

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 366

Short Title: Revise Sch. Bd./Cty. Comm. Mediation.

(Public)

Sponsors: Senator Winner.

Referred to: Education/Higher Education.

March 11, 1997

A BILL TO BE ENTITLED

1 AN ACT TO REVISE THE MEDIATION PROCEDURE FOR RESOLVING SCHOOL
2 BUDGET DISPUTES BETWEEN LOCAL BOARDS OF EDUCATION AND
3 BOARDS OF COUNTY COMMISSIONERS, AND TO CLARIFY THE SCOPE OF
4 THE SCHOOL FACILITIES GUIDELINES.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 115C-431 reads as rewritten:

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

10 (a) If the board of education determines that the amount of money appropriated to
11 the local current expense fund, or the capital outlay fund, or both, by the board of county
12 commissioners is not sufficient to support a system of free public schools, the chairman
13 of the board of education and the chairman of the board of county commissioners shall
14 arrange a joint meeting of the two boards to be held within seven days after the day of the
15 county commissioners' decision on the school appropriations.

16 Prior to the joint meeting, the Senior Resident Superior Court Judge shall appoint a
17 mediator unless the boards agree to jointly select a mediator. The mediator shall preside
18 at the joint meeting and shall act as a neutral facilitator of disclosures of factual
19 information, statements of positions and contentions, and efforts to negotiate an
20 agreement settling the boards' differences.

1 At the joint meeting, the entire school budget shall be considered carefully and
2 judiciously, and the two boards shall make a good-faith attempt to resolve the differences
3 that have arisen between them.

4 (b) If no agreement is reached at the joint meeting of the two boards, ~~either board~~
5 ~~may notify the clerk of superior court who shall request the appointment of a mediator by~~
6 ~~superior court under G.S. 7A-38.1. The mediator shall be appointed within five days of~~
7 ~~the notification to the clerk. The mediator shall present recommendations for resolution~~
8 ~~of the matters in dispute within 15 days of the notification to the clerk. the mediator shall,~~
9 at the request of either board, commence a mediation immediately or within a reasonable
10 period of time. The mediation shall be held in accordance with rules and standards of
11 conduct adopted under Chapter 7A of the General Statutes governing mediated settlement
12 conferences but modified as appropriate and suitable to the resolution of the particular
13 issues in disagreement.

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

17 (1) The chair of each board or the chair's designee;

18 (2) The superintendent of the local school administrative unit and the
19 county manager or either's designee;

20 (3) The finance officer of each board; and

21 (4) The attorney for each board.

22 Members of both boards, their chairs, and representatives shall cooperate with and
23 respond to all reasonable requests of the mediator to participate in the mediation. Unless
24 otherwise subject to Article 33C of Chapter 143 of the General Statutes, the mediation
25 proceedings involving the two working groups shall be conducted in private. Information
26 disclosed and conduct occurring during the mediation proceedings shall remain
27 privileged and confidential. Reports by members of either working group to their
28 respective boards shall be made in open meetings in compliance with Article 33C of
29 Chapter 143 of the General Statutes.

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

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

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

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

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

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

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

42 The due date of supplementary taxes levied under this subsection is the date of the
43 levy, and the taxes may be paid at par or face amount at any time before the one hundred

1 and twentieth day after the due date. On or after the one hundred and twentieth day and
2 before the one hundred and fiftieth day from the due date there shall be added to the taxes
3 interest at the rate of two percent (2%). On or after the one hundred and fiftieth day from
4 the due date, there shall be added to the taxes, in addition to the two percent (2%)
5 provided above, interest at the rate of three-fourths of one percent (3/4 of 1%) per 30
6 days or fraction thereof until the taxes plus interest have been paid. No discounts for
7 prepayment of supplementary taxes levied under this subsection shall be allowed."

8 Section 2. G.S. 115C-521(c) reads as rewritten:

9 "(c) The building of all new school buildings and the repairing of all old school
10 buildings shall be under the control and direction of, and by contract with, the board of
11 education for which the building and repairing is done. If a board of education is
12 considering building a new school building to replace an existing school building, the
13 board shall not invest any construction money in the new building unless it submits to the
14 State Superintendent and the State Superintendent submits to the North Carolina
15 Historical Commission an analysis that compares the costs and feasibility of building the
16 new building and of renovating the existing building and that clearly indicates the
17 desirability of building the new building. No board of education shall invest any money
18 in any new building until it has (i) developed plans based upon a consideration of the
19 State Board's facilities guidelines, (ii) submitted these plans to the State Board for its
20 review and comments, and (iii) reviewed the plans based upon a consideration of the
21 comments it receives from the State Board. No local board of education shall contract for
22 more money than is made available for the erection of a new building. However, this
23 subsection shall not be construed so as to prevent boards of education from investing any
24 money in buildings that are being constructed pursuant to a continuing contract of
25 construction as provided for in G.S. 115C-441(c). All contracts for buildings shall be in
26 writing and all buildings shall be inspected, received, and approved by the local
27 superintendent and the architect before full payment is made therefor. Nothing in this
28 subsection shall prohibit boards of education from repairing and altering buildings with
29 the help of janitors and other regular employees of the board.

30 In the design and construction of new school buildings and in the renovation of
31 existing school buildings that are required to be designed by an architect or engineer
32 under G.S. 133-1.1, the local board of education shall participate in the planning and
33 review process of the Energy Guidelines for School Design and Construction that are
34 developed and maintained by the Department of Public Instruction and shall adopt local
35 energy-use goals for building design and operation that take into account local conditions
36 in an effort to reduce the impact of operation costs on local and State budgets. In the
37 design and construction of new school facilities and in the repair and renovation of
38 existing school facilities, the local board of education shall consider the placement and
39 design of windows to use the climate of North Carolina for both light and ventilation in
40 case of power shortages. A local board shall also consider the installation of solar energy
41 systems in the school facilities whenever practicable.

42 In the case of any school buildings erected, repaired, or equipped with any money
43 loaned or granted by the State to any local school administrative unit, ~~the State Board of~~

1 ~~Education, under any rules as it may deem advisable, may retain any amount not to exceed~~
2 ~~fifteen percent (15%) of the loan or grant, until the completed buildings, erected or repaired, in~~
3 ~~whole or in part, from the loan or grant funds, shall have been approved by a designated agent of~~
4 ~~the State Board of Education. Upon approval by the State Board of Education, the State~~
5 ~~Treasurer may pay the balance of the loan or grant to the treasurer of the local school~~
6 ~~administrative unit for which the loan or grant was made.~~ no board of education shall invest
7 any money until it has (i) developed plans based upon a consideration of the State Board's
8 facilities guidelines, (ii) submitted these plans to the State Board for its review and
9 comments, and (iii) reviewed the plans based upon a consideration of the comments it
10 receives from the State Board."

11 Section 3. This act is effective when it becomes law.