

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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**SENATE BILL 211
Education/Higher Education Committee Substitute Adopted 4/28/15**

Short Title: Damages for Late Payment of Monies/Charters.

(Public)

Sponsors:

Referred to:

March 11, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR DAMAGES WHEN FUNDS ARE NOT TRANSFERRED
3 WITHIN REQUIRED TIME LINES BETWEEN LOCAL SCHOOL ADMINISTRATIVE
4 UNITS AND CHARTER SCHOOLS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 115C-218.105 reads as rewritten:

7 **"§ 115C-218.105. State and local funds for a charter school.**

8 (a) The State Board of Education shall allocate to each charter school:

- 9 (1) An amount equal to the average per pupil allocation for average daily
10 membership from the local school administrative unit allotments in which
11 the charter school is located for each child attending the charter school
12 except for the allocation for children with disabilities and for the allocation
13 for children with limited English proficiency;
- 14 (2) An additional amount for each child attending the charter school who is a
15 child with disabilities; and
- 16 (3) An additional amount for children with limited English proficiency attending
17 the charter school, based on a formula adopted by the State Board.

18 In accordance with G.S. 115C-218.5(d), the State Board shall allow for annual adjustments
19 to the amount allocated to a charter school based on its enrollment growth in school years
20 subsequent to the initial year of operation.

21 In the event a child with disabilities leaves the charter school and enrolls in a public school
22 during the first 60 school days in the school year, the charter school shall return a pro rata
23 amount of funds allocated for that child to the State Board, and the State Board shall reallocate
24 those funds to the local school administrative unit in which the public school is located. In the
25 event a child with disabilities enrolls in a charter school during the first 60 school days in the
26 school year, the State Board shall allocate to the charter school the pro rata amount of
27 additional funds for children with disabilities.

28 (b) Funds allocated by the State Board of Education may be used to enter into
29 operational and financing leases for real property or mobile classroom units for use as school
30 facilities for charter schools and may be used for payments on loans made to charter schools for
31 facilities, equipment, or operations. However, State funds shall not be used to obtain any other
32 interest in real property or mobile classroom units. No indebtedness of any kind incurred or
33 created by the charter school shall constitute an indebtedness of the State or its political
34 subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith,
35 credit, or taxing power of the State or its political subdivisions. Every contract or lease into



1 which a charter school enters shall include the previous sentence. The school also may own
2 land and buildings it obtains through non-State sources.

3 (c) If a student attends a charter school, the local school administrative unit in which
4 the child resides shall transfer to the charter school an amount equal to the per pupil share of
5 the local current expense fund of the local school administrative unit for the fiscal year. The per
6 pupil share of the local current expense fund shall be transferred to the charter school within 30
7 days of the receipt of monies into the local current expense fund. The local school
8 administrative unit and charter school may use the process for mediation of differences
9 between the State Board and a charter school provided in G.S. 115C-218.95(d) to resolve
10 differences on calculation and transference of the per pupil share of the local current expense
11 fund. The amount transferred under this subsection that consists of revenue derived from
12 supplemental taxes shall be transferred only to a charter school located in the tax district for
13 which these taxes are levied and in which the student resides.

14 (d) The local school administrative unit shall also provide each charter school to which
15 it transfers a per pupil share of its local current expense fund with all of the following
16 information within the 30-day time period provided in subsection (c) of this section:

- 17 (1) The total amount of monies the local school administrative unit has in each
18 of the funds listed in G.S. 115C-426(c).
- 19 (2) The student membership numbers used to calculate the per pupil share of the
20 local current expense fund.
- 21 (3) How the per pupil share of the local current expense fund was calculated.
- 22 (4) Any additional records requested by a charter school from the local school
23 administrative unit in order for the charter school to audit and verify the
24 calculation and transfer of the per pupil share of the local current expense
25 fund.

26 (e) Prior to commencing an action under subsection (c) of this section, the complaining
27 party shall give the other party 15 days' written notice of the alleged violation. The court shall
28 award the prevailing party reasonable attorneys' fees and court costs incurred in an action under
29 subsection (c) of this section. The court shall also award the prevailing party liquidated
30 damages in an amount equal to five percent (5%) of the monies that should have been
31 transferred under subsection (c) of this section as compensation for administrative expenses
32 incurred by the prevailing party due to the unavailability of those monies. The court shall order
33 any delinquent funds, court costs, fees, liquidated damages, and interest to be paid in equal
34 monthly installments and shall establish a time for payment in full that shall be no later than
35 one year from the entry of any judgment."

36 **SECTION 2.** This act is effective when it becomes law and applies to any actions
37 filed on or after that date.