

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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SENATE BILL 658

Short Title: Charter School Funds.

(Public)

Sponsors: Senators Hise, Barefoot (Primary Sponsors); Krawiec and Rabin.

Referred to: Rules and Operations of the Senate

April 5, 2017

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 (c) ~~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).~~



- 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.