

Charter School Omnibus & Local Funding

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March 13, 2023



HB 219 - Charter School Omnibus

Introduced

- March 1, 2023

Sponsors

- Rep. John Torbett (R – Gaston)
- Rep. John Bradford (R – Mecklenburg)
- Rep. David Willis (R- Union)
- Rep. Jason Saine (R – Lincoln)

HB 219 - Charter School Omnibus

Main Provisions

- Removes 30% cap charter school enrollment growth unless school has been identified as low performing
- Eliminates use of LEA impact statements to oppose charter applications and amendments
- Authorizes “micro schools”
- Lottery preference for service members
- Permits county commissioners to provide capital funding

HB 219 - Charter School Omnibus

Funding Provisions

- (1) Confirms General Assembly's intent that charter school students receive equal per-pupil funding
- (2) Repeals "Hackney Amendment" which reduced per-pupil amounts shared with charter schools
- (3) Repeals the "Nesbitt Amendment" that prohibits supplemental taxes from following student to charter school outside the district

Local Funding - Legal Requirements

- Two Statutes

- **“Funding Statute”** – Requires LEA to transfer per-pupil share of money in its *local current expense fund* with charter school students

G.S. 115C-218.105(c)

- **“Budget Statute”** – Requires LEAs to keep money in standard budget format; specifies what money must be held in which fund

G.S. 115C-426

Budget Statute (1996)

(Fund 2) Local Current Expense Fund

- Fines and forfeitures
- County appropriations
- Supplemental taxes
- State money disbursed directly to LEA
- All “other moneys made available” to LEA
“for current operating expenses of the public school system”

(Fund 8) Other Restricted Funds

- “Other funds may be required to account for”
 - Trust Funds
 - Federal grants restricted as to use
 - Special programs

Court Cases

- **Francine Delany v. Asheville City Schools** (2002)
 - Issue: Must LEAs share (1) fines and forfeitures and (2) supplemental taxes?
 - Held:
 - “The Legislature clearly intended for charter schools to be treated as public schools Construing the Charter School Funding Statute with other public funding statutes in Chapter 115C, it is clear that the Legislature intended that supplemental taxes as well as penal fines and forfeitures be included in the operating budget of the school-the local expense fund.”

Court Cases

- **Sugar Creek, et al. v. Charlotte-Mecklenburg Schools** (2008)
 - Issue: Can LEA use its beginning enrollment, but calculate charter enrollment on month-to-month?
 - Issue: Must LEAs share money for (1) “Bright Beginnings” (optional pre-k) and (2) “High School Challenge”?
 - Held:
 - Must calculate LEA and charter per-pupil “on same basis” (20-day ADM or month-to-month)
 - If money is held in local current expense fund, must be shared with charters

Court Cases

- **Sugar Creek, et al. v. Charlotte-Mecklenburg Schools** (2009)
 - Issue: Must LEA share textbook revenue, fund balance, Hurricane Katrina relief funds, sales tax reimbursements, preschool funds, and donations for specific programs, if they are held in the local current expense fund?
 - Held:
 - “The language of the [Funding Statute] is ‘unambiguous, direct, imperative, and mandatory,’”
 - “Thus, the Charter Schools are entitled to an amount equal to the per pupil amount of all money contained in the local current expense fund.”
 - “If [funds] were restricted, then they should have been placed in separate fund, not the local current expense fund.”

Court Cases

- **Thomas Jefferson Classical Academy v. Cleveland County Schools** (2016)
 - Issue: Under previous version of 115C-426, can district move various categories of money to a restricted fund?
 - Tuition/fees; indirect costs, Medicaid reimbursements, E-rate funds, JROTC, Workforce Investment Grants, Dropout prevention funds
 - Money is “restricted” only if donor required that it be used for purpose outside general K-12 program
 - Reaffirmed *Delany*, *Sugar Creek I*, and *Sugar Creek II*

Budget Statute (1996)

(Fund 2) Local Current Expense Fund

- Fines and forfeitures
- County appropriations
- Supplemental taxes
- State money disbursed directly to LEA
- All “other moneys made available” to LEA
“for current operating expenses of the public school system”

(Fund 8) Other Restricted Funds

- “Other funds may be required to account for”
 - Trust Funds
 - Federal grants restricted as to use
 - Special programs

Hackney Amendment – Budget Statute (2010)

(Fund 2) Local Current Expense Fund

- Fines and forfeitures
- County appropriations
- Supplemental taxes
- State money disbursed directly to LEA
- All “other moneys made available” to LEA
“for current operating expenses of the public school system”

