

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 796
Judiciary I Committee Substitute Adopted 4/24/03

Short Title: School Board/County Dispute Resolution.

(Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROCEDURE FOR RESOLUTION OF DISPUTES
BETWEEN BOARDS OF EDUCATION AND BOARDS OF COUNTY
COMMISSIONERS.

The General Assembly of North Carolina enacts:

SECTION 1. 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~~chair of the board of education and the ~~chairman~~chair of the board of county commissioners shall arrange (i) a joint meeting of the two boards to or, (ii) if neither chair wants a joint meeting, mediation of the dispute.

If they arrange a joint meeting, the meeting shall be held within seven days after the day of the county commissioners' decision on the school appropriations. During the joint meeting, the entire school budget shall be considered carefully and judiciously, and the two boards shall make a good-faith effort to resolve the differences that have arisen between them.

(a1) Prior to the joint meeting, theThe Senior Resident Superior Court Judge shall appoint a mediator unless the boards agree to jointly select a mediator. ~~The~~If a joint meeting of the boards is conducted, the mediator shall preside at the joint meeting and shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the boards' differences.

~~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.~~

1 (b) If no agreement is reached at the joint meeting of the two boards, or if there is
2 no joint meeting, the mediator shall, at the request of either board, commence a
3 mediation immediately or within a reasonable period of time. The mediation shall be
4 held in accordance with rules and standards of conduct adopted under Chapter 7A of the
5 General Statutes governing mediated settlement conferences but modified as
6 appropriate and suitable to the resolution of the particular issues in disagreement.

7 Unless otherwise agreed upon by both boards, the following individuals shall
8 constitute the two working groups empowered to represent their respective boards
9 during the mediation:

- 10 (1) The chair of each board or the chair's designee;
- 11 (2) The superintendent of the local school administrative unit and the
12 county manager or either's designee;
- 13 (3) The finance officer of each board; and
- 14 (4) The attorney for each board.

15 Members of both boards, their chairs, and representatives shall cooperate with and
16 respond to all reasonable requests of the mediator to participate in the mediation.
17 Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation
18 proceedings involving the two working groups shall be conducted in private. Evidence
19 of statements made and conduct occurring in a mediation are not subject to discovery
20 and are inadmissible in any court action. However, no evidence otherwise discoverable
21 is inadmissible merely because it is presented or discussed in a mediation. The mediator
22 shall not be compelled to testify or produce evidence concerning statements made and
23 conduct occurring in a mediation in any civil proceeding for any purpose, except
24 disciplinary hearings before the State Bar or any agency established to enforce standards
25 of conduct for mediators. Reports by members of either working group to their
26 respective boards shall be made in compliance with Article 33C of Chapter 143 of the
27 General Statutes.

28 Unless both boards agree otherwise, or unless the boards have already resolved their
29 dispute, the mediation shall end no later than August 1. The mediator shall have the
30 authority to determine that an impasse exists and to discontinue the mediation. The
31 mediation may continue beyond August 1 provided both boards agree. If both boards
32 agree to continue the mediation beyond August 1, the board of county commissioners
33 shall appropriate to the local school administrative unit for deposit in the local current
34 expense fund a sum of money sufficient to equal the local contribution to this fund for
35 the previous year.

36 If the working groups reach a proposed agreement, the terms and conditions must be
37 approved by each board. If no agreement is reached, the mediator shall announce that
38 fact to the chairs of both boards, the Senior Resident Superior Court Judge, and the
39 public. The mediator shall not disclose any other information about the mediation. The
40 mediator shall not make any recommendations or public statement of findings or
41 conclusions.

42 The local board of education and the board of county commissioners shall share
43 equally the mediator's compensation and expenses. The mediator's compensation shall
44 be determined according to rules adopted under Chapter 7A of the General Statutes.

1 (c) Within five days after an announcement of no agreement by the mediator, the
2 local board of education may file an action in the superior court division of the General
3 Court of Justice. The court shall find the facts as to the amount of money necessary to
4 maintain a system of free public schools, and the amount of money needed from the
5 county to make up this total. Either board has the right to have the issues of fact tried by
6 a jury. When a jury trial is demanded, the cause shall be set for the first succeeding term
7 of the superior court in the county, and shall take precedence over all other business of
8 the court. However, if the judge presiding certifies to the Chief Justice of the Supreme
9 Court, either before or during the term, that because of the accumulation of other
10 business, the public interest will be best served by not trying the cause at the term next
11 succeeding the filing of the action, the Chief Justice shall immediately call a special
12 term of the superior court for the county, to convene as soon as possible, and assign a
13 judge of the superior court or an emergency judge to hold the court, and the cause shall
14 be tried at this special term. The issue submitted to the jury shall be what amount of
15 money is needed from sources under the control of the board of county commissioners
16 to maintain a system of free public schools.

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

22 (d) If an appeal is taken to the appellate division of the General Court of Justice,
23 and if such an appeal would result in a delay beyond a reasonable time for levying taxes
24 for the year, the judge shall order the board of county commissioners to appropriate to
25 the local school administrative unit for deposit in the local current expense fund a sum
26 of money sufficient when added to all other moneys available to that fund to equal the
27 amount of this fund for the previous year. All papers and records relating to the case
28 shall be considered a part of the record on appeal.

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

38 The due date of supplementary taxes levied under this subsection is the date of the
39 levy, and the taxes may be paid at par or face amount at any time before the one
40 hundred and twentieth day after the due date. On or after the one hundred and twentieth
41 day and before the one hundred and fiftieth day from the due date there shall be added
42 to the taxes interest at the rate of two percent (2%). On or after the one hundred and
43 fiftieth day from the due date, there shall be added to the taxes, in addition to the two
44 percent (2%) provided above, interest at the rate of three-fourths of one percent (3/4 of

1 1%) per 30 days or fraction thereof until the taxes plus interest have been paid. No
2 discounts for prepayment of supplementary taxes levied under this subsection shall be
3 allowed."

4 **SECTION 2.** This act is effective when it becomes law.