



LEGISLATIVE UPDATE

July 24, 2015

This week was rife with major education events:

1. *Leandro* hearings occurred Tuesday through Thursday in Wake County Superior Court. News coverage on the testimony regarding the SBE plan for education and needed resources is [here](#).
2. The State Supreme Court [ruled](#) that school vouchers are constitutional.
3. The General Assembly moved a number of significant education reform pieces through committees, including provisions on a moratorium on school board funding challenges, Office of Charter Schools' state administration, guns on school property, and more, all summarized in the pages that follow.

Progress on finalizing a state budget, especially before the 2015 Continuing Resolution expires on August 14, seems bleak. Sources indicate that Medicaid reform is a key component of the stalemate-to-date. Superintendents and finance officers across the state are preparing for the absence of a final state budget as the 2015-16 school year begins. Predictions on when the budget might be finalized are currently hovering in the September/October range.

On Wednesday, the full House Appropriations Committee met and the chief economist of the General Assembly's Fiscal Research Division [explained](#) how the state's tax and revenue law changes have been a prime factor in having \$2.3 billion less in state revenue, cumulatively from 2010 through 2016. Committee members asked questions about why the revenue had not kept up with the state's population growth and inflation. The economist cited the "Tax Simplification and Reduction Act" ([SL 2013-316](#)) as one of the biggest factors contributing to the current revenue picture. He noted improvements in the economy, such as 100,000 new jobs added last year, but that such improvements have been at a "sluggish, slow pace." One of the House Committee chairs indicated that the presentation was part of the process to help explain the rationale and priorities in the House budget proposal. The Committee plans to convene again next week.

Both Superintendent Ron Hargrave of Scotland County Schools and Superintendent Lory Morrow of Davidson County Schools also presented to the full House Appropriations Committee on Wednesday. Dr. Hargrave focused on his local evidence of teaching assistants making a significant difference in the reading achievement of students. Without teaching assistants in the 2nd grade, those students' reading proficiency has decreased over the last two years. He also emphasized the importance of state funding for Driver Education. With thirty-two percent of Scotland County citizens living below the poverty level, he explained that driver's licenses earned by his students enable them to get to work after school; to jobs, in some instances, that are essential to helping their single mom or grandmother at home and the family income.

Dr. Morrow expressed gratitude for the General Assembly's commitment to increasing teacher pay. She also highlighted the importance of every school employee, from bus drivers to administrators. She emphasized the need for additional pay for school administrators and how the current pay structure no longer makes it beneficial for an educator to "make that leap into leadership." Additionally, she urged the Committee to hold strong on its decision to restore master's pay for teachers. She had met with six teachers (graduates of NC colleges and universities), all of whom are going to other states where they will be compensated for their master's degrees.

Other Education News This Week:

On Thursday, the North Carolina Supreme Court ruled that school vouchers are constitutional in *Hart v. State*. In the 55-page opinion, Chief Justice Mark Martin reversed the lower court's ruling that the Opportunity Scholarship Program was unconstitutional. The opinion dismissed the plaintiffs' four main arguments and held that (1) the General Assembly may fund education initiatives "outside of the uniform system of free public schools," (2) the money issued for the scholarships was related to a public purpose, (3) the *Leandro* requirement of the opportunity for "a sound, basic education" only applies to the state public schools, and (4) the plaintiffs had no standing to claim religious discrimination, as they are not actual students who suffered any alleged discrimination.

Relevant Bills on the Floor This Week:

[HB 561](#) School System Authority Regarding Legal Proceedings

On Wednesday, the Senate amended and approved HB 561. It will now go to the House for a vote on Senate changes. Of major import for local school system funding, the Senate amended HB 561 to forbid local boards of education from filing legal actions against boards of county commissioners to challenge the sufficiency of funding for the next five years through 2019-2020. It would not apply to legal actions filed prior to the date of this bill becoming law. The Senate further amended the bill on the floor to only allow local boards to issue subpoenas for the production of tangible things (e.g., sound recordings and electronic communications, etc.) after a chief district court judge or designee has granted approval for a subpoena based on certain specified criteria under G.S. 115C-45(a). The prior version of the bill did not require judicial approval for such subpoenas. The pre-existing components of the bill are unchanged.

Relevant Bills in Committee This Week:

[HB 13](#) Amend School Health Assessment Requirement

On Tuesday, the Senate Committee on Health Care amended and approved HB 13, and the Senate Committee on Education/Higher Education heard it on Thursday. The bill would require all students entering the public school system, irrespective of grade, to provide proof of having received a health assessment. However, it would prevent a child from being suspended for absences accrued due to failure to present the required health assessment transmittal form within 30 (60 days, under House version) calendar days and would allow the child to make up work missed during such an absence. Principals would be required to submit health assessment status reports within 60 calendar days after the commencement of a new school year (consistent with existing law; House version amended to 90 days).

As amended in Senate Health Care, public schools and health care providers would be required to use only a health assessment transmittal form developed by the Department of Health and Human Services (DHHS) and DPI. The amended HB 13 includes great detail regarding the enumerated contents and submission protocol of the transmittal form and requires that the form be submitted to the school principal. The actual form will be maintained on file in the school, but the student's official school record will only note if the form was received. The bill also clarifies that it is not a public record and would allow access only to authorized school administrators, teachers, school personnel, and authorized DHHS employees who require such access to perform official duties. This provision removes DPI personnel from those authorized.

