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SENATE BILL DRS45398-MK-127D (03/15)

Short Title: Charter School Funds.

(Public)

Sponsors: Senators Hise and Barefoot (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE BOARDS OF COUNTY COMMISSIONERS TO DETERMINE
3 THE METHOD OF PROVIDING COUNTY FUNDS TO CHARTER SCHOOLS,
4 INCLUDING AUTHORIZING A COUNTY TO PROVIDE CAPITAL FUNDS TO A
5 CHARTER SCHOOL SUBJECT TO RETURN OF THOSE FUNDS UPON
6 DISSOLUTION OF THE SCHOOL, AND TO REVISE THE UNIFORM BUDGET
7 FORMAT FOR LOCAL SCHOOL ADMINISTRATIVE UNITS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 115C-218.100(b) reads as rewritten:

10 "(b) Distribution of Assets. – Upon dissolution of a charter school, all net assets of the
11 charter school purchased with public funds shall be deemed the property of the local school
12 administrative unit in which the charter school is ~~located~~located, except that capital funds
13 provided to a charter school by one or more counties pursuant to G.S. 115C-218.106(c) and all
14 net assets purchased or improved with the capital funds, up to the total amount of the funds
15 provided, shall be deemed the property of the county or counties providing the funding and, if
16 applicable, divided between the counties in proportion to the funds provided."

17 SECTION 2. G.S. 115C-218.105 reads as rewritten:

18 "§ 115C-218.105. State ~~and local~~ funds for a charter school.

19 ...

20 (e) ~~If a student attends a charter school, the local school administrative unit in which~~
21 ~~the child resides shall transfer to the charter school an amount equal to the per pupil share of~~
22 ~~the local current expense fund of the local school administrative unit for the fiscal year. The per~~
23 ~~pupil share of the local current expense fund shall be transferred to the charter school within 30~~
24 ~~days of the receipt of monies into the local current expense fund. The local school~~
25 ~~administrative unit and charter school may use the process for mediation of differences~~
26 ~~between the State Board and a charter school provided in G.S. 115C-218.95(d) to resolve~~
27 ~~differences on calculation and transference of the per pupil share of the local current expense~~
28 ~~fund. The amount transferred under this subsection that consists of revenue derived from~~
29 ~~supplemental taxes shall be transferred only to a charter school located in the tax district for~~
30 ~~which these taxes are levied and in which the student resides.~~

31 (d) ~~The local school administrative unit shall also provide each charter school to which~~
32 ~~it transfers a per pupil share of its local current expense fund with all of the following~~
33 ~~information within the 30-day time period provided in subsection (c) of this section:~~

34 (1) ~~The total amount of monies the local school administrative unit has in each~~
35 ~~of the funds listed in G.S. 115C-426(c).~~



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- 1 (2) The student membership numbers used to calculate the per pupil share of the
2 local current expense fund.
3 (3) How the per pupil share of the local current expense fund was calculated.
4 (4) Any additional records requested by a charter school from the local school
5 administrative unit in order for the charter school to audit and verify the
6 calculation and transfer of the per pupil share of the local current expense
7 fund.

8 In addition, the local school administrative unit shall provide to the State Board of
9 Education all of the information required by this subsection for each charter school to which it
10 transfers a per pupil share of its local current expense fund. This information shall be provided
11 to the State Board of Education by November 1 of each year. The State Board shall adopt a
12 policy to govern the collection of this information. The State Board shall issue a letter of
13 noncompliance to a local school administrative unit that does not provide the State Board with
14 the information required by this subsection.

15 (e) Prior to commencing an action under subsection (c) of this section, the complaining
16 party shall give the other party 15 days' written notice of the alleged violation. The court shall
17 award the prevailing party reasonable attorneys' fees and costs incurred in an action under
18 subsection (c) of this section. The court shall order any delinquent funds, costs, fees, and
19 interest to be paid in equal monthly installments and shall establish a time for payment in full
20 that shall be no later than one year from the entry of any judgment."

