

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1135*

Short Title: School Budget Act Amendments.

(Public)

Sponsors: Senators Hobbs, Winner, Conder, Edwards, McDaniel; Plexico, Lucas, Speed, Odom, Dannelly, Gulley, Rand, Perdue, Little, Davis, and Cochrane.

Referred to: Education/Higher Education.

May 14, 1996

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE RECOMMENDATION OF THE SCHOOL CAPITAL CONSTRUCTION STUDY COMMISSION TO DIRECT THE STATE BOARD OF EDUCATION AND THE LOCAL GOVERNMENT COMMISSION TO MODIFY THEIR ACCOUNTING AND REPORTING SYSTEMS TO ALLOW TRACKING OF LOCAL EXPENDITURES IN SCHOOLS' CAPITAL OUTLAY FUNDS, TO DIRECT THE STATE BOARD OF EDUCATION TO DEVELOP A UNIFORM SYSTEM FOR SCHOOLS TO DEVELOP FIVE-YEAR CAPITAL NEEDS PLANS, AND TO AMEND THE SCHOOL BUDGET AND FISCAL CONTROL ACT.

The General Assembly of North Carolina enacts:

Section 1. The State Board of Education, in cooperation with the Local Government Commission, shall modify the uniform budget format used by local school administrative units to include five-year capital needs plans. In addition, the State Board of Education shall modify its accounting system in order to track local expenditures in the capital outlay fund of each local school administrative unit. The State Board of Education shall report these modifications to the Joint Legislative Education Oversight Committee by September 15, 1996.

Sec. 2. Article 31 of Chapter 115C of the General Statutes is amended by adding the following new section to read:

1 **"§ 115C-426.2. Joint planning.**

2 In order to promote greater mutual understanding of immediate and long-term
3 budgetary issues and constraints affecting public schools and county governments, local
4 boards of education and boards of county commissioners are strongly encouraged to
5 conduct periodic joint meetings during each fiscal year. In particular, the boards are
6 encouraged to assess the school capital outlay needs, to develop and update a joint five-
7 year plan for meeting those needs, and to consider this plan in the preparation and
8 approval of each year's budget under this Article."

9 Sec. 3. G.S. 115C-431 reads as rewritten:

10 **"§ 115C-431. Procedure for resolution of dispute between board of education and**
11 **board of county commissioners.**

12 (a) If the board of education determines that the amount of money appropriated to
13 the local current expense fund, or the capital outlay fund, or both, by the board of county
14 commissioners is not sufficient to support a system of free public schools, the chairman
15 of the board of education and the chairman of the board of county commissioners shall
16 arrange a joint meeting of the two boards to be held within seven days after the day of the
17 county commissioners' decision on the school appropriations. At the joint meeting, the
18 entire school budget shall be considered carefully and judiciously, and the two boards
19 shall make a good-faith attempt to resolve the differences that have arisen between them.

20 (b) ~~If no agreement is reached at the joint meeting of the two boards, either board~~
21 ~~may refer the dispute to the clerk of superior court for arbitration within three days after~~
22 ~~the day of the joint meeting. The clerk shall render his decision on the matters in~~
23 ~~disagreement within 10 days after the day of the referral. The clerk of the superior court~~
24 ~~shall have the authority to subpoena or issue any orders necessary to have appear before~~
25 ~~him any member of a board of education and any member of a board of commissioners~~
26 ~~involved in the dispute and to require that the records of either board be presented to him~~
27 ~~for the purpose of arbitration of the issues. Within 10 days of the referral, if the clerk in~~
28 ~~good faith determines that the dispute cannot be arbitrated, he shall transfer the matter to~~
29 ~~the superior court pursuant to this section and shall so notify the senior resident superior~~
30 ~~court judge or the presiding superior court judge in the district. notify the clerk of~~
31 superior court who shall request the appointment of a mediator by superior court under
32 G.S. 7A-38.1. The mediator shall be appointed within five days of the notification to the
33 clerk. The mediator shall present recommendations for resolution of the matters in
34 dispute within 15 days of the notification to the clerk.

35 (c) ~~Within 10 days after the date of award, five days of receiving the~~
36 recommendations of the mediator, either board may appeal the clerk's award to the
37 superior court division of the General Court of Justice. The court shall find the facts as to
38 the amount of money necessary to maintain a system of free public schools, and the
39 amount of money needed from the county to make up this total. Either board has the right
40 to have the issues of fact tried by a jury. When a jury trial is demanded, the cause shall be
41 set for the first succeeding term of the superior court in the county, and shall take
42 precedence over all other business of the court. However, if the judge presiding certifies
43 to the Chief Justice of the Supreme Court, either before or during the term, that because

1 of the accumulation of other business, the public interest will be best served by not trying
2 the cause at the term next succeeding the appeal, the Chief Justice shall immediately call
3 a special term of the superior court for the county, to convene as soon as possible, and
4 assign a judge of the superior court or an emergency judge to hold the court, and the
5 cause shall be tried at this special term. The issue submitted to the jury shall be what
6 amount of money is needed from sources under the control of the board of county
7 commissioners to maintain a system of free public schools.

