

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

S

1

SENATE BILL 474

Short Title: Net-Zero Energy Schools.

(Public)

Sponsors: Senators Meredith, Walters (Primary Sponsors); Clark and Kinnaird.

Referred to: Education/Higher Education.

March 28, 2013

A BILL TO BE ENTITLED

**AN ACT TO PROVIDE FOR THE CONSTRUCTION, LEASING, AND OPERATION OF
NET-ZERO ENERGY SCHOOL FACILITIES THAT WILL PRODUCE RENEWABLE
ENERGY SUFFICIENT TO RETURN ENERGY BACK TO THE UTILITY GRID
EQUAL TO THAT CONSUMED BY THE SCHOOL.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-530 reads as rewritten:

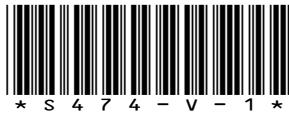
"§ 115C-530. Operational Operating leases of school buildings and school facilities.

(a) Local boards of education may enter into operational operating leases of real or personal property for use as school buildings or school facilities. Operational-Operating leases for terms of less than three years shall not be subject to the approval of the board of county commissioners. Operational-Operating leases for terms of three years or longer, including periods that may be added to the original term through the exercise of options to renew or extend, are permitted if all of the following conditions are met:

- (1) The budget resolution includes an appropriation authorizing the current fiscal year's portion of the obligation.
- (2) An unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the lease for the current fiscal year.
- (3) The leases are approved by a resolution adopted by the board of county commissioners. If an operational operating lease is approved by the board of county commissioners, in each year the county commissioners shall appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the lease.
- (4) Any construction, repair, or renovation of the property is in compliance with the requirements of G.S. 115C-521(c) relating to energy guidelines.

For purposes of this section, an operational operating lease is defined according to generally accepted accounting principles and may be for new or existing buildings.

(b) Local boards of education may enter into contracts for the construction, repair, or renovation of leased property if (i) the budget resolution includes an appropriation authorizing the obligation, (ii) an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year, and (iii) the construction, repair, or renovation is in compliance with the requirements of G.S. 115C-521(c) relating to energy guidelines. Construction, repair, or renovation work undertaken or contracted by a private developer is subject to the requirements of Article 8 of Chapter 143 of the General Statutes. Contracts for new construction and renovation that are



* S 4 7 4 - V - 1 *

1 subject to the bidding requirements of G.S. 143-129(a) and which do not constitute continuing
2 contracts for capital outlay must be approved by the board of county commissioners.

3 (b1) Net-Zero Energy Schools. – Local boards of education may enter into an operating
4 lease for design and construction of a net-zero energy school. For purposes of this section, a
5 "net-zero energy school" is a school designed to include sufficient renewable energy generation
6 on the school site to equal one hundred five percent (105%) of the school's estimated entire
7 annual electrical consumption. The annual energy consumption shall be determined by meeting
8 all requirements of ASHRAE (American Society of Heating, Refrigeration and Air
9 Conditioning Engineers) Standard 90.1-2007 "Energy Standard for Buildings Except Low-Rise
10 Residential Buildings," Appendix-G "Performance Rating Method." The school shall be served
11 by the utility that provides service in the territory where the school is located in the manner
12 prescribed by G.S. 62-133.11.

13 (b2) In approving an operating lease for a net-zero energy school, the county
14 commissioners may make the following additional provisions as an incentive for the
15 conservation of energy and the use of clean and renewable energy sources:

16 (1) This section applies to operating leases for net-zero energy schools (a
17 "Qualifying Lease") where (i) in the resolution approving such operating
18 lease the county board of commissioners has expressly and irrevocably
19 elected to have the provisions of this section apply and (ii) the payment
20 schedule for the periodic payments due under the operating lease (the
21 "Covered Payments") has been received by the State Treasurer. This section
22 does not apply to any other operating leases or other obligations of a county
23 or a school administrative unit.

24 (2) Whenever the lessor, or its assignee (collectively the "Covered Payee"),
25 under Qualifying Lease has not received a Covered Payment by the fifth day
26 immediately following the due date for such Covered Payment, the Covered
27 Payee shall notify the State Treasurer by telephone, facsimile, or other
28 similar communication, followed by written verification of the payment
29 status. The State Treasurer shall immediately contact the school
30 administrative unit and the county wherein such unit is located and
31 determine whether the school administrative unit will make the payment not
32 later than the fifth day after such notice.

33 (3) If the school administrative unit indicates that it will not make the payment
34 timely, the State Treasurer shall forward the amount in immediately
35 available funds to the Covered Payee necessary to make Covered Payment
36 and shall withhold that amount from any payments due from the State to
37 such school administrative unit or the county in which such unit is located
38 from any source that is not restricted. If the amount payable currently is
39 insufficient to pay the amount necessary, the State Treasurer shall withhold
40 amounts from any future payments, including payments to be made in a
41 succeeding fiscal year, until the total amount of the Covered Payment has
42 been withheld.

43 (4) The State Treasurer shall notify the school finance officer of the school
44 administrative unit and the county finance officer of the county in which
45 such unit is located of amounts withheld and payments made pursuant to this
46 section.

47 (5) The General Assembly covenants that it will not impair the obligations of
48 contracts entered into under the provisions of this section; however, nothing
49 in this subsection is to be construed to require the State to continue the
50 payment of State allocations or distributions to any school administrative
51 unit or the county in which such unit is located, or to limit or prohibit the

1 State from repealing, amending, or modifying any law relating to the amount
2 of State allocation or payments to the school administrative unit or the
3 county in which it is located or the manner or timing of the payments.
4 Nothing in this section is deemed or construed to create a debt of the State
5 with respect to Covered Payments within the meaning of any State
6 constitutional provision or to create any liability except to the extent
7 provided in this section.

8 (6) Whenever the State Treasurer is required by this section to make a payment
9 to a Covered Payee on behalf of a school administrative unit or the county in
10 which such unit is located, the State Treasurer or the designee of the State
11 Treasurer shall initiate an audit of the school administrative unit or the
12 county in which such unit is located to determine the reason for failure to
13 make a Covered Payment and to assist the school administrative unit or the
14 county in which such unit is located, if necessary, in developing and
15 implementing measures to assure that future payments will be made when
16 due.

17 (c) Operational Operating leases and contracts entered into under this section are
18 subject to approval by the Local Government Commission under Article 8 of Chapter 159 of
19 the General Statutes if they meet the standards set out in G.S. 159-148(a)(1), 159-148(a)(2),
20 and 159-148(a)(3). For purposes of determining whether the standards set out in
21 G.S. 159-148(a)(3) have been met, only the five hundred thousand dollar (\$500,000) threshold
22 shall apply."

23 SECTION 2. Article 7 of Chapter 62 of the General Statutes is amended by adding
24 a new section to read:

25 **"§ 62-133.11. Net-zero energy schools.**

26 (a) Definitions. – For purposes of this section, "electric power supplier" means a public
27 utility, an electric membership corporation, or a municipality that sells electric power to retail
28 electric power customers in the State.

29 (b) Interconnection With Electric Power Supplier. – When a local educational authority
30 enters into an operating lease for a net-zero energy school as set forth in G.S. 115C-530(b1),
31 the electric power supplier providing electric service in the territory where the school is located
32 shall provide service to the school for a maximum fee of four hundred dollars (\$400.00) per
33 month, escalated annually starting in 2013 at the consumer price index. Services provided by
34 the electric power supplier shall include operation, maintenance, and replacement of
35 interconnection facilities sufficient to carry the electrical load at the interconnection point; and
36 related electric power supplier services including meter reading and accounting. The party
37 entering into the net-zero energy lease agreement with the local educational authority shall
38 compensate the electric power supplier for the actual direct costs of initial distribution,
39 transformer, and interconnection facilities on the secondary side of the transformer. These
40 interconnection costs shall not exceed what the electric power supplier would charge any other
41 customer for a similar interconnection.

42 (c) Purchase and Sale of Electricity. – The net-zero energy school shall be
43 interconnected with the electric power supplier providing service in the territory where the
44 school is located to provide power to the net-zero energy school and to allow the electricity
45 generated by the equipment located at the school to be exported to the electric distribution
46 system. At the end of each annual billing period of the service contract with the electric power
47 supplier, the electricity generated at the net-zero energy school shall be netted against the
48 power received from the electric power supplier, and the net-zero energy school or its owner
49 shall be invoiced for electricity according to the annual difference between the amount of
50 electricity the electric power supplier delivered to the net-zero energy school and the amount of
51 electricity generated at the net-zero energy school and delivered to the electric distribution

1 system. To the extent that the generation equipment at the net-zero energy school does not
2 generate more electricity than is delivered, the electric power supplier may charge the net-zero
3 energy school for the net electric power delivered during the annual billing period at the peak
4 energy rate in effect at the end of that period. If the net-zero energy school generates net excess
5 electricity, the electric power supplier shall not be required to pay for the net excess electricity.
6 The electric power supplier shall be required to enter into a contract with the owner of the
7 net-zero energy school that meets the requirements set forth in subsection (d) of this section.

8 (d) Contract Terms. – The power purchase contract between the electric power supplier
9 and the owner of the net-zero energy school shall include the following terms:

- 10 (1) The owner of the net-zero energy school shall be paid by the electric power
11 supplier the fixed amount of not less than forty dollars (\$40.00) per gross
12 MWh for (i) electricity generated by a renewable energy resource, as defined
13 in G.S. 62-133.8(a)(8), at the net-zero energy school and (ii) energy saved
14 through energy efficiency measures at the net-zero energy school.
- 15 (2) The term of the contract shall be for a period of not less than 20 years from
16 the date the school initially meets the definition of a net-zero energy school
17 pursuant to G.S. 115C-530(b1).
- 18 (3) Payments under the contract shall be made no less frequently than annually.
- 19 (4) The baseline to be utilized for the calculation of MWh savings due to the
20 installation of energy conserving measures shall be energy-use intensity
21 benchmarks from the most current Commercial Buildings Energy
22 Consumption Survey.
- 23 (5) Payments shall (i) be considered the purchase of a Renewable Energy
24 Certificate under G.S. 62-133.8 for each MWh of energy generated or saved
25 and (ii) not be deemed a payment for electricity.

26 (e) Standby Generation Authorized. – The net-zero energy school or its owner may
27 operate either renewable or nonrenewable on-site standby generation up to the prime capacity
28 of the net-zero energy school, in conjunction with the installed on-site renewable resource
29 generation, and such standby generating equipment shall be included in the electric power
30 supplier's load management, demand response, or interruptible rate program designed to reduce
31 the electric power supplier's peak loads on the same terms and conditions as are made available
32 to other customers of the electric power supplier participating in those programs."

33 **SECTION 3.** This act is effective when it becomes law.