21 SECTION 3. Article 14A of Chapter 115C of the General Statutes is amended by
22 adding a new section to read:

23 "**§ 115C-218.106. Local funds for a charter school.**

24 (a) Resolution on Appropriation of Funds. – Each board of county commissioners shall
25 adopt a resolution on the method of appropriating county funds to any charter school that has a
26 student enrolled who resides in the county. The board of county commissioners shall determine
27 the method of appropriation of county funds to a charter school that is in the best interests of
28 the county, which may include methods for direct appropriation of county funds for the
29 operation of the charter school, appropriation of county funds to a charter school for capital
30 outlay purposes, or appropriation of county funds to local school administrative units that
31 transfer funds to a charter school for students who reside in the local school administrative unit.
32 A resolution adopted pursuant to this section shall not reduce or release a local school
33 administrative unit from its obligation to transfer charter school funds other than county
34 appropriations in accordance with subsection (e) of this section.

35 (b) Total Membership of Students Enrolled in Charter Schools. – By October 1 of each
36 school year, the total membership of students residing in the county who attend charter schools
37 for the budget year shall be determined and certified to the charter school and the board of
38 county commissioners by the State Board of Education.

39 (c) County Funds for Capital Outlay. – If a board of county commissioners provides in
40 the resolution adopted pursuant to subsection (a) of this section that the county may provide
41 funds to charter schools by direct appropriation for capital outlay purposes, these funds shall be
42 used for the following purposes:

- 43 (1) The acquisition of real property for school purposes, including, but not
44 limited to, school sites, playgrounds, and athletic fields.
45 (2) The acquisition, construction, reconstruction, enlargement, renovation, or
46 replacement of buildings and other structures, including, but not limited to,
47 buildings for classrooms and laboratories, physical and vocational education
48 purposes, libraries, auditoriums, and gymnasiums.
49 (3) The acquisition or replacement of furniture and furnishings, instructional
50 apparatus, and similar items of furnishings and equipment.

1 (d) Charter School Property. – If a charter school uses funds provided in subsection (c)
2 of this section to acquire or improve property, the amount provided by the county must be
3 evidenced by a promissory note and secured by a deed of trust on the property acquired or
4 improved by the funds. The county may subordinate the deed of trust to other liens to facilitate
5 the acquisition or improvement of the property secured by the deed of trust. In the event that a
6 charter school fully repays the county in the amount of the capital funds provided, the county
7 shall, for the property acquired or improved by the funds, execute and file a deed of release or
8 other documentation of satisfaction showing the charter school repaid the county in the amount
9 of the capital funds provided.

10 (e) Transfer of Funds From a Local Board of Education to a Charter School. – A local
11 board shall transfer an amount equal to the per pupil share of the local current expense fund of
12 the local school administrative unit for the fiscal year. If the board of county commissioners
13 provides in the resolution adopted pursuant to subsection (a) of this section that county funds
14 appropriated to a local board of education of a local school administrative unit located in the
15 county shall be transferred to a charter school for a student who resides in the unit and attends a
16 charter school, the local current expense funds transferred under this section shall include
17 county funds. The per pupil share of the local current expense fund shall be transferred to the
18 charter school within 30 days of the receipt of monies into the local current expense fund. The
19 local school administrative unit and charter school may use the process for mediation of
20 differences between the State Board and a charter school provided in G.S. 115C-218.95(d) to
21 resolve differences on calculation and transference of the per pupil share of the local current
22 expense fund. The amount transferred under this subsection that consists of revenue derived
23 from supplemental taxes shall be transferred only to a charter school located in the tax district
24 for which these taxes are levied and in which the student resides.

25 (f) Information on Funds Transferred From the Local Board of Education. – The local
26 school administrative unit shall also provide each charter school to which it transfers a per
27 pupil share of its local current expense fund with all of the following information within the
28 30-day time period provided in subsection (e) of this section:

- 29 (1) The total amount of monies the local school administrative unit has in each
30 of the funds listed in G.S. 115C-426(c).
- 31 (2) The student membership numbers used to calculate the per pupil share of the
32 local current expense fund.
- 33 (3) How the per pupil share of the local current expense fund was calculated.
- 34 (4) Any additional records requested by a charter school from the local school
35 administrative unit in order for the charter school to audit and verify the
36 calculation and transfer of the per pupil share of the local current expense
37 fund.

