

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 666
HOUSE BILL 1102

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:

"§ 115C-426.2. Joint planning.

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

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

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

(a) If the board of education determines that the amount of money appropriated to the local current expense fund, or the capital outlay fund, or both, by the board of county commissioners is not sufficient to support a system of free public schools, the chairman of the board of education and the chairman of the board of county commissioners shall arrange a joint meeting of the two boards to be held within seven

days after the day of the county commissioners' decision on the school appropriations. At the joint meeting, the entire school budget shall be considered carefully and judiciously, and the two boards shall make a good-faith attempt to resolve the differences that have arisen between them.

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

(c) Within 10 days after the date of award, five days of receiving the recommendations of the mediator, either board may appeal the clerk's award to file an action in the superior court division of the General Court of Justice. The court shall find the facts as to the amount of money necessary to maintain a system of free public schools, and the amount of money needed from the county to make up this total. Either board has the right to have the issues of fact tried by a jury. When a jury trial is demanded, the cause shall be set for the first succeeding term of the superior court in the county, and shall take precedence over all other business of the court. However, if the judge presiding certifies to the Chief Justice of the Supreme Court, either before or during the term, that because of the accumulation of other business, the public interest will be best served by not trying the cause at the term next succeeding the appeal filing of the action, the Chief Justice shall immediately call a special term of the superior court for the county, to convene as soon as possible, and assign a judge of the superior court or an emergency judge to hold the court, and the cause shall be tried at this special term. The issue submitted to the jury shall be what amount of money is needed from sources under the control of the board of county commissioners to maintain a system of free public schools.

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

(d) If an appeal is taken to the appellate division of the General Court of Justice, and if such an appeal would result in a delay beyond a reasonable time for levying taxes for the year, the judge shall order the board of county commissioners to appropriate to

the local school administrative unit for deposit in the local current expense fund a sum of money sufficient when added to all other moneys available to that fund to equal the amount of this fund for the previous year. All papers and records relating to the case shall be considered a part of the record on appeal.

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

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

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

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

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

(a) It is the purpose of ~~this Article 42 of Chapter 105 of the General Statutes~~ for counties to appropriate funds generated under ~~this~~~~that~~ Article to increase the level of county spending for public elementary and secondary school capital outlay (including retirement of indebtedness incurred by the county for this purpose) above and beyond the level of spending prior to the levy of the additional tax authorized under ~~this~~~~that~~ Article.

(b) On or before May 1 of each year the Local Government Commission shall furnish to the General Assembly a report of the level of each county's appropriations for public school capital outlay (~~including retirement of indebtedness incurred and monies reserved for these purposes~~), ~~include the amount each county has provided for public school capital outlay for a period including at a minimum the most recent five fiscal years, estimates of public school facility needs, the proportion of revenue from taxes collected under Article 40 of this Chapter that has been provided for public school capital outlay purposes (including retirement of indebtedness incurred and monies reserved for these purposes), the proportion of revenue collected under this Article that has been expended for a public school capital outlay purposes (including retirement of indebtedness incurred and monies reserved for these purposes), and any other factors it~~

~~deems relevant to carrying out the intent stated in subsection (a) of this section—outlay, including appropriations to the public school capital outlay fund, funds expended by counties on behalf of and for the benefit of public schools for capital outlay, monies reserved for future years' retirement of debt incurred or capital outlay, and any other information the Local Government Commission considers relevant. For purposes of this subsection, the term 'public schools' includes charter schools, if authorized. The Local Government Commission shall develop and implement by May 1, 1997, a uniform reporting system whereby counties are able to report all county expenditures under this subsection.~~

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

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

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives