

[March 27, 2019]

Proposed new G.S. 115-431(c), (c1) and (c2):

(c) If agreement is not reached in mediation on the amount of money appropriated to the capital outlay fund, the board of education and the board of county commissioners shall jointly employ a third party consultant to perform a limited scope assessment of school board's capital outlay needs. The assessment shall be limited to those school facility needs identified in the long-range plan most recently submitted to the State Board of Education pursuant to G.S. 115C-521(a), except for other capital needs to address the following:

- (1) immediate health, safety, and/or security issues;
- (2) non-compliance with local, state or federal laws, including those related to building codes, fire codes and accessibility;
- (3) immediate needs related to HVAC, roofing, plumbing, sanitary sewer or electrical systems

In performing the assessment, the consultant shall specifically consider the current and projected student population of the school system and the potential benefit of student reassignment. As required under G.S. 115C-521(a), the consultant shall consider the costs and feasibility of renovating and operating old school buildings instead of replacing them. The consultant shall also consider the amount of funding minimally necessary to provide the local school administrative unit with buildings suitably equipped, as required by G.S. 115C-521.

The consultant entering into a contract with the boards for this limited scope assessment shall be an engineer or architect experienced in the evaluation of school facility needs, selected on the basis of demonstrated competence and qualification pursuant to G.S. 143-64.31, or another individual equally experienced and knowledgeable regarding the evaluation of school

facility needs. The consultant shall be prohibited from contracting with regard to any work or procurement to be performed as a result of the assessment. In the event that the parties cannot agree on a consultant as described herein, the Senior Resident Superior Court Judge of the judicial district in which the board of education is located shall name the consultant.

(c1) The board of county commissioners shall fund the capital outlay needs identified in the assessment described in subsection (c) over the next fiscal five years from whatever sources of revenue it deems appropriate, but subject to the following conditions and limitations:

(1) The county shall provide the necessary funds consistent with applicable guidelines established by the Local Government Commission or fiscal policies adopted by the Board of County Commissioners under which current indebtedness is still outstanding.

(2) The board of county commissioners, without consent of the board of education, may appropriate any amount of funds available from the Public School Building Capital Fund not already obligated for repayment of previously incurred debt to meet any portion of this capital funding obligation related to school buildings, including debt service.

(3) Any financing proposed by the board of county commissioners shall be subject to approval of the Local Government Commission.

(4) A county shall not be required to increase the ad valorem tax rate by more than 10 cents or 20 percent, whichever is less, so long as such increase will not materially impair the county's credit rating. The limit shall be based upon the revenue neutral tax rate in a revaluation year.

(5) If sufficient funds cannot be generated and a county has not levied the sales tax authorized under Chapter 105, Article 46 of the North Carolina General Statutes, the county commissioners shall place the referendum on the ballot at the next time a ballot initiative is

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allowed. If the sales tax is approved by the voters, all funds generated by the sales tax shall be dedicated for public school construction needs for the next five years.

(6) No appropriation of capital funding for new construction shall be required if the board of education has not complied with all requirements of G.S. 115C-521(c).

(c2) If a board of county commissioners fails to comply with any portion of Paragraph (c1) above, including its subparagraphs (1) – (5), the Local Government Commission shall exercise the authority and powers described in G.S. 159-181(c) in order to establish and maintain compliance.

(c3) Neither the local board of education nor the board of county commissioners shall file any legal action challenging the determination as to the funds to be appropriated by the board of county commissioners to the capital outlay fund in accordance with the procedures set forth in subsection (c) of this section.