of consolidation shall cause to be certified to the county election commission a copy of its resolution of approval, together with a copy of the plan of consolidation, unless it has knowledge that another governing body or board of education has previously so caused the copy of its resolution of approval to be certified.

(2) After certification, it is the duty of the county election commission to hold a special referendum election for the ratification or rejection of the proposed plan of consolidation.

(3) The special referendum election shall be held on the date fixed by the county election commission, not less than fifty (50) days nor more than seventy (70) days subsequent to the date the county election commission receives a certified resolution of approval from a governing body or board of education.

(4) The date of the special election so fixed may but need not coincide with the date of a regular general election.

(5) In a referendum election, voters residing in the county and qualified to vote for members of the general assembly shall be qualified to vote in the referendum election; and in any such election, the general laws with respect to elections shall be applicable except as otherwise provided in this section.

(6) Notice of the special referendum election shall be given as provided by § 2-12-111(b).

(7) (A) Ballots shall be in the form prescribed by the general election laws, except as otherwise provided in this section, and the only questions submitted to the voters shall be in the following form, with blanks appropriately filled in:

[Click to view form.](#)

(B) Where voting machines are used, suitable arrangements shall be made to permit the use of the machines.

(8) The county election commission shall canvass the returns and certify the results as if separate elections were being held within each incorporated municipality or special school district that maintains a separate school system, and also within the area of the county outside of municipalities and special school districts maintaining separate school systems.

(9) For the purpose of determining whether the proposed plan of consolidation has been accepted or rejected, the county election commission shall canvass the returns and certify the results for:

(A) Each city maintaining its separate school system;

(B) Each special school district maintaining its separate school system; and

(C) The entire area of the county outside of the city or cities and the special school district or districts maintaining their own separate school system.

(10) The proposed plan of consolidation shall be deemed ratified and adopted if the proposed plan of consolidation is approved by a majority of those voting within each city and each special school district maintaining its own school system and also in the area of the county outside the municipalities and special school districts.

(11) The proposed plan of consolidation shall be deemed rejected and shall not become effective if the proposed plan of consolidation is disapproved by a majority of those voting in any city or special school district maintaining its separate school system, or by a majority of those voting in the county outside the areas of the municipalities and special school districts.

(12) Whenever a plan of consolidation has been adopted, the county election commission shall proclaim that fact and shall deliver a copy of the plan of consolidation previously furnished to them to the consolidated board of education or transitional board when the consolidated board of education or transitional board has become constituted.

(c) (1) Within sixty (60) days after disapproval of the proposed plan of consolidation by the last governing body or board of education empowered to act on the plan, there may be filed with the county election commission a petition or petitions, signed by a number of registered voters at least equal to ten percent (10%) of the total votes cast in the county for governor at the then last preceding gubernatorial election, requesting a referendum election to vote upon the question of whether the plan of consolidation

shall become effective.

(2) Persons signing the petition must be registered voters. In addition to their signatures, they shall write upon the petition their ages and specific addresses at the time of signing the petition.

(3) The person circulating each petition shall execute an affidavit at the end of the petition that all signatures on the petition were signed in that person's presence by the persons whose names the signatures purport to be.

(4) The referendum election shall be held not less than fifty (50) nor more than seventy (70) days after filing of the petition, and the results of the election shall be determined as provided in subsection (b).

[Acts 1963, ch. 246, §§ 10-12; modified; T.C.A., §§ 49-425 — 49-427; Acts 2001, ch. 131, § 1.]