



Public Schools of North Carolina
State Board of Education
Department of Public Instruction
Safe and Healthy Schools Support Division
School Planning Section

SELECTED LAWS

2015

**Relating to the Construction
and Repair of Public School
Facilities in North Carolina**

November 2015

SELECTED LEGISLATION

**Including the
January 14 – September 30, 2015 Session
of the
North Carolina General Assembly**

**Relating to
SCHOOL PLANNING
SCHOOL DESIGN AND CONSTRUCTION**

Foreword

There are many different variables which impact the proper operation of a school. From the Board of Education to the students themselves, each person plays a role in the shaping of educational achievement in today's classrooms. Everything begins with the Statutes set forth by the North Carolina State Legislature. The Legislature not only determines the roles and responsibilities of the school administrators throughout the school system and within each individual school, but also how the schools are funded.

This document lists the General Statutes written by the Legislature that relate to the construction or repair of public school facilities in North Carolina. Also listed are statutes that relate to the funding, maintenance, and contract stipulations regarding public schools.



William W. Coby, Jr., Chairman
State Board of Education



June St. Clair Atkinson, State Superintendent
North Carolina Department of Public Instruction

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Format

Where appropriate (the majority of cases) a referenced statute is presented as an URL to the website of the North Carolina General Assembly, in a format such as <http://www.ncleg.net/gascript/statutes/etc>, in lieu of printing the entire statute.

Where new laws—new sections or paragraphs—were enacted in recent legislative sessions, and if the website of the General Assembly is not yet updated to include that new law, the statute is printed herein with new text underlined and repealed text struck-thru.

Where new laws of the recent legislative sessions modify several different chapters of existing legislation, the URL to the relevant Session Law is presented in a format such as <http://www.ncleg/Sessions/2013/Bills/etc>.

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All text in Italics is a comment by School Planning and is not a part of the General Statute.

If a statute indicates "(see Editor's note)" or "(see note)", the note can be viewed in the printed copy of the General Statutes in a library or courthouse setting, or in the online statutes available through LexisNexis on a subscription basis.

Chapter 18C North Carolina State Lottery Fund

§ 18C-160. North Carolina State Lottery Fund. *Creation of the Fund.*

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=18c-160>

§ 18C-161. Types of income to the North Carolina State Lottery Fund.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=18c-161>

§ 18C-162. Allocation of revenues.

Description: at least 50% for public prizes, at least 35% for education, no more than 8% for lottery expenses, no more than 7% for compensation paid to lottery game retailers.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=18c-162>

§ 18C-163. Expenses of the Lottery.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=18c-163>

§ 18C-164. Transfer of net revenues.

Description: Modifications to the process by which Lottery funds are allocated; the General Assembly will appropriate the net revenue for educational purposes. [Rewritten 2013]

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=18c-164>

North Carolina State Lottery Act

§ 18C-172. Lottery Oversight Committee

Description: 9 members, 3 year terms; Primary duties are to organize and analyze net revenues in order to ensure net proceeds provide additional funding for education.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=18c-172>

Chapter 44A Statutory Liens and Charges

§ 44A-16. Discharge of record claim of lien on real property.

Description: Liens under Public-Private Partnerships

[Added 2013]

G.S. 44A-16 is amended by adding a new subsection (c)

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=44A-16>

§ 44A-26. Bonds required

Description: Performance and Payment Bonds required for projects costing \$300,000 or more. Also, required for each contract of \$50,000 or more.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=44A-26>

Chapter 58 Insurance

§ 58-31-40. Commissioner to inspect State Property; plans submitted.

Description: Projects greater than 20,000 square feet of 'new' construction per floor and project greater than two stories must be approved by the Commissioner of Insurance. The local building inspector reviews projects not reviewed by NCDOL.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=58-31-40>

Chapter 83A Architects

§ 18A-13. Exemptions (from the requirement to require an architectural license).

Description: Previously, commercial projects were exempt from the requirement to have an architectural license if the building had a total value not exceeding \$90,000 or an area not exceeding 2,500 square feet. The 2015 legislation exempts projects with a total value less than \$90,000 AND a total area less than 2,500—so both criteria must be met. [Added 2015]

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2015&BillID=h+255&submitButton=Go>

Chapter 105 Taxation

§ 105-275(43). Property classified and excluded from the tax base

Description: excludes from being listed, appraised, assessed, or taxed: Real or tangible personal property that is subject to a capital lease pursuant to G.S. 115C-531.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=105-275>

§ 105-487. Use of additional tax revenue by counties and municipalities

Description: Revenue from additional half-cent sales tax may be used by county for public school capital outlay purposes as defined in § 105-487.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=105-487>

§ 105-502. Use of additional tax revenue by counties

Description: 60% of revenue used for public school capital outlay purposes, or to reduce debt incurred for these purposes.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=105-502>

**Chapter 115C
Elementary and Secondary Education**

§ 115C-12. Powers and duties of the State Board of Education generally.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-12>

§ 115C-47. Powers and duties of local boards of education generally

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-47>

G.S. 115C-47(40) is rewritten [2013] to provide that local boards of education shall, in coordination with local law enforcement agencies, adopt emergence response plans...

