

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 1111

Short Title: State and Local Funds for Charter Schools. (Public)

Sponsors: Representatives Jeter, L. Johnson, Daughtry, and Reives (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

May 11, 2016

1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE THE STATE AND LOCAL FUNDING METHOD FOR CHARTER
3 SCHOOLS AND TO APPROPRIATE ADDITIONAL FUNDS NECESSARY TO
4 IMPLEMENT THE CHANGE.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. STATE FUNDS FOR CHARTER SCHOOLS**

8 **SECTION 1.1.** G.S. 115C-218.105 reads as rewritten:

9 **"§ 115C-218.105. State and local funds for a charter school.**

10 (a) The State Board of Education shall allocate funds to each charter school on the
11 same basis as the State Board allocates funds to each city school administrative unit, except as
12 follows:

- 13 (1) An amount equal to the average per pupil allocation for average daily
14 membership from the local school administrative unit allotments in which the
15 charter school is located for each child attending the charter school except for
16 the allocation for children with disabilities and for the allocation for children
17 with limited English proficiency; For the central office administration allotment
18 category, the allocation of funds to a charter school shall be as follows:
19 a. For charter schools with an average daily membership of less than or
20 equal to 1,000, the State Board shall allocate one hundred forty
21 thousand dollars (\$140,000) to the charter school each fiscal year.
22 b. For charter schools with an average daily membership of greater than
23 1,000, the State Board shall allocate four hundred thousand dollars
24 (\$400,000) to the charter school each fiscal year.
25 (2) An additional amount for each child attending the charter school who is a child
26 with disabilities; and A charter school with an average daily membership of less
27 than 500 shall receive an amount equal to half the amount the charter school
28 would otherwise have received under the Disadvantaged Student Supplemental
29 Funding Allotment formula.
30 (3) An additional amount for children with limited English proficiency attending
31 the charter school, based on a formula adopted by the State Board. Charter
32 schools shall not be eligible to receive funds from the transportation allotment
33 category. The State Board may, subject to the availability of funds, establish a
34 grant program to allow charter schools to apply for grant funds for
35 transportation services provided to students.



1 (4) Charter schools shall not be eligible to receive funds from the driver training
2 allotment category.

3 (a1) In accordance with ~~G.S. 115C-218.5(d),subsections (e) and (f) of G.S. 115C-218.5,~~ the
4 State Board shall allow for annual adjustments to the amount allocated to a charter school based
5 on its enrollment growth in school years subsequent to the initial year of operation.

6 ~~In the event a child with disabilities leaves the charter school and enrolls in a public school~~
7 ~~during the first 60 school days in the school year, the charter school shall return a pro rata amount~~
8 ~~of funds allocated for that child to the State Board, and the State Board shall reallocate those funds~~
9 ~~to the local school administrative unit in which the public school is located. In the event a child~~
10 ~~with disabilities enrolls in a charter school during the first 60 school days in the school year, the~~
11 ~~State Board shall allocate to the charter school the pro rata amount of additional funds for children~~
12 ~~with disabilities.~~

13 (b) Funds allocated by the State Board of Education may be used to enter into operational
14 and financing leases for real property or mobile classroom units for use as school facilities for
15 charter schools and may be used for payments on loans made to charter schools for facilities,
16 equipment, or operations. However, State funds shall not be used to obtain any other interest in
17 real property or mobile classroom units. No indebtedness of any kind incurred or created by the
18 charter school shall constitute an indebtedness of the State or its political subdivisions, and no
19 indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power
20 of the State or its political subdivisions. Every contract or lease into which a charter school enters
21 shall include the previous sentence. The school also may own land and buildings it obtains
22 through non-State sources.

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

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

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

39 ~~(2) The student membership numbers used to calculate the per pupil share of the~~
40 ~~local current expense fund.~~

41 ~~(3) How the per pupil share of the local current expense fund was calculated.~~

42 ~~(4) Any additional records requested by a charter school from the local school~~
43 ~~administrative unit in order for the charter school to audit and verify the~~
44 ~~calculation and transfer of the per pupil share of the local current expense fund.~~

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

51 **SECTION 1.2.** G.S. 115C-546.2(d) reads as rewritten:

1 "(d) If funds are appropriated from the Education Lottery Fund to the Public School
2 Building Capital Fund, such funds shall be allocated for school capital construction projects on a
3 per average daily membership basis according to the average daily membership for the budget
4 year as determined and certified by the State Board of Education.

5 (1), (2) Repealed by Session Laws 2013-360, s. 6.11(b), effective July 1, 2013.

6 (3) No county shall have to provide matching funds required under subsection (c)
7 of this section.

8 (4) A county may use monies in this Fund to pay for school construction projects in
9 local school administrative units and to retire indebtedness incurred for school
10 construction projects. A county shall not use money in this Fund to pay for
11 charter school construction projects or to retire indebtedness incurred for
12 charter school construction projects.

13 (5) A county may not use monies in this Fund to pay for school technology needs."

14 **SECTION 1.3.** There is appropriated from the General Fund to the Department of
15 Public Instruction the sum of forty-seven million three hundred thirty-three thousand two hundred
16 fourteen dollars (\$47,333,214) in recurring funds for the 2016-2017 fiscal year to implement the
17 requirements of Section 1.1 of this act, except to the extent transportation grant funds are provided
18 to charter schools.

19 **PART II. LOCAL FUNDS FOR CHARTER SCHOOLS**

20 **SECTION 2.1.** G.S. 105-487(a) reads as rewritten:

21 "(a) Except as provided in subsection (c), forty percent (40%) of the revenue received by a
22 county from additional one-half percent (1/2%) sales and use taxes levied under this Article during
23 the first five fiscal years in which the additional taxes are in effect in the county and thirty percent
24 (30%) of the revenue received by a county from these taxes after the first five fiscal years in
25 which the taxes are in effect in the county may be used by the county only for public school
26 capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by
27 the county for these purposes. Nothing in this section shall be construed to allow revenue to be
28 used for charter school capital needs."

29 **SECTION 2.2.** G.S. 105-502(a) reads as rewritten:

30 "(a) Restriction. – The county must use sixty percent (60%) of the amount of revenue
31 specified in this subsection for public school capital outlay purposes as defined in
32 G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes during
33 the period beginning five years prior to the date the taxes took effect:

34 (1) The amount of revenue the county receives under this Article.

35 (2) If the amount allocated to the county under G.S. 105-486 is greater than the
36 amount allocated to the county under G.S. 105-501(a), the difference between
37 the two amounts.
38

39 Nothing in this section shall be construed to allow revenue to be used for charter school capital
40 needs."

41 **SECTION 2.3.** G.S. 115C-218.45(f) reads as rewritten:

42 "(f) The charter school may give enrollment priority to any of the following:

43 (1) Siblings of currently enrolled students who were admitted to the charter school
44 in a previous year. For the purposes of this section, the term "siblings" includes
45 any of the following who reside in the same household: half siblings,
46 stepsiblings, and children residing in a family foster home.

47 (2) Siblings of students who have completed the highest grade level offered by that
48 school and who were enrolled in at least four grade levels offered by the charter
49 school or, if less than four grades are offered, in the maximum number of
50 grades offered by the charter school.

- 1 (3) Limited to no more than fifteen percent (15%) of the school's total enrollment,
2 unless granted a waiver by the State Board of Education, the following:
3 a. Children of the school's full-time employees.
4 b. Children of the charter school's board of directors.
- 5 (4) A student who was enrolled in the charter school within the two previous
6 school years but left the school (i) to participate in an academic study abroad
7 program or a competitive admission residential program or (ii) because of the
8 vocational opportunities of the student's parent.
- 9 (5) Notwithstanding any other provision of this section, students who are residents
10 of a local school administrative unit located in a county that has provided
11 capital outlay funds under G.S. 115C-218.106(b) or that has issued bonds and
12 notes to finance the capital costs of a charter school facility in accordance with
13 Article 4 of Chapter 159 of the General Statutes to the extent necessary to meet
14 a student enrollment requirement."

15 **SECTION 2.4.** G.S. 115C-218.100(b) reads as rewritten:

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

23 **SECTION 2.5.** Article 14A of Chapter 115C of the General Statutes is amended by
24 adding the following new sections to read:

25 "**§ 115C-218.106. Local funds for a charter school.**

26 (a) For each student enrolled in a charter school, the board of county commissioners of the
27 county in which the local school administrative unit is located where the student resides shall
28 appropriate to that charter school an amount equal to the per pupil appropriation from the county
29 to the local school administrative unit. By October 1 of each school year, the total membership
30 of the charter school of students residing in the county for the budget year shall be determined and
31 certified to the charter school and the board of county commissioners by the State Board of
32 Education. The amount of the per pupil appropriation that consists of revenue derived from
33 supplemental taxes shall only be provided to a charter school located in the tax district for which
34 these taxes are levied and in which the student resides.

35 (b) The board of directors of a charter school may request capital outlay funds from the
36 board of county commissioners of any county in which the charter school receives funds under
37 subsection (a) of this section. In order for a charter school to receive capital outlay funds under
38 this subsection, the charter school shall enter into an agreement with the county that, until such
39 time the charter school fully repays the county in the amount of the capital funds provided under
40 this subsection, (i) the charter school shall maintain a student enrollment of at least fifty percent
41 (50%) of students who reside in a local school administrative unit located in the county and (ii) if
42 the charter school facility no longer meets the student enrollment requirement or if the charter
43 school facility is no longer used for public school purposes, then the charter school facility shall
44 revert to the county. If the charter school facility reverts to the county and more than one county
45 has provided capital outlay funds, the property shall be divided between the counties in proportion
46 to the funds provided. Capital outlay funds may be used only for the following:

- 47 (1) The acquisition of real property for school purposes, including, but not limited
48 to, school sites, playgrounds, athletic fields, administrative headquarters, and
49 garages.
- 50 (2) The acquisition, construction, reconstruction, enlargement, renovation, or
51 replacement of buildings and other structures, including, but not limited to,

1 buildings for classrooms and laboratories, physical and vocational educational
2 purposes, libraries, auditoriums, gymnasiums, administrative offices, storage,
3 and vehicle maintenance.

4 (3) The acquisition or replacement of furniture and furnishings, instructional
5 apparatus, data-processing equipment, business machines, and similar items of
6 furnishings and equipment.

7 (4) The acquisition of school buses as additions to a school's fleet.

8 (5) The acquisition of activity buses and other motor vehicles.

9 (c) If a charter school uses funds provided in subsection (b) of this section to acquire or
10 improve property, the amount provided by the county must be evidenced by a promissory note and
11 secured by a deed of trust on the property acquired or improved by the funds. The county may
12 subordinate the deed of trust to other liens to facilitate the acquisition or improvement of the
13 property secured by the deed of trust.

14 (d) In the event that a charter school fully repays one or more of the counties in the amount
15 of the capital funds provided under subsection (b) of this section, the county receiving the
16 repayment shall, for the property acquired or improved by the funds, execute and file a deed of
17 release or other documentation of satisfaction showing the charter school fully repaid the capital
18 funds provided.

19 (e) Nothing in this section shall be construed to place a duty on the board of county
20 commissioners to fund a deficit incurred by a charter school through failure of the charter school
21 to comply with the provisions of this Article or to provide moneys lost through misapplication of
22 moneys by a bonded officer, employee, or agent of the charter school when the amount of the
23 fidelity bond required by the charter school was manifestly insufficient.

24 (f) Nothing in this section shall be construed to create a cause of action for a charter
25 school against a board of county commissioners based on the amount of an appropriation to a
26 charter school.

27 **"§ 115C-218.107. County issuance of bonds for charter school capital projects.**

28 A charter school receiving funds pursuant to G.S. 115C-218.106 may request that the board of
29 county commissioners providing the funds issue bonds and notes to finance the capital costs of a
30 charter school facility in accordance with Article 4 of Chapter 159 of the General Statutes. Prior to
31 the issuance of bonds or notes to finance the costs of a charter school facility, a county shall enter
32 into an agreement with the charter school that includes the following requirements:

33 (1) The charter school shall maintain a student enrollment of at least fifty percent
34 (50%) of students who reside in a local school administrative unit located in the
35 county.

36 (2) The charter school shall not cease using the facility for public school purposes.

37 (3) The facility shall revert to the county if any requirement of the agreement is
38 breached by the charter school."

39 **SECTION 2.6.** G.S. 153A-149(b) reads as rewritten:

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

42 (1) Courts. – To provide adequate facilities for and the county's share of the cost of
43 operating the General Court of Justice in the county.

44 (2) Debt Service. – To pay the principal of and interest on all general obligation
45 bonds and notes of the county.

46 (3) Deficits. – To supply an unforeseen deficiency in the revenue (other than
47 revenues of public enterprises), when revenues actually collected or received
48 fall below revenue estimates made in good faith and in accordance with the
49 Local Government Budget and Fiscal Control Act.

50 (4) Elections. – To provide for all federal, State, district and county elections.

- 1 (5) Jails. – To provide for the operation of a jail and other local confinement
2 facilities.
- 3 (6) Joint Undertakings. – To cooperate with any other county, city, or political
4 subdivision in providing any of the functions, services, or activities listed in this
5 subsection.
- 6 (7) Schools. – To provide for the county's share of the cost of kindergarten,
7 elementary, ~~secondary,~~ and secondary public schools, including charter schools
8 chartered under Article 14A of Chapter 115C of the General Statutes, and
9 post-secondary public education.
- 10 (8) Social Services. – To provide for public assistance required by Chapters 108A
11 and 111 of the General Statutes."

