

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 561
Committee Substitute Favorable 4/15/15
Proposed Conference Committee Substitute H561-PCCS30532-RQ-6

Short Title: School System Auth. Re: Legal Proceedings.

(Public)

Sponsors:

Referred to:

April 6, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE AUTHORITY OF SCHOOL SYSTEMS WITH REGARD TO
3 LEGAL PROCEEDINGS AND INVESTIGATIONS AND TO DIRECT THE PROGRAM
4 EVALUATION DIVISION TO STUDY THE PROCESS OF RESOLVING EDUCATION
5 FUNDING DISPUTES BETWEEN LOCAL BOARDS OF EDUCATION AND BOARDS
6 OF COUNTY COMMISSIONERS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 115C-321(a) reads as rewritten:

9 "(a) All information contained in a personnel file, except as otherwise provided in this
10 Chapter, is confidential and shall not be open for inspection and examination except to any of the
11 following persons:

- 12 (1) The employee, applicant for employment, former employee, or his properly
13 authorized agent, who may examine his own personnel file at all reasonable
14 times in its entirety except for letters of reference solicited prior to employment.
15 (2) The superintendent and other supervisory personnel.
16 (3) Members of the local board of education and the board's attorney.
17 (4) A party by authority of a subpoena or proper court order may inspect and
18 examine a particular confidential portion of an employee's personnel file.
19 (5) Any state or federal administrative agency that has a quasi-judicial function or
20 any court of law, when disclosure is necessary in the discretion of the
21 superintendent or superintendent's designee to adequately defend against a
22 claim filed by a current or former employee against the local board of education
23 or a school official or employee for any alleged act or omission arising during
24 the course and scope of his or her official duties or employment. Such
25 disclosure shall be limited to those confidential portions of the personnel file of
26 the employee who filed the claim and only to the extent necessary for the
27 defense of the Board of Education."

28 **SECTION 2.** G.S. 115C-45(a) reads as rewritten:

29 "(a) Power to Subpoena and to Punish for Contempt. – Local boards of education shall have
30 power to issue subpoenas for the attendance of ~~witnesses~~ witnesses and for the production of all
31 tangible things, including, but not limited to, documents, papers, letters, maps, books,
32 photographs, films, sound recordings, magnetic or other tapes, electronic communications,
33 electronic data-processing records, artifacts, or other documentary material, regardless of physical
34 form or characteristics. Subpoenas for the attendance of witnesses may be issued in any and all
35 matters which may lawfully come within the powers of the board and which, in the discretion of



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1 the board, require ~~investigation; investigation.~~ and it shall be the duty of the sheriff or any process
2 ~~servicing officer to serve such subpoena upon payment of their lawful fees.~~ Subpoenas for the
3 production of tangible things may be issued in matters where an employee is suspected of
4 committing job-related misconduct and which, in the discretion of the board or superintendent,
5 require investigation. It shall be the duty of the sheriff or any process serving officer to serve such
6 subpoena upon payment of their lawful fees.

7 Local boards of education shall have power to punish for contempt for any disorderly conduct
8 or disturbance tending to disrupt them in the transaction of official business."

9 **SECTION 3.** The Program Evaluation Division shall conduct a comprehensive study
10 of the procedure set forth in Article 31 of Chapter 115C of the General Statutes for resolving
11 education funding disputes between local boards of education and boards of county
12 commissioners. The study shall, at a minimum, include the following:

- 13 (1) A historical review of education capital and current expense funding requests
14 made by local boards of education and the amounts appropriated by county
15 commissioners to fund education needs.
- 16 (2) An examination of yearly encumbered and unencumbered fund balances held
17 by local boards of education and county commissions. This examination shall
18 include how fund balances have been used by local boards of education during
19 and after the Great Recession.
- 20 (3) An analysis of the use of fund balances by school boards and county
21 commissions to pay for required expenses prior to the receipt of periodic
22 revenue, including, but not limited to, cash flow.
- 23 (4) An evaluation of the current process, including how often mediation and
24 litigation have been used to resolve education funding disputes and the total
25 amount of taxpayer dollars spent to mediate and litigate such disputes.
- 26 (5) An analysis of how the current process impacts county budgeting procedures
27 and relationships between local boards of education and boards of county
28 commissioners.
- 29 (6) An examination of states where local boards of education are fiscally dependent
30 upon other local governments and how those states resolve funding disputes.
- 31 (7) An examination of alternative ways for local boards of education to receive
32 local funds.
- 33 (8) Recommendations for alternative ways to resolve education funding disputes or
34 modifications to the current process.

35 The Program Evaluation Division shall report its findings and recommendations to the
36 Joint Legislative Program Evaluation Oversight Committee no later than May 1, 2017. All State
37 departments and agencies, local governments, local boards of education, and their subdivisions
38 shall provide any necessary information, data, or documents within their possession, ascertainable
39 from their records, or otherwise available to them to the Program Evaluation Division to complete
40 this review and study.

41 **SECTION 4.** This act is effective when it becomes law. Sections 1 and 2 of this act
42 become effective October 1, 2016.