

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 157
HOUSE BILL 77

AN ACT TO REWRITE ARTICLE 4 AND CERTAIN SECTIONS OF ARTICLE 3 OF
CHAPTER 115D OF THE GENERAL STATUTES, COMMUNITY COLLEGE LAWS.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 115D of the General Statutes is rewritten to read as follows:

"ARTICLE 4.

"Budgeting, Accounting, and Fiscal Management.

"§ 115D-45. Preparation and submission of institutional budget. — (a) On or before the first day of May of each year, trustees of each institution shall prepare for submission a budget request as provided in G.S. 115D-45(b) on forms provided by the State Board of Community Colleges. The budget shall be based on estimates of available funds if provided by the funding authorities or as estimated by the institution. The State Current Fund shall be based on available funds. All other funds shall be based on needs as determined by the board of trustees and shall include the following:

- (1) State Current Fund.
- (2) County Current Fund.
- (3) Institutional Fund.
- (4) Plant Fund.

(b) The budget shall be prepared and submitted for approval according to the following procedures:

- (1) State Current Fund Budget. The budget request shall contain the items of current operating expenses as provided in G.S. 115D-31 for which State funds are requested. The approving authority for the State current fund budget request shall be the board of trustees and the State Board of Community Colleges.
- (2) County Current Fund Budget. The budget request shall contain the items of current operating expenses, as provided in G.S. 115D-32, for which county funds are requested. The approving authority for the county current fund budget request shall be the board of trustees and the local tax levying authority. The State Board of Community Colleges shall have approving authority pursuant to G.S. 115D-33 with respect to required local funding.
- (3) Institutional Fund Budget. The budget request shall contain the items of current operating expenses, loan funds, scholarship funds, auxiliary enterprises, State, private, and federal grants and contracts and endowment funds for which institutional funds are requested. The approving authority for the institutional fund budget request shall be the board of trustees of the institution.
- (4) Plant Fund Budget. The budget request shall contain the items of capital outlay, as provided in G.S. 115D-31 and G.S. 115D-32, for which funds are requested, from whatever source. The budget shall be submitted first to the local tax-levying authority, which shall approve or disapprove, in whole or

in part, that portion of the budget requesting local public funds. Upon approval by the local tax-levying authority, the budget shall be submitted by the board of trustees to the State Board of Community Colleges, which may approve or disapprove, in whole or in part, that portion of the budget requesting State or federal funds. Plant funds provided for construction and major renovations shall be permanent appropriations until the conclusion of the project for which appropriated.

(c) No public funds shall be provided an institution, either by the tax-levying authority or by the State Board of Community Colleges, except in accordance with the budget provisions of this Article.

(d) The preparation of a budget for and the payment of interest and principal on indebtedness incurred on behalf of an institution shall be the responsibility of the county finance officer or county finance officers of the administrative areas, and the board of trustees of the institution shall have no duty or responsibility in this connection.

(e) 'Trust and Agency Fund' means funds held by an institution as custodian or fiscal agent for others such as student organizations, individual students, or faculty members. Trust and agency funds need not be budgeted.

"§ 115D-46. Budget management. — (a) Approval of budget by local tax-levying authority. Not later than May 15, or such later date as may be fixed by the local tax-levying authority, the budget shall be submitted to the local tax-levying authority for approval of that portion within its authority as stated in G.S. 115D-45(b). On or before July 1, or such later date as may be agreeable to the board of trustees, but in no instance later than September 1, the local tax-levying authority shall determine the amount of county revenue to be appropriated to an institution for the budget year. The local tax-levying authority may allocate part or all of an appropriation by purpose, function, or project as defined in the budget manual as adopted by the State Board of Community Colleges.

The local tax-levying authority shall have full authority to call for all books, records, audit reports, and other information bearing on the financial operation of the institution except records dealing with specific persons for which the persons' rights of privacy are protected by either federal or State law.