38 In addition, the local school administrative unit shall provide to the State Board of
39 Education all of the information required by this subsection for each charter school to which it
40 transfers a per pupil share of its local current expense fund. This information shall be provided
41 to the State Board of Education by November 1 of each year. The State Board shall adopt a
42 policy to govern the collection of this information. The State Board shall issue a letter of
43 noncompliance to a local school administrative unit that does not provide the State Board with
44 the information required by this subsection.

45 (g) Dispute Between Charter School and Local Board of Education. – Prior to
46 commencing an action under subsection (e) of this section, the complaining party shall give the
47 other party 15 days' written notice of the alleged violation. The court shall award the prevailing
48 party reasonable attorneys' fees and costs incurred in an action under subsection (e) of this
49 section. The court shall order any delinquent funds, costs, fees, and interest to be paid in equal
50 monthly installments and shall establish a time for payment in full that shall be no later than
51 one year from the entry of any judgment."

1 **SECTION 4.** G.S. 115C-426 reads as rewritten:

2 "**§ 115C-426. Uniform budget format.**

3 ...
4 (c) The uniform budget format shall require the following funds:

- 5 (1) The State Public School Fund.
- 6 (2) The local current expense fund.
- 7 (3) The capital outlay fund.

8 ~~In addition, other funds may be used to account for reimbursements, including indirect~~
9 ~~costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method~~
10 ~~pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust~~
11 ~~funds, federal appropriations made directly to local school administrative units, and funds~~
12 ~~received for prekindergarten programs. In addition, the appropriation or use of fund balance or~~
13 ~~interest income by a local school administrative unit shall not be construed as a local current~~
14 ~~expense appropriation included as a part of the local current expense fund.~~

15 (c1) In addition to the requirements of subsection (c) of this section, other funds may be
16 used only for the following:

- 17 (1) Moneys received for prekindergarten programs.
- 18 (2) Moneys received for the federal Junior Reserve Officer Training Corps
19 program.
- 20 (3) Federal grants or appropriations that are restricted as to use and that the
21 federal government requires to be held separately and not commingled.
- 22 (4) Rental fees for the use of facilities of public schools.
- 23 (5) Sales tax refunds.
- 24 (6) Tuition.
- 25 (7) Gifts or grants (i) that expressly exclude charter schools; (ii) that have been
26 expressly restricted by the donor or grantor to an individual school; or (iii)
27 that were given, awarded, bequeathed, or applied for prior to July 1, 2017.
- 28 (8) Enterprise funds where the local school administrative unit collects a fee for
29 service.
- 30 (9) Fund balances used or accruing for the local school administrative unit's
31 current operating expenses.
- 32 (10) Interest income.
- 33 (11) Funds received for participation in federal Child Nutrition Programs, except
34 for indirect costs.
- 35 (12) Medicare and Medicaid reimbursements.
- 36 (13) Fees for actual costs.
- 37 (14) Funds for which the local school administrative unit is acting as the fiscal
38 agent and does not derive any benefit.

39 (c2) Each local school administrative unit shall maintain those funds shown in the
40 uniform budget format that are applicable to its operations.

41 ...

42 (e) The local current expense fund shall include appropriations sufficient, when added
43 to appropriations from the State Public School Fund, for the current operating expense of the
44 public school system in conformity with the educational goals and policies of the State and the
45 local board of education, within the financial resources and consistent with the fiscal policies of
46 the board of county commissioners. These appropriations shall be funded by revenues accruing
47 to the local school administrative unit by virtue of Article IX, Sec. 7 of the Constitution,
48 moneys made available to the local school administrative unit by the board of county
49 commissioners, supplemental taxes levied by or on behalf of the local school administrative
50 unit pursuant to a local act or G.S. 115C-501 to 115C-511, State money disbursed directly to

1 the local school administrative unit, and other moneys made available or accruing to the local
2 school administrative unit for the current operating expenses of the public school system.