8 All findings of fact in the superior court, whether found by the judge or a jury, shall
9 be conclusive. When the facts have been found, the court shall give judgment ordering
10 the board of county commissioners to appropriate a sum certain to the local school
11 administrative unit, and to levy such taxes on property as may be necessary to make up
12 this sum when added to other revenues available for the purpose.

13 (d) If an appeal is taken to the appellate division of the General Court of Justice,
14 and if such an appeal would result in a delay beyond a reasonable time for levying taxes
15 for the year, the judge shall order the board of county commissioners to appropriate to the
16 local school administrative unit for deposit in the local current expense fund a sum of
17 money sufficient when added to all other moneys available to that fund to equal the
18 amount of this fund for the previous year. All papers and records relating to the case shall
19 be considered a part of the record on appeal.

20 (e) If, in an appeal taken pursuant to this section, the final judgment of the General
21 Court of Justice is rendered after the due date prescribed by law for property taxes, the
22 board of county commissioners is authorized to levy such supplementary taxes as may be
23 required by the judgment, notwithstanding any other provisions of law with respect to the
24 time for doing acts necessary to a property tax levy. Upon making a supplementary levy
25 under this subsection, the board of county commissioners shall designate the person who
26 is to compute and prepare the supplementary tax receipts and records for all such taxes.
27 Upon delivering the supplementary tax receipts to the tax collector, the board of county
28 commissioners shall proceed as provided in G.S. 105-321.

29 The due date of supplementary taxes levied under this subsection is the date of the
30 levy, and the taxes may be paid at par or face amount at any time before the one hundred
31 and twentieth day after the due date. On or after the one hundred and twentieth day and
32 before the one hundred and fiftieth day from the due date there shall be added to the taxes
33 interest at the rate of two percent (2%). On or after the one hundred and fiftieth day from
34 the due date, there shall be added to the taxes, in addition to the two percent (2%)
35 provided above, interest at the rate of three-fourths of one percent ($\frac{3}{4}$ of 1%) per 30
36 days or fraction thereof until the taxes plus interest have been paid. No discounts for
37 prepayment of supplementary taxes levied under this subsection shall be allowed."

38 Sec. 4. G.S. 105-503 is recodified as G.S. 115C-440.1.

39 Sec. 5. G.S. 115C-440.1, as recodified by this act, reads as rewritten:

40 "**§ 115C-440.1. Report on county spending on public school capital outlay.**

41 (a) It is the purpose of ~~this~~ Article 42 of Chapter 105 of the General Statutes for
42 counties to appropriate funds generated under ~~this~~ that Article to increase the level of
43 county spending for public elementary and secondary school capital outlay (including

1 retirement of indebtedness incurred by the county for this purpose) above and beyond the
2 level of spending prior to the levy of the additional tax authorized under ~~this~~ that Article.

3 (b) On or before May 1 of each year the Local Government Commission shall
4 furnish to the General Assembly a report of the level of each county's appropriations for
5 public school capital outlay ~~(including retirement of indebtedness incurred and monies
6 reserved for these purposes), include the amount each county has provided for public school
7 capital outlay for a period including at a minimum the most recent five fiscal years, estimates of
8 public school facility needs, the proportion of revenue from taxes collected under Article 40 of
9 this Chapter that has been provided for public school capital outlay purposes (including
10 retirement of indebtedness incurred and monies reserved for these purposes), the proportion of
11 revenue collected under this Article that has been expended for a public school capital outlay
12 purposes (including retirement of indebtedness incurred and monies reserved for these purposes),
13 and any other factors it deems relevant to carrying out the intent stated in subsection (a) of this
14 section.~~ outlay, including appropriations to the public school capital outlay fund, funds
15 expended by counties on behalf of and for the benefit of public schools for capital outlay,
16 monies reserved for future years' retirement of debt incurred or capital outlay, and any
17 other information the Local Government Commission considers relevant. The Local
18 Government Commission shall develop and implement by May 1, 1997, a uniform
19 reporting system whereby counties are able to report all county expenditures under this
20 subsection.

21 (c) Any local board of education may petition the Local Government Commission
22 to make a finding that the funds provided by a county for public school capital outlay
23 purposes are, within the financial resources available and consistent with the fiscal
24 policies of the Board of County Commissioners, inadequate to meet the public school
25 capital outlay needs within that county and that the Board of County Commissioners has
26 not complied with the requirements or intent of this Article. The petition shall be in the
27 form prescribed by the Commission. In making its finding, the Commission shall
28 consider the facts it is required to report under G.S. 105-503, as well as any other
29 information it deems necessary. The Commission shall report its findings on such
30 petition, together with any recommendations it deems appropriate, to the Joint Legislative
31 Commission on Governmental Operations."

32 Sec. 6. This act becomes effective July 1, 1996.