Nothing in this Article shall be construed to place a duty on the local tax-levying authority to fund a deficit incurred by an institution through failure of the institution to comply with the provisions of this Article or rules and regulations issued pursuant hereto.

(b) Approval of budget by State Board of Community Colleges. Not later than 10 days after notification by the local tax-levying authority of the amount appropriated, the budget shall be submitted to the State Board of Community Colleges for approval of that portion within its authority as stated in G.S. 115D-45(b). The State Board of Community Colleges shall approve the budget for each institution in such amount as the State Board decides is available and necessary for the operation of the institution.

The State Board of Community Colleges shall have authority to call for all books, records, audit reports and other information bearing on the financial operation of the institution except records dealing with specific persons for which the persons' rights of privacy are protected by either federal or State law.

Nothing in this Article shall be construed to place a duty on the State Board of Community Colleges to fund a deficit incurred by an institution through failure of the institution to comply with the provisions of this Article or rules and regulations issued pursuant hereto.

"§ 115D-47. Final adoption of budget. — Upon notification of approval by the State Board of Community Colleges, the board of trustees shall adopt a budget resolution as defined in the budget manual as adopted by the State Board of Community Colleges, which shall comply with the resolution of the State Board and the appropriations of the tax-levying authorities and all other funding agencies.

"§ 115D-48. Interim budget. — In case the adoption of the budget resolution is delayed until after July 1, the board of trustees shall authorize the president, through interim provisions, to pay salaries and the other ordinary expenses of the institution for the interval between the beginning of the fiscal year and the adoption of the budget resolution. Interim provisions so made shall be charged to the proper allocations in the budget resolution.

"§ 115D-49. Amendments to the budget; budget transfers. — (a) The State Board of Community Colleges shall adopt rules and regulations governing the amendment of the budget for an institution. The board of trustees may amend the budget at any time after its adoption pursuant to the rules and regulations of the State Board.

(b) If the local tax-levying authority allocates part or all of an appropriation pursuant to G.S. 115D-46, the board of trustees must obtain approval of the local tax-levying authority for an amendment to the budget which increases or decreases the amount of that appropriation allocated to a purpose, function, or project by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the local tax-levying authority or such lesser percentage as specified by the local tax-levying authority in the original budget ordinance, so long as such percentage is not less than ten percent (10%).

(c) The board of trustees may, by appropriate resolution, authorize the president to transfer monies from one appropriation to another within the same fund, subject to any limitations established by regulations adopted pursuant to this section, and subject to any limitations and procedures prescribed by the board of trustees or State or federal laws or regulations. Any such transfer shall be reported to the board of trustees at its next regular meeting and entered into its minutes.

"§ 115D-50. Federal contracts and grants. — The board of trustees of any institution may apply for and accept grants from the federal government or any agency thereof, in order to carry out the institution's mission. In exercising this authority, the board of trustees may enter into and carry out contracts with the federal government or any agency thereof, may agree to and comply with any lawful and reasonable condition attached to such a grant, and may make expenditures from any funds so granted. The State Board of Community Colleges shall adopt rules and regulations governing the application for and the acceptance of grants under this section.

"§ 115D-51. Allocation of revenue to the institution by the local tax-levying authority. — (a) The local tax-levying authority of each institution shall provide, as needed, funds to meet the monthly expenditures, including salaries and other necessary operating expenses, as set forth in a statement prepared by the board of trustees and in accordance with the approved budget. Upon the basis of the approved budget, the county finance officer shall make available to the institution the monies requested by the board of trustees no later than the 15th day of the month for which funds are requested.

