

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1267

Short Title: Local School Funds Premerger.

(Public)

Sponsors: Senators Martin of Guilford and Seymour.

Referred to: Finance.

July 6, 1992

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A MAINTENANCE OF FUNDS APPROPRIATED BY THE BOARD OF COUNTY COMMISSIONERS TO THE LOCAL CURRENT EXPENSE FUND OF LOCAL SCHOOL ADMINISTRATIVE UNITS IN FISCAL YEAR 1992-93 BEFORE MERGER BECOMES EFFECTIVE ON JULY 1, 1993, IF THE MERGER DID NOT REQUIRE APPROVAL OF THE BOARD OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

Section 1. Article 31 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-431.1. Further procedure for resolution of dispute between board of education and board of county commissioners.

(a) This section only applies to budgets for fiscal year 1992-93, and only applies if the local school administrative unit governed is scheduled to be merged, consolidated, or merged and consolidated, with another local school administrative unit effective July 1, 1993.

(b) This section only applies if the merger, consolidation, or merger and consolidation is:

(1) Pursuant to a plan adopted by the State Board of Education before July 1, 1992, under G.S. 115C-68.2; or

(2) Pursuant to an act of the General Assembly which was ratified before July 1, 1992, and where the merger, consolidation, or merger and consolidation did not require approval of the board of county commissioners.

1 The particular situations listed by this subsection are those where approval of the
2 board of county commissioners was not required, and the board of county
3 commissioners might not have been supportive of the merger or consolidation.

4 (c) If the board of education determines that the amount of money appropriated
5 to the local current expense fund by the board of county commissioners for the 1992-93
6 fiscal year is:

7 (1) Less, at a per student rate, than the amount appropriated to that
8 administrative unit for local current expenses per student (average
9 daily membership) in any one of the three previous fiscal years, and

10 (2) Insufficient, in the sole opinion of the board of education and in view
11 of the pending merger or consolidation, to maintain the quality of the
12 school programs in the administrative unit or the capacity, efficiency,
13 or integrity of the school system prior to merger or consolidation,

14 the board of education and the board of county commissioners may, at the request of the
15 board of education, hold a joint meeting within seven days after the day of the county
16 commissioners' decision on the school appropriations. The meeting shall be arranged
17 and conducted according to the procedures established under G.S. 115C-431(a).

18 (d) If no agreement is reached at the joint meeting of the two boards, the board of
19 education, within 10 days after the joint meeting, may institute an action in the superior
20 court division of the General Court of Justice seeking an amount of money equal to, at a
21 per student rate, the highest level appropriated by the board of county commissioners to
22 the administrative unit for local current expenses per student (average daily
23 membership) during the preceding three fiscal years. The actual award will be reduced
24 as provided by subdivision (f)(1) of this section.

25 (e) For purposes of this section:

26 (1) Average daily membership for each of the three previous fiscal years
27 and for the 1992-93 fiscal year shall be determined by reference to the
28 projected average daily membership reflected in the county annual
29 budget report or other budget documents of the board of county
30 commissioners, or, if the budget documents reflect no projected
31 average daily membership, by reference to the North Carolina Public
32 Schools Statistical Profiles published by the State Department of
33 Public Instruction or the most recent figures or documents issued by
34 the State Department of Public Instruction; and

35 (2) The amount appropriated by the board of county commissioners to the
36 administrative unit for local current expenses per student (average
37 daily membership) shall include only local tax moneys appropriated
38 per student (including local school supplemental taxes), and shall
39 exclude fines and forfeitures, fund balances, and any other local
40 nontax moneys appropriated to the local current expense fund.

41 (f) If the board of education institutes an action pursuant to subsection (d) of this
42 section, there shall be no right to a jury trial. The cause shall be set for the first
43 succeeding term of the superior court in the county, and shall take precedence over all
44 other business of the court. However, if the judge presiding makes the certification

1 provided for in subsection (c) of G.S. 115C-431, the Chief Justice of the Supreme Court
2 shall immediately call a special term of the superior court for the county in accordance
3 with the procedures established in G.S. 115C-431(c). The court shall determine the
4 highest level appropriated by the board of county commissioners to the administrative
5 unit for local current expenses per student (average daily membership) during the
6 preceding three fiscal years by reference to the adopted budget ordinances of the board
7 of county commissioners for the three preceding fiscal years and the official
8 publications of the State Department of Public Instruction. The court shall give
9 judgment ordering the board of county commissioners to:

- 10 (1) Appropriate a sum certain to the local school administrative unit in an
11 amount, in addition to that appropriated to the local current expense
12 fund per student for fiscal year 1992-93, that equals ninety percent
13 (90%) of the difference between the amount appropriated by the board
14 of county commissioners for local current expenses per student
15 (average daily membership) and the highest amount appropriated by
16 the board of county commissioners to the administrative unit for local
17 current expenses per student (average daily membership) during the
18 preceding three fiscal years; and
19 (2) Levy such taxes on property as may be necessary to make up this sum
20 certain when added to other revenues available for this purpose.

21 (g) Notwithstanding G.S. 7A-27(e), appeal shall lie of right directly to the
22 Supreme Court. If an appeal is taken and the appeal may result in a delay beyond the
23 due date prescribed by law for property taxes, the court shall order the board of county
24 commissioners as prescribed in G.S. 115C-431(d).

25 (h) If the final judgment of the court is rendered after the due date prescribed by
26 law for property taxes, or if an appeal is taken and the appeal is not resolved until after
27 the due date prescribed by law for property taxes, the board of county commissioners is
28 authorized, pursuant to the provisions of G.S. 115C-431(e), to levy such supplementary
29 taxes as may be required by the judgment."

30 Sec. 2. This act is effective upon ratification. If a board of education desires
31 to pursue the procedures established by G.S. 115C-431.1 for the 1992-93 fiscal year,
32 and notwithstanding any time limits established in G.S. 115C-431.1(c)or(d), the board
33 of education shall have 14 days from the date of ratification of this act or until July 15,
34 1992, whichever is later, to arrange a joint meeting with the board of county
35 commissioners or, if a joint meeting has been held previously, to institute an action in
36 the superior court division of the General Court of Justice pursuant to G.S.115C-
37 431.1(d). If the dispute has already been referred to the superior court division of the
38 General Court of Justice by a reference or an appeal from the clerk of superior court
39 pursuant to G.S. 115C-431(b) or (c), then G.S. 115C-431.1 and not G.S. 115C-431(c)
40 shall control all proceedings and determinations in the superior court division regardless
41 of the status of those proceedings on the effective date of this G.S. 115C-431.1.