12 **SECTION 2.7.** G.S. 159-48(c) reads as rewritten:

13 "(c) Each county is authorized to borrow money and issue its bonds under this Article in
14 evidence of the debt for the purpose of, in the case of subdivisions (1) through ~~(4b)~~(4c) of this
15 subsection, paying any capital costs of any one or more of the purposes and, in the case of
16 subdivisions (5) and (6) of this subsection, to finance the cost of the purpose:

- 17 (1) Providing community college facilities, including without limitation buildings,
18 plants, and other facilities, physical and vocational educational buildings and
19 facilities, including in connection therewith classrooms, laboratories, libraries,
20 auditoriums, administrative offices, student unions, dormitories, gymnasiums,
21 athletic fields, cafeterias, utility plants, and garages.
- 22 (2) Providing courthouses, including without limitation offices, meeting rooms,
23 court facilities and rooms, and detention facilities.
- 24 (3) Providing county homes for the indigent and infirm.
- 25 (4) Providing school facilities, including without limitation schoolhouses,
26 buildings, plants and other facilities, physical and vocational educational
27 buildings and facilities, including in connection therewith classrooms,
28 laboratories, libraries, auditoriums, administrative offices, gymnasiums, athletic
29 fields, lunchrooms, utility plants, garages, and school buses and other necessary
30 vehicles.
- 31 (4a) Providing improvements to subdivision and residential streets pursuant to
32 G.S. 153A-205.
- 33 (4b) Providing land for present or future county corporate, open space, community
34 college, and public school purposes.
- 35 (4c) Providing charter school facilities for charter schools that meet the
36 requirements of G.S. 115C-218.107, including, without limitation,
37 schoolhouses, buildings, plants and other facilities, physical and vocational
38 educational buildings and facilities, including in connection therewith
39 classrooms, laboratories, libraries, auditoriums, administrative offices,
40 gymnasiums, athletic fields, lunchrooms, utility plants, garages, and school
41 buses and other necessary vehicles.
- 42 (5) Providing for the octennial revaluation of real property for taxation.
- 43 (6) Providing housing projects for persons of low or moderate income, including
44 construction or acquisition of projects to be owned by a county, redevelopment
45 commission, or housing authority and the provision of loans, grants, interest
46 supplements, and other programs of financial assistance to such persons. A
47 housing project may provide housing for persons of other than low or moderate
48 income if at least forty percent (40%) of the units in the project are exclusively
49 reserved for persons of low or moderate income. No rent subsidy may be paid
50 from bond proceeds."

1 **SECTION 2.8.** Article 4 of Chapter 159 of the General Statutes is amended by adding
2 a new section to read:

3 **"§ 159-48.5. Reversion of charter school facilities.**

4 Until such time a charter school fully repays a county in the amount of capital costs financed
5 in accordance with G.S. 159-48(c)(4c), if a charter school fails to meet the requirements of its
6 agreement with the county under G.S. 115C-218.107, the charter school facility shall revert back
7 to the county or counties that borrowed money and issued bonds to pay capital costs for the
8 facility. If applicable, the facility shall be divided between the counties in proportion to the capital
9 funds provided."

10
11 **PART III. CONFORMING CHANGES**

12 **SECTION 3.1.** G.S. 115C-448(d) is repealed.

13 **SECTION 3.2.** Section 8.35(e) of S.L. 2014-100 reads as rewritten:

14 **"SECTION 8.35.(e)** The State Board of Education shall provide State funding to a virtual
15 charter school participating in the pilot program as provided in ~~G.S. 115C-238.29H(a)~~ and
16 ~~G.S. 115C-238.29H(a1)~~. G.S. 115C-218.105. The amount allocated pursuant to
17 ~~G.S. 115C-238.29H(a)(1)~~ G.S. 115C-218.105 shall not, however, include the allocation for
18 low-wealth counties supplemental funding and the allocation for small county supplemental
19 funding. Virtual charter schools participating in the pilot program shall also be subject to the
20 requirements in ~~G.S. 115C-238.29H(b) through G.S. 115C-238.29H(d)~~. G.S. 115C-218.105(b) and
21 G.S. 115C-218.106(a). The amount of local funds provided to participating schools pursuant to
22 ~~G.S. 115C-238.29H(b)~~ G.S. 115C-218.106(a) shall be the lesser of seven hundred ninety dollars
23 (\$790.00) per pupil or the amount computed in accordance with
24 ~~G.S. 115C-238.29H(b)~~. G.S. 115C-218.106(a)."

25
26 **PART IV. EFFECTIVE DATE**

27 **SECTION 4.** This act becomes effective July 1, 2016. Nothing in this act shall be
28 construed to affect pending litigation.