(b) Funds received by the trustees of an institution from insurance payments for loss or damage to buildings shall be used for the repair or replacement of such buildings, or, if the buildings are not repaired or replaced, to reduce proportionally the institutional indebtedness borne by the counties of the administrative area of the institution receiving the insurance payments. If such payments, which are not used to repair or replace institutional buildings, exceed the total institutional indebtedness borne by all counties of the administrative area, such excess funds shall remain to the credit of the institution and shall be applied to the next succeeding plant fund budget until the excess funds shall be expended. Funds received by the trustees of an institution for loss or damage to the contents of buildings shall be divided between the board of trustees and the State Board of Community Colleges in proportion to the value of the lost contents owned by the board of trustees and the State, respectively. Until these funds shall have been expended, they shall either be used for repair or replacement of lost contents or be credited to the institution for succeeding plant and current expense budgets as appropriate.

"§ 115D-52. Provision for disbursement of State money. — The deposit of money in the State Treasury to the credit of the institution shall be made in monthly installments, and additionally as necessary, at such time and in such manner as may be convenient for the operation of the community college system. Before an installment is credited, the institution shall certify to the Department of Community Colleges, the expenditures to be made by the institution from the State Current Fund during the month.

The Department of Community Colleges shall determine whether the monies requisitioned are due the institution, and upon determining the amount due, shall cause the requisite amount to be credited to the institution. Upon receiving notice from the Department of Community Colleges that the amount has been placed to the credit of the institution, the institution may issue State warrants up to the amount so certified. Money in the State Current Fund and other monies made available by the State Board of Community Colleges shall be released only on warrants drawn on the State Treasurer, signed by two officials of the institution designated for this purpose by the board of trustees.

"§ 115D-53. Provisions for disbursement of local money. — All local public funds received by or credited to an institution shall be disbursed on checks signed by the two officials of the institution who shall have been designated by the board of trustees. The officials so designated shall countersign a check only if the funds required by such check are within the amount of funds remaining to the credit of the institution and are within the unencumbered balance of the appropriation for the item of expenditure according to the approved budgets of the institution. Each check shall be accompanied by an invoice, statement, voucher, or other basic document which indicates, to the satisfaction of the signing officials, that the issuance of such check is proper.

"§ 115D-54. Accounting system. — (a) Each institution shall establish and maintain an accounting system consistent with procedures as prescribed by the Department of Community Colleges and the State Auditor, which shows its assets, liabilities, equities, revenues, and expenditures.

(b) Each institution shall be governed in its purchasing of all supplies, equipment, and materials by contracts made by or with the approval of the Purchase and Contract Division of the Department of Administration. No contract shall be made by any board of trustees for purchases unless provision has been made in the budget of the institution to provide payment thereof. In order to protect the State purchase contracts, it is the duty of the board of trustees and administrative officers of each institution to pay for such purchases promptly in accordance with the contract of purchase. Equipment shall be titled to the State Board of Community Colleges if derived from State or federal funds.

(c) The State Auditor shall be responsible for conducting annually an audit of the receipts, expenditures, and fiscal transactions of each institution in addition to any other power and duty currently or hereafter conferred on him by statute. He shall in the administration of this Article consult with and advise the State Board of Community Colleges on matters relating to the administration of the budgets and fiscal affairs of the community college system.

(d) The annual audits shall be completed as near to the close of the fiscal year as practicable and copies of each audit, inclusive of all accounts, shall be filed with the chairman of the board of trustees, the executive head of the institution, the chief fiscal officer of the institution, the county finance officer of each county of the administrative area, the State Board of Community Colleges and the chairman of the local government commission.

"§ 115D-55. Investment of idle cash. — (a) The institution may deposit at interest or invest all or part of the cash balance of any fund in an official depository of the institution. The institution shall manage investments subject to whatever restrictions and directions the board of trustees may impose. The institution shall have the power to purchase, sell, and exchange securities on behalf of the board of trustees. The investment program shall be so managed that investments and deposits can be converted into cash when needed.

(b) Monies may be deposited at interest in any bank or trust company in this State in the form of certificates of deposit or such other forms of time deposits as may be approved for county governments. Investment deposits shall be secured as provided in G.S. 159-31(b).

(c) Monies may be invested in the form of investments pursuant to G.S. 159-30(c) to county governments and no others. Money in endowment funds may be invested pursuant to G.S. 147-69.2. Provided, however, the institution may elect to deposit at interest any local funds with the State Treasurer for investment as special trust funds pursuant to the provisions of G.S. 147-69.3, and the interest thereon shall accrue to the institution as local funds.

(d) Investment securities may be bought, sold, and traded by private negotiation, and the institutions may pay all incidental costs thereof and all reasonable costs of administering the investment and deposit program from local funds. The institution shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

(e) Interest earned on deposits and investments shall be credited to the fund whose cash is deposited or invested. Cash of several funds may be combined for deposit or investment if not otherwise prohibited by law; and when such joint deposits or investments are made, interest earned shall be prorated and credited to the various funds on the basis of the amounts thereof invested, figured according to an average periodic balance or some other sound accounting principle. Interest earned on the deposit or investment of bond funds shall be deemed a part of the bond proceeds.

(f) Registered securities acquired for investment may be released from registration and transferred by signature of the official designated by the board of trustees.

"§ 115D-56. Selection of depository, deposits to be secured. — (a) Each board of trustees shall designate as the official depositories of the institution one or more banks or trust companies in this State. It shall be unlawful for any money belonging to an institution, other than monies required to be deposited with the State Treasurer, to be deposited in any place, bank, or trust company other than an official depository except as permitted in G.S. 115D-55(b). However, public monies may be deposited in official depositories in Negotiable Order of Withdrawal (NOW) accounts where permitted by applicable federal or State regulations.

(b) Money deposited in an official depository or deposited at interest pursuant to G.S. 115D-55(b) shall be secured in the manner prescribed in G.S. 159-31(b). When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by an institution because of the default or insolvency of the depository.

"§ 115D-57. Facsimile signatures. — The board of trustees may provide by appropriate resolution for the use of facsimile signature machines, signature stamps, or similar devices in signing checks and drafts. The board shall charge some bonded officer or employee with the custody of the necessary machines, stamps, plates, or other devices, and that person and the sureties on his official bond are liable for any illegal, improper, or unauthorized use of them. Rules and regulations governing the use and control of the facsimile signature shall be adopted by the State Board of Community Colleges.

"§ 115D-58. Daily deposits. — All monies regardless of source or purpose collected or received by an officer, employee, or agent of an institution shall be deposited intact in accordance with this section. Each officer, employee and agent of an institution whose duty it is to collect or receive any monies shall deposit his collections and receipts daily. If the board of trustees gives its approval, deposits may be required only when the monies on hand amount to as much as two hundred fifty dollars (\$250.00), but in any event, a deposit shall be made on the last business day of the month. All deposits shall be made in an official depository. Tuition and all revenues declared by law to be State monies or otherwise required to be deposited with the State Treasurer shall be deposited pursuant to the rules of the State Treasurer pursuant to G.S. 147-77.

"§ 115D-58.1. Surety bonds. — The State Board of Community Colleges shall determine what State employees and employees of institutions shall give bonds for the protection of State funds and property and the State Board is authorized to place the bonds and pay the premiums thereon from State funds.

The board of trustees of each institution shall require all institutional employees authorized to draw or approve checks or vouchers drawn on local funds, and all persons authorized or permitted to receive institutional funds from whatever source, and all persons responsible for or authorized to handle institutional property, to be bonded by a surety company authorized to do business with the State in such amount as the board of trustees deems sufficient for the protection of such property and funds. The tax-levying authority of each institution shall provide the funds necessary for the payment of the premiums of such bonds.

"§ 115D-58.2. Fire and casualty insurance on institutional buildings and contents. — (a) The board of trustees of each institution, in order to safeguard the investment in institutional buildings and their contents, shall:

- (1) Insure and keep insured each building owned by the institution to the extent of the current insurable value, as determined by the insured and insurer, against loss by fire, lightning, and the other perils embraced in extended coverage.
- (2) Insure and keep insured equipment and other contents of all institutional buildings that are the property of the institution or the State or which are used in the operation of the institution.

