



HOUSE BILL 539: Charter School Funding

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2015-2016 General Assembly

Committee:		Date:	September 29, 2015
Introduced by:	Reps. Bradford, B. Brown, Szoka	Prepared by:	Drupti Chauhan and Kara McCraw
Analysis of:	Third Edition		

SUMMARY: *House Bill 539 would do the following:*

- *Provide that in an action between a local school administrative unit (LEA) and a charter school regarding the transfer of the per pupil share of the local current expense fund, the court must also award the prevailing party liquidated damages in an amount equal to 5% of the monies that should have been transferred as compensation for administrative expenses incurred by the prevailing party due to the unavailability of those monies.*
- *Make changes to the types of monies that must be a part of the local current expense fund and those that can be held in separate accounts that do not have to be shared with charter schools.*

SECTION 1

CURRENT LAW: If a student attends a charter school, the LEA in which the child resides must transfer to the charter school an amount equal to the per pupil share of the local current expense fund of the local school administrative unit for the fiscal year within 30 days of the receipt of monies into the local current expense fund. In addition, the LEA must also provide each charter school to which it transfers a per pupil share of its local current expense fund information on monies the LEAs have in various funds; student membership numbers and how calculations were made; and additional records the charter school requests to audit and verify the calculation and transfers. In actions brought for violations of these transfer requirements, the court must award the prevailing party reasonable attorneys' fees and costs incurred as well as the delinquent funds, all of which must be paid no later than one year from the entry of any judgment.

BILL ANALYSIS: Section 1 would provide that the court shall also award the prevailing party liquidated damages in an amount equal to 5% of the monies that should have been transferred as compensation for administrative expenses incurred by the prevailing party due to the unavailability of those monies.

SECTION 2

CURRENT LAW: If a student attends a charter school, the LEA in which the child resides must transfer to the charter school an amount equal to the per pupil share of the local current expense fund of the local school administrative unit for the fiscal year within 30 days of the receipt of monies into the local current expense fund. G.S. 115C-426 provides that the State Board of Education (SBE), in cooperation with the Local Government Commission, must prepare a standard budget format for use by LEAS. The statute requires that the uniform budget format must include the following funds:

- State Public School Fund – includes appropriations for current operating expenses of public schools from money made available to the LEA from the SBE.

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- Local current expense fund – includes fines and forfeiture revenues, appropriations from the board of county commissioners, supplemental school taxes, State money directly disbursed to an LEA, and other money made available or accruing to the LEA for current operating expenses.
- Capital outlay fund – appropriations for the acquisition of real property, acquisition and construction of buildings, acquisition or replacement of furnishings and equipment, acquisition of school buses and activity buses.

The statute further states that, in addition to the above three funds, **other separate funds may be used by LEAs to account for the following and these do not have to be shared with charter schools:**

- Reimbursements (including indirect costs).
- Fees for actual costs.
- Tuition.
- Sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2).
- Sales tax refunds.
- Gifts and grants restricted as to use.
- Trust funds.
- Federal appropriations made directly to local school administrative units.
- Funds received for prekindergarten programs.

The appropriation or use of fund balance or interest income by an LEA may not be construed as a local current expense appropriation that is a part of the local current expense fund.

The statute also allows "other moneys made available or accruing" to the LEA to be placed in the local current expense fund, including appropriations from the board of county commissioners. **These "other moneys" do have to be shared.**

BILL ANALYSIS: Section 2 would provide that only the following funds could be kept by LEAs in funds other than the local current expense fund and thereby would **not** have to be shared with charter schools:

- Moneys received for prekindergarten programs.
- Moneys received for the federal Junior Reserve Officer Training Corps program.
- Federal grants or appropriations that are restricted as to use and that the federal government requires to be held separately and not co-mingled.
- Rental fees for the use of facilities of public schools.
- Sales tax refunds.
- Tuition.
- Gifts or grants (i) that expressly exclude charter schools; (ii) that have been expressly restricted by the donor or grantor to an individual school; (iii) that were given, awarded, bequeathed, or applied for prior to October 15, 2015.
- Enterprise funds where the LEA collects a fee for service.

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- Fund balances used or accruing for the LEA's current operating expenses.
- Interest income.
- Funds received for participation in federal Child Nutrition Programs, except for indirect costs.
- Medicare and Medicaid reimbursements.
- Fees for actual costs.
- Funds for which the LEA is acting as the fiscal agent and does not derive a benefit.

The bill would also provide that "other moneys made available or accruing" to the LEA must include the following but is not limited to the list below. These moneys **would have to be shared** with charter schools by the LEA:

- Moneys received for indirect costs.
- Reimbursements, except for Medicare and Medicaid reimbursements.
- Sales tax revenues, regardless of how they are distributed.
- Gifts and grants that are not federal grants that are restricted as to use and are not required by the federal government to be held separately, and gifts and grants that do not: (i) expressly exclude charters; (ii) have not been expressly restricted by the donor or grantor to an individual school; (iii) were not given, awarded, bequeathed, or applied for prior to October 15, 2015.
- Federal grants and appropriations made directly to LEAs.

EFFECTIVE DATE: Section 1 would be effective when it becomes law and would apply to any actions filed on or after that date. Section 2 would be effective July 1, 2016 and apply beginning with the 2016-2017 school year.