

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10508-MV-156

Short Title: Repeal Right of Action/Capital Outlay Fund. (Public)

Sponsors: Representatives Conrad, Horn, Hunter, and Potts (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REPEAL THE RIGHT OF A SCHOOL BOARD TO FILE LEGAL ACTION  
3 CHALLENGING THE SUFFICIENCY OF FUNDS APPROPRIATED TO THE CAPITAL  
4 OUTLAY FUND.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 115C-431 reads as rewritten:

7 "§ 115C-431. Procedure for resolution of dispute between board of education and board of  
8 county commissioners.

9 ...

10 (b1) If agreement is not reached in mediation on the amount of money appropriated to the  
11 local current expense fund, and the amount to be appropriated has not been calculated pursuant  
12 to this subsection for longer than the prior year, the sum to be appropriated for the budget year  
13 in dispute shall be calculated as follows:

14 ...

15 (b3) Neither the local board of education nor the board of county commissioners shall file  
16 any legal action challenging the determination as to the funds to be appropriated by the board of  
17 county commissioners to the local current expense fund in accordance with the formulas found  
18 in subsections (b1) and (b2) of this section.

19 ~~(c) Within five days after an announcement of no agreement on the amount of money to~~  
20 ~~be appropriated to the capital outlay fund by the mediator, the local board of education may file~~  
21 ~~an action in the superior court division of the General Court of Justice. Either board has the right~~  
22 ~~to have the issues of fact tried by a jury. When a jury trial is demanded, the cause shall be set for~~  
23 ~~the first succeeding term of the superior court in the county, and shall take precedence over all~~  
24 ~~other business of the court. However, if the judge presiding certifies to the Chief Justice of the~~  
25 ~~Supreme Court, either before or during the term, that because of the accumulation of other~~  
26 ~~business, the public interest will be best served by not trying the cause at the term next succeeding~~  
27 ~~the filing of the action, the Chief Justice shall immediately call a special term of the superior~~  
28 ~~court for the county, to convene as soon as possible, and assign a judge of the superior court or~~  
29 ~~an emergency judge to hold the court, and the cause shall be tried at this special term. The judge~~  
30 ~~shall find, or if the issue is submitted to the jury, the jury shall find the amount of money legally~~  
31 ~~necessary from the board of county commissioners to provide the local school administrative~~  
32 ~~units with buildings suitably equipped, as required by G.S. 115C-521, in order to maintain a~~  
33 ~~system of free public schools as defined by State law and State Board of Education policy. In~~  
34 ~~making the finding, the judge or the jury shall consider the educational goals and policies of the~~  
35 ~~State and the local board of education, the budgetary request of the local board of education, the~~



1 financial resources of the county and the local board of education, and the fiscal policies of the  
2 board of county commissioners and the local board of education.

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

8 (d) An appeal from the judgement entered as provided in subsection (c) of this section  
9 may be taken to the appellate division of the General Court of Justice, and notice of appeal shall  
10 be given in writing within 10 days after entry of the judgment. All papers and records relating to  
11 the case shall be considered a part of the record on appeal. The conclusion of the school or fiscal  
12 year shall not be deemed to resolve the question in controversy between the parties while an  
13 appeal is still pending. Any final judgment shall be legally binding on the parties at the conclusion  
14 of the appellate process. The payment of any final judgment by the county in favor of the local  
15 school administrative unit shall not be considered, or used in any manner, to deny or reduce  
16 appropriations to the local school administrative unit by the county in fiscal years subsequent to  
17 the one at issue to offset such payment of a final judgment.

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

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

36 (f) If agreement is not reached in mediation on the amount of money appropriated to the  
37 capital outlay fund, the decision of the county commissioners is final. The local board of  
38 education shall not file any legal action challenging the sufficiency of the funds appropriated by  
39 the board of county commissioners to the capital outlay fund."

40 **SECTION 2.** G.S. 115C-432(a) reads as rewritten:

41 "(a) After the board of county commissioners has made its appropriations to the local  
42 school administrative unit, or after the appeal procedure set out in G.S. 115C-431 for the capital  
43 outlay fund has been concluded, the board of education shall adopt a budget resolution making  
44 appropriations for the budget year in such sums as the board may deem sufficient and proper.  
45 The budget resolution shall conform to the uniform budget format established by the State Board  
46 of Education."

47 **SECTION 3.** This act is effective when it becomes law and applies to budget  
48 ordinances adopted on or after that date.