(b) The tax-levying authority of each institution shall provide the funds necessary for the purchase of the insurance required in G.S. 115D-58.2(a).

(c) Boards of trustees may purchase insurance from companies duly licensed and authorized to sell insurance in this State or may obtain insurance in accordance with the provisions of Article 16, Chapter 115, of the General Statutes, 'State Insurance of Public School Property'.

"§ 115D-58.3. Liability insurance; tort actions against boards of trustees. — (a) Boards of trustees may purchase liability insurance only from companies duly licensed and authorized to sell insurance in this State. Each contract of insurance must, by its terms, adequately insure the board of trustees against any and all liability for any damages by reason of death or injury to person or property proximately caused by the negligence or torts of the agents and employees of such board of trustees or institution when acting within the scope of their authority or the course of their employment. Any company which enters into such a contract of insurance with a board of trustees by such act waives any defense based upon the governmental immunity of such board.

(b) Any person sustaining damages, or in case of death, his personal representative, may sue a board of trustees insured under this section for the recovery of such damages in any court of competent jurisdiction in this State, but only in a county of the administrative area of the institution against which the suit is brought; and it shall be no defense to any such action that the negligence or tort complained of was in pursuance of a governmental, municipal, or discretionary function of such board of trustees, to the extent that such board is insured as provided by this section.

(c) Nothing in this section shall be construed to deprive any board of trustees of any defense whatsoever to any action for damages, or to restrict, limit, or otherwise affect any such defense; and nothing in this section shall be construed to relieve any person sustaining damages or any personal representative of any decedent from any duty to give notice of such claim to the board of trustees or commence any civil action for the recovery of damages within the applicable period of time prescribed or limited by law.

(d) No part of the pleadings which relate to or allege facts as to a defendant's insurance against liability shall be read or mentioned in the presence of the trial jury in any action brought

pursuant to this section. Liability shall not attach unless the plaintiff shall waive the right to have all issues of law and fact relating to insurance in such action determined by a jury, and such issues shall be heard and determined by the judge without resort to a jury, and the jury shall be absent during any motions, arguments, testimony, or announcements of findings of fact or conclusions of law with respect thereto, unless the defendant shall request jury trial thereon.

(e) The board of trustees of all institutions in this Chapter is authorized to pay as a necessary expense the lawful premiums of liability insurance provided in this section."

Sec. 2. G.S. 115D-31 is rewritten as follows:

"§ 115D-31. State financial support of institutions. — (a) The State Board of Community Colleges shall be responsible for providing, from sources available to the State Board, funds to meet the financial needs of institutions, as determined by policies and regulations of the State Board, for the following budget items:

(1) Plant Fund. Furniture and equipment for administrative and instructional purposes, library books, and other items of capital outlay approved by the State Board. Provided, the State Board may, on an equal matching-fund basis from appropriations made by the State for the purpose, grant funds to individual institutions for the purchase of land, construction and remodeling of institutional buildings determined by the State Board to be necessary for the instructional programs or administration of such institutions. For the purpose of determining amount of matching State funds, local funds shall include expenditures made prior to the enactment of this Chapter or prior to an institution becoming a community college or technical institute pursuant to the provisions of this Chapter, when such expenditures were made for the purchase of land, construction, and remodeling of institutional buildings subsequently determined by the State Board to be necessary as herein specified, and provided such local expenditures have not previously- been used as the basis for obtaining matching State funds under the provisions of this Chapter or any other laws of the State.

(2) Current operating expenses:

- a. General administration. Salaries and other costs as determined by the State Board necessary to carry out the functions of general administration.
- b. Instructional services. Salaries and other costs as determined by the State Board necessary to carry out the functions of instructional services.
- c. Support services. Salaries and other costs as determined by the State Board necessary to carry out the functions of support services.

(3) Additional support for regional institutions as defined in G.S. 115D-2(4). Matching funds to be used with local funds to meet the financial needs of the regional institutions for the items set out in G.S. 115D-32(a)(2)a. Amount of matching funds to be provided by the State under this section shall be determined as follows: The population of the administrative area in which the regional institution is located shall be called the 'local factor', the combined populations of all other counties served by the institution shall be called the 'State factor'. When the budget for the items listed in G.S. 115D-32(a)(2)a. has been approved under the procedures set out in G.S. 115D-45, the administrative area in which the regional institution is located shall provide a percentage to be determined by dividing the local factor by the sum of the local factor and the State factor. The State shall provide a percentage of the necessary funds to meet this budget, the percentage to be determined by dividing the State factor by the sum of the

local factor and the State factor. If the local administrative area provides less than its proportionate share, the amount of State funds provided shall be reduced by the same proportion as were the administrative area funds. Wherever the word 'population' is used in this subdivision, it shall mean the population of the particular area in accordance with the latest United States census.

(b) The State Board is authorized to accept, receive, use, or reallocate to the institutions any federal funds or aids that have been or may be appropriated by the government of the United States for the encouragement and improvement of any phase of the programs of the institutions."

Sec. 3. G.S. 115D-32 is rewritten as follows:

"§ 115D-32. Local financial support of institutions. — (a) The tax-levying authority of each institution shall be responsible for providing, in accordance with the provisions of G.S. 115D-33 or G.S. 115D-34, as appropriate, adequate funds to meet the financial needs of the institutions for the following budget items:

(1) Plant Fund. Acquisition of land; erection of all buildings; alterations and additions to buildings; purchase of automobiles, buses, trucks, and other motor vehicles; purchase or rental of all equipment necessary for the maintenance of buildings and grounds and operation of plants; and purchase of all furniture and equipment not provided for administrative and instructional purposes.

(2) Current expenses:

a. Plant operation and maintenance:

1. Salaries of janitors, maids, watchmen, maintenance and repair employees.
2. Cost of fuel, water, power, and telephones.
3. Cost of janitorial supplies and materials.
4. Cost of operation of motor vehicles.
5. Cost of maintenance and repairs of buildings and grounds.
6. Maintenance and replacement of furniture and equipment provided from local funds.
7. Maintenance of plant heating, electrical, and plumbing equipment.
8. Maintenance of all other equipment, including motor vehicles, provided by local funds.
9. Rental of land and buildings.
10. Any other expenses necessary for plant operation and maintenance.

b. Support services:

1. Cost of insurance for buildings, contents, motor vehicles, workers' compensation for institutional employees paid from local funds, and other necessary insurance.
2. Any tort claims awarded against the institution due to the negligence of the institutional employees.
3. Cost of bonding institutional employees for the protection of local funds and property.
4. Cost of elections held in accordance with G.S. 115D-33 and G.S. 115D-35.
5. Legal fees incurred in connection with local administration and operation of the institution.

(b) The board of trustees of each institution may apply local public funds provided in accordance with G.S. 115D-33(a), as appropriate, or private funds, or both, to the supplementation of items of the current expense budget financed from State funds, provided a budget is submitted in accordance with G.S. 115D-45.

(c) The board of trustees of each institution may apply institutional funds provided in accordance with G.S. 115D-45(3) for such purposes as may be determined by the board of trustees of the institution."

Sec. 4. G.S. 115D-39 is amended on line 1 by deleting the word "may" and by substituting in lieu thereof the word "shall".

Sec. 5. G.S. 115D is amended by adding the following new section:

"§ 115D-26. Conflict of interest. — All local trustees and employees of community colleges and technical institutes covered under this act must adhere to the conflict of interest provisions found in G.S. 14-236."

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1981.