

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2015**

**SESSION LAW 2016-19**  
**SENATE BILL 888**

AN ACT TO AMEND THE BUNCOMBE SCHOOL CAPITAL FUND COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 134 of the 1983 Session Laws reads as rewritten:

"Section 1. There is hereby created a Commission to be known as the School Capital Fund Commission for Buncombe County, which Commission shall have and possess all the powers conferred by this act and such other powers as may be useful or necessary to permit it fully to carry out the purposes of this act. The Commission is hereby declared to be a corporation with perpetual succession, the right to adopt and use a corporate seal, to sue and to be sued, and to hold, manage and control the moneys and properties received by it under the provisions of this act. It shall have the right to make reasonable rules and regulations for the conduct of its business.

"Sec. 2. The Commission shall consist of five members. ~~Initial members of the Commission shall be Richard B. Stone, Ronald K. Payne, John F. Shuford, Nilous M. Avery, and John L. Simmons, who shall each serve for a term ending June 30, 1985, or as soon thereafter as his successor is appointed. After June 30, 1985, members~~ Members of the Commission shall serve two-year terms and shall be appointed as follows: ~~one appointed by the Asheville City Council,~~ one appointed by the Asheville City Board of Education, one appointed by the Buncombe County Board of Education, ~~one~~ two appointed by the Buncombe County Board of Commissioners, and one appointed by the other four appointees. A member appointed by a local governing board or a school board shall serve at the pleasure of that board. The member appointed by the other appointees shall serve at the pleasure of the majority of the other appointees. Any vacancy ~~occurring during the term of the original appointees shall be filled by the other members of the Commission. Vacancies occurring after June 30, 1985,~~ shall be filled by the appointing authority of the member creating the vacancy to fill the unexpired term.

"Sec. 3. A quorum shall be three members of the Commission.

"Sec. 4. ~~The first meeting of the Commission shall be held within 30 days after the ratification of this act, at which meeting, or any adjournment thereof, the~~ The Commission shall organize, adopt bylaws or rules and regulations to govern its procedure and the conduct of the business and affairs of the Commission and appoint a chairman and vice-chairman from among its membership who shall serve a one-year term and appoint a secretary for a one-year term and until their successors are appointed by the Commission. The finance officer for Buncombe County shall be the finance officer of the Commission. The county finance officer shall give bond for the faithful performance of his duties as the finance officer of the Commission in an amount determined by the Commission. The finance officer of the Commission shall manage the funds of the Commission only as directed by the Commission. ~~At said meeting the Commission shall~~ The Commission may select and appoint an attorney of the Commission and fix his compensation, such attorney to serve at the pleasure of the Commission. The Commission may fix the compensation for the attorney.

"Sec. 5. Regular or stated meetings of the Commission shall be held at such time and place as may be provided by the Commission in its bylaws or rules and regulations, and special meetings may be held on the call of the chairman after due notice.

"Sec. 6. One half of any local government sales and use tax revenue distributed to Buncombe County under G.S. 105-472, and ~~one half of any State sales and use tax revenue distributed to Buncombe County, G.S. 105-472~~ shall be paid to the Commission by the



Secretary of Revenue. This section does not affect the distribution of any local or State sales and use tax revenue to the municipalities in Buncombe County.

~~"Sec. 7. All of the special property tax levied by Buncombe County for necessary capital outlay improvements of County and City Schools in Buncombe County, approved by the voters of Buncombe County in 1959, shall be appropriated by Buncombe County to the Commission and paid by the Tax Collector to the Commission.~~

~~"Sec. 8. Any other capital funds appropriated by Buncombe County or any other governmental entity for public school construction of any amount, and public school improvement and renovation projects exceeding fifty thousand dollars (\$50,000) in Buncombe County shall be paid to the Commission, provided that the board of county commissioners may choose to designate funds under this section to a specific account under Section 11 of this act rather than pro rata pursuant to Article 40 and Article 42 of Chapter 105 of the General Statutes shall be apportioned among the Asheville City Board of Education and the Buncombe County Board of Education according to the membership of each unit using the process set forth in G.S. 115C-430. Buncombe County shall maintain separate internal accounts for each school board in order to comply with this section. These funds are not under the control of the School Capital Fund Commission.~~

~~"Sec. 9. All funds received by the Commission under Sections 6, 7, and 8 Section 6 of this act shall be placed in a capital reserve fund as provided in Part 2 of Article 3 of Chapter 159 of the General Statutes. The capital reserve fund shall be known as the Public School Capital Needs Fund.~~

~~"Sec. 10. All funds in the capital reserve fund Public School Capital Needs Fund shall be used to finance public school capital construction and construction, to finance public school improvement and renovation projects in Buncombe County that exceed one hundred thousand dollars (\$100,000), or to retire any indebtedness incurred by the county or a local school board for these purposes. The Commission shall annually divide the funds received that year into two accounts, one for the Buncombe County Board of Education and one for the Asheville City Board of Education. The division of funds shall be pro rata according to average daily membership in the two systems. If the funds in the capital reserve fund are to be expended to retire any indebtedness incurred by the county, they shall be drawn out of the two accounts established by this section pro rata, according to the average daily membership in the two systems. Any funds not expended in a fiscal year shall remain in that system's account for use in later years, including any accrued interest. The Commission shall consider the capital needs of both the Buncombe County School System and the Asheville City School System, prioritize those needs, and recommend projects to be funded from the Public School Capital Needs Fund to the board of county commissioners based on the priority of needs determined.~~

~~"Sec. 11. Moneys in the Public School Capital Reserve Needs Fund shall be subject to appropriation by the board of county commissioners. The Commission shall disburse such moneys as a ministerial duty upon receiving a written request from the board of county commissioners after the county board of commissioners has adopted an ordinance and after receipt of a written request from the appropriate board of education indicating it is prepared to enter into a contract, and G.S. 115C-521 shall continue to apply.~~

~~"Sec. 12. The reasonable and necessary expenses of the Commission, including the compensation of its officers and employees and the cost of any bond required by it, shall be paid by the County of Buncombe. The chairman of the Commission shall, on or about the first day of each calendar month, certify to the governing body of Buncombe County the expenses of the Commission incurred during the preceding month, and the governing body of the county shall forthwith, and within five days thereafter, cause to be paid to the Commission the expenses required to be paid. All such payments shall be charged to the general fund of the county.~~

~~"Sec. 13. Sections 1 through 5 and 13 of this act are effective upon ratification. Sections 6 through 12 shall become effective July 1, 1983. The Secretary shall make the first distribution of local sales and use tax revenue to the Commission at the end of the quarter that begins on July 1, 1983."~~

**SECTION 2.** The School Capital Fund Commission for Buncombe County created by Chapter 134 of the 1983 Session Laws is not constituted as of June 1, 2016. The appointing authorities under Section 2 of Chapter 134 of the 1983 Session Laws, as amended by this act, are directed to make their respective appointments to the Commission as soon as practical. The members appointed under this section will serve for a two-year term beginning July 1, 2016. At

its first meeting, the Commission must organize itself as provided in Section 4 of Chapter 134 of the 1983 Session Laws, as amended by this act.

**SECTION 3.** All projects currently appropriated from one of the two accounts in the capital reserve fund created pursuant to Chapter 134 of the 1983 Session Laws carry forward and remaining balances roll forward to the Public School Capital Needs Fund managed by the School Capital Fund Commission. All other sales taxes and other school capital funds are not under control of the School Capital Fund Commission and will continue to be appropriated on the required pro rata basis and recorded in separate funds.

**SECTION 4.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of June, 2016.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives