

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015**

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**SENATE BILL 888**

Short Title: Buncombe School Capital Fund Commission. (Local)

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Sponsors: Senator Apodaca (Primary Sponsor).

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Referred to: Education/Higher Education

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May 23, 2016

A BILL TO BE ENTITLED

AN ACT TO REESTABLISH THE BUNCOMBE SCHOOL CAPITAL FUND COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 134 of the 1983 Session Laws is repealed.

**SECTION 2.(a)** Creation. – The School Capital Fund Commission for Buncombe County is created. The Commission has all the powers conferred by this act and such other powers as may be useful or necessary to permit it fully to carry out the purposes of this act. The Commission is hereby declared to be a corporation with perpetual succession, the right to adopt and use a corporate seal, to sue and to be sued, and to hold, manage, and control the moneys and properties received by it under the provisions of this act. It has the right to make reasonable rules for the conduct of its business.

**SECTION 2.(b)** Membership. – The Commission consists of five members appointed as follows: one appointed by the Asheville City Board of Education, one appointed by the Buncombe County Board of Education, two appointed by the Buncombe County Board of Commissioners, and one appointed by the other four appointees. A member appointed by a local governing board or a school board serves at the pleasure of that board. The member appointed by the other appointees serves at the pleasure of the majority of the other appointees. Any vacancy occurring during the term of the original appointees shall be filled by the other members of the Commission.

Members serve staggered four-year terms. A term begins on July 1 of the year of appointment and ends on June 30 of the fourth year. No individual may serve more than two terms. In calculating the number of terms served, a partial term that is less than 24 months in length will not be included.

**SECTION 2.(c)** Meetings. – A quorum shall be three members of the Commission. The first meeting of the Commission must be held within 90 days after the ratification of this act. At the initial meeting, the Commission must appoint officers and adopt bylaws or rules to govern its procedure and the conduct of the business and affairs of the Commission. Regular or stated meetings of the Commission must be held at the time and place provided by the Commission in its bylaws or rules, and special meetings may be held on the call of the chair after due notice.

**SECTION 2.(d)** Officers. – The Commission must appoint a chairman and vice-chairman from among its membership who will serve a one-year term. The Commission must appoint a secretary for a one-year term. The officers will serve until their successors are appointed by the Commission. The finance officer for Buncombe County is the finance officer of the Commission. The Commission may require the county finance officer to obtain a bond for the faithful performance of the duties as the finance officer of the Commission in an amount determined by the Commission. The finance officer of the Commission shall manage the funds of



1 the Commission only as directed by the Commission. The Commission may select and appoint an  
2 attorney of the Commission and determine the compensation for this position. The attorney serves  
3 at the pleasure of the Commission.

4 **SECTION 2.(e)** Capital Reserve Fund. – A capital reserve fund, as allowed under Part  
5 2 of Article 3 of Chapter 159 of the General Statutes, is created. The fund consists of all of the  
6 following:

- 7 (1) One half of any local government sales and use tax revenue distributed to  
8 Buncombe County under G.S. 105-472. This subdivision does not affect the  
9 distribution of any local sales and use tax revenue to the municipalities in  
10 Buncombe County.
- 11 (2) All of the special property tax levied by Buncombe County for necessary  
12 capital outlay improvements of County and City Schools in Buncombe County,  
13 approved by the voters of Buncombe County in 1959. The Buncombe County  
14 Board of Commissioners shall appropriate the funds to the Commission and the  
15 Tax Collector shall remit the funds to the Commission.
- 16 (3) Any funds exceeding one hundred thousand dollars (\$100,000) for public  
17 school improvement and renovation projects.
- 18 (4) Any other funds appropriated by Buncombe County or any other governmental  
19 entity for public school construction of any amount.

20 **SECTION 2.(f)** Use of Funds. – All funds in the capital reserve fund shall be used to  
21 finance public school capital construction and public school improvement and renovation projects  
22 in Buncombe County or to retire any indebtedness incurred by the county or a local school board  
23 for these purposes. Moneys in the capital reserve fund must be appropriated by the board of  
24 county commissioners. The Commission shall disburse the moneys as a ministerial duty upon  
25 receiving a written request from the board of county commissioners after the county board of  
26 commissioners has adopted an ordinance and after receipt of a written request from the appropriate  
27 board of education indicating it is prepared to enter into a contract, and G.S. 115C-521 shall  
28 continue to apply.

29 **SECTION 2.(g)** Costs of the Commission. – The reasonable and necessary expenses  
30 of the Commission, including the compensation of its officers and employees and the cost of any  
31 bond required by it, will be paid by Buncombe County. The chair of the Commission must certify  
32 monthly to the governing body of Buncombe County the expenses of the Commission incurred  
33 during the preceding month, and the governing body of the county must pay to the Commission  
34 the expenses required to be paid. All such payments shall be charged to the general fund of the  
35 county.

36 **SECTION 3.** The capital reserve fund created under Section 9 of Chapter 134 of the  
37 1983 Session Laws will constitute the capital reserve fund created under Section 2(e) of this act.  
38 The two accounts in the fund, one for the Buncombe County Board of Education and one for the  
39 Asheville City Board of Education, are dissolved, and the moneys in the accounts will remain in  
40 the capital reserve fund to be expended as provided in this act. Any outstanding indebtedness  
41 incurred prior to the effective date of this act that is payable from one of the two accounts in the  
42 capital reserve fund created pursuant to Chapter 134 of the 1983 Session Laws will be assumed by  
43 and payable from the capital reserve fund created pursuant to this act.

44 **SECTION 4.(a)** Notwithstanding the appointment provisions of Section 2(b) of this  
45 act, the initial members of the School Capital Fund Commission for Buncombe County, as created  
46 by this act, are to be appointed for the following terms to achieve the staggered terms provided in  
47 Section 2(b) of this act:

- 48 (1) The member appointed by the Asheville City Board of Education shall serve an  
49 initial term of four years, ending June 30, 2020.
- 50 (2) The member appointed by the Buncombe County Board of Education shall  
51 serve an initial term of four years, ending June 30, 2020.

- 1           (3)    One member appointed by the Buncombe County Board of Commissioners  
2               shall serve an initial term of four years, ending June 30, 2020.  
3           (4)    One member appointed by the Buncombe County Board of Commissioners  
4               shall serve a term of two years, ending June 30, 2018.  
5           (5)    The member appointed by the four appointees shall serve an initial term of two  
6               years, ending June 30, 2018.

7           **SECTION 4.(b)** The local governing board and the school boards must make their  
8 initial appointments to the School Capital Fund Commission for Buncombe County no later than  
9 September 30, 2016. The four initial appointees to the School Capital Fund Commission for  
10 Buncombe County must make their initial appointment to the Commission no later than December  
11 31, 2016.

12           **SECTION 5.** Section 1 of this act becomes effective January 1, 2017. The remainder  
13 of this act is effective when it becomes law.