

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 273 (Third Edition)

SHORT TITLE: Charter School/LEA Accounting of Funds.

SPONSOR(S): Representatives Hardister, Malone, Brandon, and Stam

FISCAL IMPACT					
(\$ in millions)					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	No State impact estimated.				
Local Impact					
Revenues:					
Expenditures:					
NET LOCAL IMPACT	Indeterminate increase in funding transferred from local school districts to local public charter schools See Assumptions & Methodology section for additional details.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
Local School Administrative Units					
EFFECTIVE DATE: Beginning of the 2013-14 school year.					
TECHNICAL CONSIDERATIONS:					
None					

BILL SUMMARY:

This bill would make a series of modifications to statutes governing charter school fund disposition, transfer and uses.

Section 1:

Operational Leases – Charters would be permitted to use State funds for payments on loans made to charter schools for operations, in addition to the currently permitted facilities and equipment purposes.

Funding Transfer – LEAs would be required to transfer the per pupil share of the local current expense fund to the charter school within 30 days of the receipt of monies into the local current expense fund. Necessary adjustments would be made within 30 days of certification of the average daily membership of the charter school by the State Board of Education. The bill would limit the transfer of supplemental tax revenue to those districts in which the ballot for the referendum on supplemental taxes included language stating that the revenues were to be used only for students attending schools in the district.

Penalties for Delinquent Transfers –LEAs would be required to pay interest accruing from the date of delinquency at the legal rate (8%) on funds not transferred within the 30 day requirement.

Transfer Calculation - An LEA would be required to provide the following information within the 30 day time period to each charter school receiving a per pupil share of the LEA's local current expense fund:

1. The total amount of monies the LEA has in each of the funds listed in G.S. 115C-426(c) such as reimbursements, fees for actual costs, tuition, sales tax refunds, etc.
2. The student membership numbers used to calculate the per pupil share of the local current expense fund.
3. How the per pupil share of the local current expense fund was calculated.

Fees and Costs for Enforcement – The prevailing party in an action to enforce a funding transfer would be awarded reasonable attorney fees and costs. Any delinquent funds, costs, fees, and interest would be paid in equal monthly installments with payment in full that would be no later than three years from the entry of any judgment.

Section 2: The bill would clarify the composition of the Uniform Budget Format for the purposes of determining the required per-pupil local current expense appropriation that must be transferred to a charter school from a local school administrative unit (LEA).

Section 3: Would create an exception to G.S. 143B-426.40A, the anti-assignment statute, to allow assignments by charter schools to obtain funds for facilities, equipment, or operations.

ASSUMPTIONS AND METHODOLOGY:

Budgeting of Certain Funds in the Local Current Expense Fund

G.S. 115C-238.29H requires LEAs (in which a charter school student resides) to, “transfer to the charter school an amount equal to the per pupil local current expense appropriation to the local school administrative unit for the fiscal year.” The definition of what sources comprise the local current expense appropriation is defined in G.S. 115C-426. This section requires LEAs to establish a State Public School Fund, local current expense fund, and a capital outlay fund in its standard budget format.

LEAs are also currently allowed, under G.S. 115C-426(c), to account for fund sources outside of these three categories. Prior to 2010, the explicit definition of those sources had been subject to dispute. The definition of those sources that may have been considered as “other funds” had been less explicitly defined by statute. However, three legal decisions (Delaney, Sugar Creek I and Sugar Creek II) had served to clarify those funds that should be budgeted in the local current expense appropriation.

Specifically, Sugar Creek I found that certain funds budgeted in the local current expense fund by Charlotte-Mecklenburg Public Schools were erroneously excluded from transfer to affected charter schools. These funds included monies for prekindergarten programs and high school reform efforts. Additionally, the ruling held that an LEA must transfer per-pupil funding to the charter school using the same methodology for determining student attendance at the district’s traditional public schools.

In 2009, the Sugar Creek II judgments essentially upheld all of the findings in Sugar Creek I except to omit Textbook funds from those funds included in the local current expense funds for per-capita transfer to charter schools. In total, the plaintiff schools in this case were found to be entitled to compensation based on the improper distribution of local current expense funding.

The Legislature took action in S.L. 2010-31 to further enumerate fund sources that may be budgeted in “other funds”. These sources are defined as: “reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust funds, federal appropriations made directly to local school administrative units, funds received for prekindergarten programs, and special programs.”

Clearly the language in S.L. 2010-31 has the effect of broadening the latitude over which LEAs could budget certain funds outside of the local current expense fund. This bill eliminates that latitude and adds the ability for districts to budget restricted external donations to a school district and federal funds “restricted as to use” in other funds.

The impact of these budgeting modifications would cause some shift in local funds distribution from the LEA to existing charter schools in each instance that the LEA was including certain funds as “other funds” that would now be properly considered “local current expense” by this bill. There is no data available on the extent of this shift. All LEAs with students in charter schools have the latitude to include certain local, Federal and State funds in its local current expense fund.

These changes would have no material impact on State funding.

Local Transfer of Certain Supplemental Taxes

Because no referenda for supplemental taxes have included the required language on the ballots allowing for transfers for students living within the district, the bill appears to eliminate transfers of supplemental tax revenue to charter schools. There is no data available on the amount of supplemental tax revenue that is currently transferred to charter schools. As a result, the fiscal impact of this change is not known.

SOURCES OF DATA: N/A

TECHNICAL CONSIDERATIONS: Language included via amendment effectively eliminated the transfer of supplemental taxes to charter schools by requiring language that was not included on the referenda ballot for existing supplemental tax districts. This effect could have also been accomplished by striking the language authorizing supplemental tax transfers to charter schools.

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