

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 796

Short Title: School Board/County Dispute Resolution.

(Public)

Sponsors: Senators Stevens; Malone and Smith.

Referred to: Judiciary I.

April 3, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE PROCEDURE FOR RESOLUTION OF DISPUTES
3 BETWEEN BOARDS OF EDUCATION AND BOARDS OF COUNTY
4 COMMISSIONERS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 115C-431 reads as rewritten:

7 "**§ 115C-431. Procedure for resolution of dispute between board of education and**
8 **board of county commissioners.**

9 (a) If the board of education determines that the amount of money appropriated
10 to the local current expense fund, or the capital outlay fund, or both, by the board of
11 county commissioners is not sufficient to support a system of free public schools, the
12 chairman of the board of education ~~and shall contact~~ the chairman of the board of
13 county commissioners ~~shall arrange to request either a joint meeting of the two boards or~~
14 mediation of the dispute.

15 If the chairman of the board of education requests a joint meeting of the two boards
16 and if the board of county commissioners agrees to a joint meeting, the meeting shall to
17 be held within seven days after the day of the county commissioners' decision on the
18 school appropriations. During the joint meeting, the entire school budget shall be
19 considered carefully and judiciously, and the two boards shall make a good-faith effort
20 to resolve the differences that have arisen between them.

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

27 ~~At the joint meeting, the entire school budget shall be considered carefully and~~
28 ~~judiciously, and the two boards shall make a good faith attempt to resolve the~~
29 ~~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. The court shall consider other factors affecting the ability
6 of the board of county commissioners to meet the budget request of the board of
7 education, including the prevailing economic conditions, other funding responsibilities
8 of the county, general ability to pay, and tax effort. Either board has the right to have the
9 issues of fact tried by a jury. When a jury trial is demanded, the cause shall be set for
10 the first succeeding term of the superior court in the county, and shall take precedence
11 over all other business of the court. However, if the judge presiding certifies to the
12 Chief Justice of the Supreme Court, either before or during the term, that because of the
13 accumulation of other business, the public interest will be best served by not trying the
14 cause at the term next succeeding the filing of the action, the Chief Justice shall
15 immediately call a special term of the superior court for the county, to convene as soon
16 as possible, and assign a judge of the superior court or an emergency judge to hold the
17 court, and the cause shall be tried at this special term. The issue submitted to the jury
18 shall be what amount of money is needed from sources under the control of the board of
19 county commissioners to maintain a system of free public schools. The jury shall
20 consider other factors affecting the ability of the board of county commissioners to meet
21 the budget request of the board of education, including the prevailing economic
22 conditions, other funding responsibilities of the county, general ability to pay, and tax
23 effort.

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

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

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

1 The due date of supplementary taxes levied under this subsection is the date of the
2 levy, and the taxes may be paid at par or face amount at any time before the one
3 hundred and twentieth day after the due date. On or after the one hundred and twentieth
4 day and before the one hundred and fiftieth day from the due date there shall be added
5 to the taxes interest at the rate of two percent (2%). On or after the one hundred and
6 fiftieth day from the due date, there shall be added to the taxes, in addition to the two
7 percent (2%) provided above, interest at the rate of three-fourths of one percent ($\frac{3}{4}$ of
8 1%) per 30 days or fraction thereof until the taxes plus interest have been paid. No
9 discounts for prepayment of supplementary taxes levied under this subsection shall be
10 allowed."

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