

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2001**

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**HOUSE BILL 1178**

Short Title: Voters Resolve Local School Funding Disputes. (Public)

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Sponsors: Representative Blust.

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Referred to: Rules, Calendar, and Operations of the House.

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April 12, 2001

A BILL TO BE ENTITLED

1 AN ACT TO LET THE VOTERS RESOLVE DISPUTES BETWEEN THE BOARD  
2 OF EDUCATION AND THE BOARD OF COUNTY COMMISSIONERS  
3 REGARDING SCHOOL FUNDING.  
4

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 the chairman of the board of county  
13 commissioners shall arrange a joint meeting of the two boards to be held within seven  
14 days after the day of the county commissioners' decision on the school appropriations.

15 Prior to the joint meeting, the Senior Resident Superior Court Judge shall appoint a  
16 mediator unless the boards agree to jointly select a mediator. The mediator shall preside  
17 at the joint meeting and shall act as a neutral facilitator of disclosures of factual  
18 information, statements of positions and contentions, and efforts to negotiate an  
19 agreement settling the boards' differences.

20 At the joint meeting, the entire school budget shall be considered carefully and  
21 judiciously, and the two boards shall make a good-faith attempt to resolve the  
22 differences that have arisen between them.

23 (b) If no agreement is reached at the joint meeting of the two boards, the  
24 mediator shall, at the request of either board, commence a mediation immediately or  
25 within a reasonable period of time. The mediation shall be held in accordance with rules  
26 and standards of conduct adopted under Chapter 7A of the General Statutes governing  
27 mediated settlement conferences but modified as appropriate and suitable to the  
28 resolution of the particular issues in disagreement.

1 Unless otherwise agreed upon by both boards, the following individuals shall  
2 constitute the two working groups empowered to represent their respective boards  
3 during the mediation:

- 4 (1) The chair of each board or the chair's designee;
- 5 (2) The superintendent of the local school administrative unit and the  
6 county manager or either's designee;
- 7 (3) The finance officer of each board; and
- 8 (4) The attorney for each board.

9 Members of both boards, their chairs, and representatives shall cooperate with and  
10 respond to all reasonable requests of the mediator to participate in the mediation.  
11 Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation  
12 proceedings involving the two working groups shall be conducted in private. Evidence  
13 of statements made and conduct occurring in a mediation are not subject to discovery  
14 and are inadmissible in any court action. However, no evidence otherwise discoverable  
15 is inadmissible merely because it is presented or discussed in a mediation. The mediator  
16 shall not be compelled to testify or produce evidence concerning statements made and  
17 conduct occurring in a mediation in any civil proceeding for any purpose, except  
18 disciplinary hearings before the State Bar or any agency established to enforce standards  
19 of conduct for mediators. Reports by members of either working group to their  
20 respective boards shall be made in compliance with Article 33C of Chapter 143 of the  
21 General Statutes.

22 Unless both boards agree otherwise, or unless the boards have already resolved their  
23 dispute, the mediation shall end no later than August 1. The mediator shall have the  
24 authority to determine that an impasse exists and to discontinue the mediation. The  
25 mediation may continue beyond August 1 provided both boards agree. If both boards  
26 agree to continue the mediation beyond August 1, the board of county commissioners  
27 shall appropriate to the local school administrative unit for deposit in the local current  
28 expense fund a sum of money sufficient to equal the local contribution to this fund for  
29 the previous year.

30 If the working groups reach a proposed agreement, the terms and conditions must be  
31 approved by each board. If no agreement is reached, the mediator shall announce that  
32 fact and the final positions of both the board of county commissioners and the board of  
33 education to the chairs to the chairs of both boards, the Senior Resident Superior Court  
34 Judge, and the public. The mediator shall not disclose any other information about the  
35 mediation. The mediator shall not make any recommendations or public statement of  
36 findings or conclusions.

37 The local board of education and the board of county commissioners shall share  
38 equally the mediator's compensation and expenses. The mediator's compensation shall  
39 be determined according to rules adopted under Chapter 7A of the General Statutes.

40 ~~(c) Within five days after an announcement of no agreement by the mediator, the~~  
41 ~~local board of education may file an action in the superior court division of the General~~  
42 ~~Court of Justice. The court shall find the facts as to the amount of money necessary to~~  
43 ~~maintain a system of free public schools, and the amount of money needed from the~~  
44 ~~county to make up this total. Either board has the right to have the issues of fact tried by~~

1 a jury. When a jury trial is demanded, the cause shall be set for the first succeeding term  
2 of the superior court in the county, and shall take precedence over all other business of  
3 the court. However, if the judge presiding certifies to the Chief Justice of the Supreme  
4 Court, either before or during the term, that because of the accumulation of other  
5 business, the public interest will be best served by not trying the cause at the term next  
6 succeeding the filing of the action, the Chief Justice shall immediately call a special  
7 term of the superior court for the county, to convene as soon as possible, and assign a  
8 judge of the superior court or an emergency judge to hold the court, and the cause shall  
9 be tried at this special term. The issue submitted to the jury shall be what amount of  
10 money is needed from sources under the control of the board of county commissioners  
11 to maintain a system of free public schools.

12 All findings of fact in the superior court, whether found by the judge or a jury, shall  
13 be conclusive. When the facts have been found, the court shall give judgment ordering  
14 the board of county commissioners to appropriate a sum certain to the local school  
15 administrative unit, and to levy such taxes on property as may be necessary to make up  
16 this sum when added to other revenues available for the purpose. If the mediator  
17 announces to the chairs of both boards that no agreement has been reached, the board of  
18 county commissioners shall provide funding to the schools in accordance with  
19 subsection (d) of this section. The question of whether the final position of the board of  
20 county commissioners or the final position of the board of education shall be  
21 implemented shall be submitted to the voters of the county in a referendum or election  
22 called for the purpose of resolving this matter. The election or referendum shall be held  
23 under the provisions governing elections or referendums as set forth in G.S. 115C-507.  
24 The board of county commissioners shall have authority to have such elections or  
25 referendums conducted by the board of elections of its county under the provisions set  
26 forth in G.S. 115C-507.

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

35 (e) ~~If, in an action filed under this section, the final judgment of the General~~  
36 ~~Court of Justice is rendered~~ If the mediator announces that no agreement has been  
37 reached after the due date prescribed by law for property taxes, the board of county  
38 commissioners is authorized to shall levy such supplementary taxes as may be required  
39 by the judgment, notwithstanding any other provisions of law with respect to the time  
40 for doing acts necessary to a property tax levy. Upon making a supplementary levy  
41 under this subsection, the board of county commissioners shall designate the person  
42 who is to compute and prepare the supplementary tax receipts and records for all such  
43 taxes. Upon delivering the supplementary tax receipts to the tax collector, the board of  
44 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 (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.** G.S. 115C-507 reads as rewritten:

12 **"§ 115C-507. Rules governing elections.**

13 (a) All elections under this Chapter shall be held and conducted by the  
14 appropriate county or municipal board of elections.

15 (b) If the purpose of the election is to enlarge a city administrative unit, the  
16 notice of election shall include the following: a statement of the purpose of the election;  
17 a legal description of the area within which the election is to be held; and a statement  
18 that if a majority of those who shall vote in the area proposed to be consolidated with  
19 the city administrative unit shall vote in favor of such enlargement such area shall be  
20 consolidated with the city administrative unit, effective July 1 next following such  
21 election, and there shall thereafter be levied in such area so consolidated with the city  
22 administrative unit the same school taxes as shall be levied in the other portions of the  
23 city administrative unit, including any tax levy to provide for the payment of school  
24 bonds theretofore issued by or for such city administrative unit or for all or some part of  
25 the school area annexed to such city administrative unit, unless payment of such bonds  
26 has otherwise been provided for.

27 The notice of the election shall be given as provided in G.S. 163-33(8) and in  
28 addition include a legal description of the area within which the election is to be held,  
29 and, if any additional tax is proposed to be levied, the maximum rate of tax to be levied  
30 which shall not exceed the maximum prescribed by this Article, and the purpose of the  
31 tax.

32 No new registration of voters is required, but the board of elections, in its discretion,  
33 may use either Method A or Method B set forth in G.S. 163-288.2 in activating the  
34 voters in the territory.

35 The ballot in such election shall contain the words "FOR local tax and AGAINST  
36 local tax" except when the election is held under subsection (c) of G.S. 115C-501, in  
37 which case the ballots shall contain the words "FOR enlargement of the  
38 \_\_\_\_\_City Administrative Unit and school tax of the same rate," and  
39 "AGAINST enlargement of the \_\_\_\_\_City Administrative Unit and school tax  
40 of the same rate.

41 (c) If the purpose of the election is to approve the amount of funding for the  
42 public schools, the notice of election shall include a statement of the purpose of the  
43 election and the mediator's statement of the final position of the board of county  
44 commissioners and the final position of the board of education on the matter of school

1 funding. The notice shall also state that if a majority of the voters vote in favor of the  
2 position of the board of county commissioners, the position of the board of county  
3 commissioners shall be implemented; if a majority of the voters vote in favor of the  
4 position of the board of education, the position of the board of education shall be  
5 implemented. Notice of the election shall be given as provided in G.S. 163-33(8).

6 No new registration of voters is required, but the board of elections, in its discretion,  
7 may use either Method A or Method B set forth in G.S. 163-288.2 in activating the  
8 voters in the territory.

9 The ballot in such election shall contain the words "FOR the position of the board of  
10 county commissioners regarding school funding" and "FOR the position of the local  
11 board of education regarding school funding".

12 (d) The elections shall be held in accordance with the applicable provisions of  
13 Chapter 163 and the expense of the election shall be paid by the board of education of  
14 the administrative unit in which the election is held, provided that when territory is  
15 proposed to be added to a city administrative unit, that unit shall bear the expense.

16 (e) No election held under this Article shall be open to question except in an  
17 action or proceeding commenced within 30 days after the board of elections has  
18 certified the results."

19 **SECTION 3.** This act becomes effective July 1, 2001.