** Money appropriated from fund balance not shared with charters*

(Fund 8) Other Restricted Funds

- “Other funds may be used”
 - Reimbursements
 - Indirect costs
 - Fees for actual costs
 - Sales tax revenue (ad valorem method)
 - Sales tax refunds
 - Gifts and grants restricted as to use
 - Trust funds
 - Federal appropriations
 - Prekindergarten programs
 - Special programs

Budget Statute (2018)

(Fund 2) Local Current Expense Fund

- Fines and forfeitures
- County appropriations
- Supplemental taxes
- State money disbursed directly to LEA
- All “other moneys made available” to LEA
“for current operating expenses of the public school system”

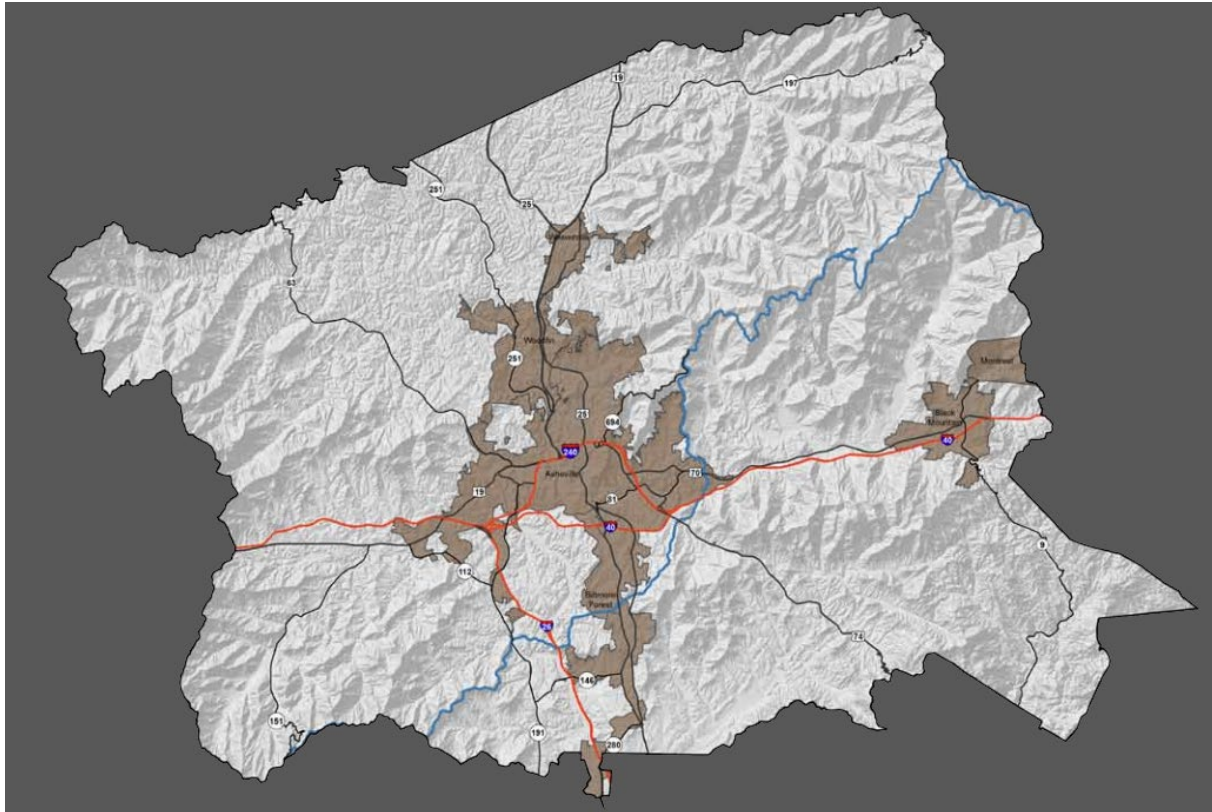
* *Money appropriated from fund balance not shared with charters*

* *Money from interest income not shared with charters*

(Fund 8) Other Restricted Funds

- “Other funds may be used”
 - Reimbursements
 - Indirect costs
 - Fees for actual costs
 - Sales tax revenue (ad valorem method)
 - Sales tax refunds
 - Gifts and grants restricted as to use
 - Trust funds
 - Federal appropriations
 - Prekindergarten programs
 - Special programs
 - Municipal appropriations

Nesbitt Amendment (2002)



- Supplemental taxes cannot follow a student to a charter school outside the district where the taxes are imposed

G.S. 115C-218.105(c4)

Important Messages for Legislators

- Repeal amendments that hurt charter school students / Restore Supreme Court's decision in *Thomas Jefferson*
- Charter school students should be funded equally with district students; should not have to accept less just because they choose a charter school
- We fund students, not districts. Money should follow the child.
- Charter schools do not have to offer the same programs. They are supposed to get an equal amount of funding and then use it to innovate.



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