

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2016-116
HOUSE BILL 561**

AN ACT TO MODIFY THE AUTHORITY OF SCHOOL SYSTEMS WITH REGARD TO LEGAL PROCEEDINGS AND INVESTIGATIONS AND TO DIRECT THE PROGRAM EVALUATION DIVISION TO STUDY THE PROCESS OF RESOLVING EDUCATION FUNDING DISPUTES BETWEEN LOCAL BOARDS OF EDUCATION AND BOARDS OF COUNTY COMMISSIONERS.

The General Assembly of North Carolina enacts:

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

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

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

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

"(a) Power to Subpoena and to Punish for Contempt. – Local boards of education shall have power to issue subpoenas for the attendance of witnesses. Subpoenas for the attendance of witnesses may be issued in any and all matters which may lawfully come within the powers of the board and which, in the discretion of the board, require investigation; and it shall be the duty of the sheriff or any process serving officer to serve such subpoena upon payment of their lawful fees. investigation. Local boards of education may request the chief district court judge or the judge's designee to grant approval for the local board of education to issue a subpoena for the production of all tangible things in matters where an employee is suspected of committing job-related misconduct and which, in the discretion of the board, require investigation. Subpoenas for the production of tangible things may include, but are not limited to, documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic communications, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics. In making the determination to approve the subpoena, the judge shall consider the following: (i) whether the subpoena allows reasonable time for compliance; (ii) if the subpoena requires disclosure of privileged or other protected matter and if any exception or waiver applies to the privilege or protection; (iii) whether the individual would be subject to undue burdens or expenses; and (iv) whether the subpoena is otherwise unreasonable or oppressive.



It shall be the duty of the sheriff or any process serving officer to serve any such subpoenas upon payment of their lawful fees.

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

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

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

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

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

In the General Assembly read three times and ratified this the 1st day of July, 2016.

s/ Tom Apodaca
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 8:02 a.m. this 28th day of July, 2016