As amended in Senate Education, the bill would now only allow certain health care providers to submit the transmittal form if they have been authorized by the parent or guardian to do so (previous versions did not require such authorization). Current law allowing the health assessment to include dental screening and developmental screening would be restored (previous versions removed this provision). Additionally, properly authorized DHHS employees requiring access to the forms would only be allowed to obtain de-identified information and must request the forms from the local board of education (previous versions allowed authorized DHHS employees open inspection of the forms).

[HB 20](#) Reagan's Rule/Enforce Pharmacy Benefit Management

On Tuesday, the Senate Committee on Health Care amended and approved HB 20. It is now referred to the Senate Committee on Insurance. The bill would require physicians or their designees to teach parents or guardians about the warning signs of Type I Diabetes when performing routine childhood health assessments.

[HB 334](#) Transfer Office of Charter Schools (*formerly*, "Charter School Extracurricular Activity Fees")

On Wednesday, the Senate Committee on Education/Higher Education removed all existing language from the prior HB 334 and approved a new bill that addresses charter school management at the state-level. The Senate passed HB 334 on Thursday. It will now go to the House for consideration of Senate changes. Under this "new" bill, the state Charter School Advisory Board (CSAB), that makes recommendations to the SBE on charter schools and accompanying issues, would be moved administratively under the SBE from DPI. The bill would also make changes to the membership of the CSAB, as follows:

1. Directs the SBE Chair to appoint a SBE member to serve as a non-voting member of the CSAB within 45 days of the effective date of the bill.
2. Continues to allow the SBE to appoint one voting member of the CSAB, but would require the appointee to be a charter school advocate in North Carolina and prohibit the appointment of a current SBE member.
3. Continues to allow the Governor to make three appointments to the CSAB, but would remove the authority to name the CSAB Chair; requiring the CSAB to elect its own chair within 45 days of the effective date of the bill.

Currently, the Office of Charter Schools is located within DPI and is not expressly codified in state statute. Amongst other functions, the Office is staff to CSAB, provides the SBE with

CSAB recommendations, and advises the SBE on charter school issues. HB 334 would dissolve the Office within DPI and establish the NC Office of Charter Schools (OCS) under G.S. 115C-218, and locate it, administratively and otherwise, directly under the SBE, transferring \$928,028 from DPI to the SBE for that purpose. The SBE would be directed to appoint an executive director of the new OCS within 90 days based on the recommendation of a SBE-member search committee. OCS would have certain powers and duties, as follows:

1. Serve as staff to the CSAB.
2. Provide technical assistance and guidance to state charter schools.
3. Provide technical assistance and guidance to nonprofit boards seeking to operate a charter school.
4. Provide or arrange for training for charter schools that have received preliminary approval from the SBE.
5. Assist charter schools in coordinating services with DPI.

[SB 438](#) Permanent Plates/Charter Schools

On Tuesday, the Senate Committee on Finance approved SB 438. The Senate is scheduled to vote on it Tuesday, July 28. The bill would repeal the sunset enacted last year to authorize the DMV to issue permanent registration plates for official vehicles owned by charter schools, as is also done for LEAs.

[SB 554](#) School Building Leasing Reform

On Wednesday, the Senate Committee on Education/Higher Education heard SB 554 for discussion only; no votes were taken. The bill makes substantive changes to G.S. 115C-530 "Operational leases of school buildings and school facilities." For those LEAs that choose to enter into an operating lease, this bill would require a local board to adopt a resolution declaring its intent to enter into an operating lease at least 10 days prior to doing so. The resolution must state that the lease is: (1) in the best interests of the LEA under all circumstances, and (2) that the private developer of the leased property is qualified to provide the products and services needed. A capital lease entered into by an LEA under this proposed bill would not be subject to the requirements for "Design-build bridging" under G.S. 143-128.1B. It would also remove the July 1, 2015 expiration date of existing 2011 Session Law (G.S. 115C-531 and -532) that authorizes leases of school buildings and facilities.

Current law (G.S. 105-164.14) authorizes annual refunds of sales and use taxes incurred by a government entity on public construction projects. This bill would provide the same refund to private developers of school property that is leased to a county or local board of education under an operating, capital, or build-to-suit lease with a term of at least 10 years. The bill specifies that, under G.S. 115C-426(f), an LEA capital outlay fund must include appropriations for payment of leases entered into under G.S. 115C-530 or -531. SB 554 would allow capital outlay appropriations for these lease payments to be "funded from staff and operational savings achieved through the consolidation of existing school facilities into new or renovated facilities leased from a private developer." Again, this bill was for discussion purposes only.

Other Bills with Action This Week:

HB 254 National Guard Reemployment Rights

- Presented to the Governor

HB 276 Agency Participation Procedures Act of 2015

- Presented to the Governor

HB 277 Retirement Administration Changes Act of 2015

- Presented to the Governor

HB 383 Clarify Statutory Scheme/Sex Offenses

- Placed on House Calendar for Tuesday, July 28

HB 562 Amend Firearms Laws

- Favorable Report from Senate Judiciary II Committee
- Placed on Senate Calendar for Monday, July 27

HB 584 Use of Position/Letters of Reference

- Placed on Senate Calendar for Monday, July 27

SB 97 State Advisory Council on Indian Education

- Referred to House Committee on K-12 Education

Meetings Next Week (July 27-31):

Monday July 27

- 3:00 PM Joint Legislative Program Evaluation Oversight Committee
 - Presentation on Retiree Health Benefit Fund
 - State Auditor's presentation of DPI audit

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