3 (e1) As used in subsection (e) of this section, the phrase "other moneys made available
4 or accruing to the local school administrative unit" shall include, but is not limited to, all of the
5 following:

- 6 (1) Moneys received for indirect costs.
- 7 (2) Reimbursements, except for Medicare and Medicaid reimbursements.
- 8 (3) Sales tax revenues regardless of how they are distributed.
- 9 (4) Gifts and grants not subject to the restrictions set forth in subdivision (3) or
10 subdivision (7) of subsection (c1) of this section.
- 11 (5) Federal grants and appropriations made directly to local school
12 administrative units.

13"

14 **SECTION 5.** G.S. 115C-448(d) reads as rewritten:

15 "(d) Special funds of individual schools shall not be included as part of the local current
16 expense fund of a local school administrative unit for the purposes of determining the per pupil
17 share of the local current expense fund transferred to a charter school pursuant to ~~G.S.~~
18 ~~115C-218.105(e)~~G.S. 115C-218.106(e)."

19 **SECTION 6.** G.S. 153A-149(b) reads as rewritten:

20 "(b) Each county may levy property taxes without restriction as to rate or amount for the
21 following purposes:

- 22 (1) Courts. – To provide adequate facilities for and the county's share of the cost
23 of operating the General Court of Justice in the county.
- 24 (2) Debt Service. – To pay the principal of and interest on all general obligation
25 bonds and notes of the county.
- 26 (3) Deficits. – To supply an unforeseen deficiency in the revenue (other than
27 revenues of public enterprises), when revenues actually collected or received
28 fall below revenue estimates made in good faith and in accordance with the
29 Local Government Budget and Fiscal Control Act.
- 30 (4) Elections. – To provide for all federal, State, district and county elections.
- 31 (5) Jails. – To provide for the operation of a jail and other local confinement
32 facilities.
- 33 (6) Joint Undertakings. – To cooperate with any other county, city, or political
34 subdivision in providing any of the functions, services, or activities listed in
35 this subsection.
- 36 (7) Schools. – To provide for the county's share of the cost of kindergarten,
37 elementary, ~~secondary,~~ and secondary public schools, including charter
38 schools chartered under Article 14A of Chapter 115C of the General
39 Statutes, and post-secondary public education.
- 40 (8) Social Services. – To provide for public assistance required by Chapters
41 108A and 111 of the General Statutes."

42 **SECTION 7.** Article 23 of Chapter 153A of the General Statutes is amended by a
43 new section to read:

44 "**§ 153A-458. Charter schools.**

45 Each county is authorized to appropriate funds to schools chartered under Article 14A of
46 Chapter 115C of the General Statutes. Counties may provide funds in accordance with the
47 provisions of G.S. 115C-218.106."

48 **SECTION 8.** Section 8.35(e) of S.L. 2014-100 reads as rewritten:

49 "**SECTION 8.35.(e)** The State Board of Education shall provide State funding to a virtual
50 charter school participating in the pilot program as provided in ~~G.S. 115C-238.29H(a)~~ and
51 ~~G.S. 115C-238.29H(a1)~~G.S. 115C-218.105. The amount allocated pursuant to

1 ~~G.S. 115C-238.29H(a)(1)~~G.S. 115C-218.105 shall not, however, include the allocation for
2 low-wealth counties supplemental funding and the allocation for small county supplemental
3 funding. Virtual charter schools participating in the pilot program shall also be subject to the
4 requirements in ~~G.S. 115C-238.29H(b) through G.S. 115C-238.29H(d)~~. G.S. 115C-218.105(b)
5 and G.S. 115C-218.106. The amount of local funds provided to participating schools pursuant
6 to ~~G.S. 115C-238.29H(b)~~G.S. 115C-218.106 shall be the lesser of seven hundred ninety dollars
7 (\$790.00) per pupil or the amount computed in accordance with
8 ~~G.S. 115C-238.29H(b)~~G.S. 115C-218.106."

9 **SECTION 9.** Except as otherwise provided, this act becomes effective July 1,
10 2017, and applies beginning with the 2017-2018 school year.