Note: Section 115C-47 also includes the responsibility of the local boards of education to address (47) the use of pesticides in schools, (48) arsenic-treated wood, (49) mercury, and (50) diesel exhaust fumes, for example.

Organization of Schools

§ 115C-66. Administrative units classified.

A new Section, 115C-66.5 is added, in which the State Board of Education has the authority to consolidate and merge contiguous county school administrative units (SL 2015-241). [Added 2015]

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2015&BillID=h97&submitButton=Go> (p. 35).

§ 115C-67. Merger of units in same county

Description: Stipulation regarding the merger of City and County School administrative units as approved by the State Board of Education.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-67>

See "Notes" and Opinions of Attorney General
Unconstitutional Merger Could Not Be Ratified by Legislature: The General Assembly cannot, by enacting legislation, make constitutional that which a court has ruled unconstitutional. Cannon v. North Carolina State Board of Education, 117 N.C. App. 399, 451 S.E.2d 302 (1994).

OPINIONS OF ATTORNEY GENERAL

Editor's Note: The opinions below were rendered under corresponding provisions of former Chapter 115.

Contents of Plan of Merger and Effect Thereof: The plan of merger may include a provision that candidates for the merged board be elected on a nonpartisan basis in a partisan election. If the merger is brought about the city school board would have no further authority after the merger and would be dissolved by operation of law, while if the school units are merged and the city unit no longer exists, the supplemental tax heretofore approved may still be levied and turned over to the merged board for administrative purposes within the are formerly recognized as the city administrative unit. See opinion of the Attorney General to Mr. R. A. Collier, Sr., Attorney for Statesville City School Board, 40 N.C.A.G. 221 (1969).

Effect of Merger of County and City Unit on Supplemental Taxes in Effect in Each Unit: See opinion of Attorney General to Mr. Thomas A. Banks, Wake County Attorney, 40 N.C.A.G. 228 (1970).

§ 115C-72. Consolidation of districts and discontinuance of schools

Description: Stipulations regarding the consolidation of City and County School Systems as approved by the State Board of Education.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-72>

Editor's Note: The cases below were decided under corresponding provisions of former Chapter 115 and earlier statutes.

Statute requires only that a public hearing be provided; it does not specify any particular form, location, or notice for such hearing. Lutz v. Board of Education, 282 N.C. 208, 192 S.E.2d 463 (1972).

Discretion as to Location of School Vested in Board of Education.--- Whether a change should be made in the location of the school, as well as the selection of the site for a new one, is vested in the sound discretion of the board of education. Its action cannot be restrained by the courts unless there has been a violation of some provision of law or a manifest abuse of discretion. Lutz v. Board of Education, 282 N.C. 208, 192 S.E.2d 463 (1972); Painter v. Wake County Board of Education, 288 N.C. 165, 217 S.E.2d 650 (1975).

(Older case law omitted from this document.)

§ 115C-73. Enlarging tax districts and city units by permanently attaching contiguous property

Description: The county boards of education with the approval of the State Board of Education may transfer real property upon the written petition of the owners thereof and the taxpayers of the families living on such real property.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-73>

(See Editor's note.)

General Education

§ 115C-81. Basic Education Program

Description: Description of the Education Program, including core curriculum, competencies by grade level, text books, materials, and class size.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-81>

§ 115C-105.51. Anonymous tip lines.

[Added 2013]

Description: Each LEA is 'encouraged' to develop and operate an anonymous tip line....

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115c-105.51>

§ 115C-105.52. School crisis kits.

[Added 2013]

Description: The principal of each school...may place one or more crisis kits at appropriate locations in the school.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115c-105.52>

Residential Schools

Description: The provisions of SL 2013-247 :: HB 868 address operation and oversight of certain residential schools as transferred to the Department of Public Instruction; modifications to Chapters 115C and 143B.

<http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H868v4.pdf>

Vocational and Technical Education: Production Work Activities

§ 115C-159. Statement of purpose

Description: All vocational activities should be practical, educational, organized, and not to be construed as engaging in a business.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-159>

Community Schools Act

§ 115C-204. Purpose of Article

Description: Highlights the need to increase community involvement in schools and public school facilities, and for sufficient funds to be made available to achieve community involvement.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-204>

Superintendents

§ 115C-276. Duties of superintendent

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-276>

See especially paragraph (c): Superintendent shall oversee the condition of and renovations to buildings in his school system.

Principals and supervisors

§ 115C-288. Powers and duties of principal

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-288>

See especially paragraph (d) :The Principal shall conduct two building inspections and one fire drill per month, and submit one report per month on the status of drills and inspections, and paragraph (f): The principal shall protect school property as provided in G.S. 115C-523.

Teachers

§ 115C-301. Allocation of teachers; class size

Description: Requirements specifying class size and teaching load, local boards of education to file report at the end of the Second month of each school year, and must request additional positions, to the State Board of Education.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-301>

REGULAR CLASSROOM TEACHER ALLOTMENT RATIOS

Grade Span	Teacher Allotment Ratio (Note 1)	Class Size (LEA Average) (Note 2)	Individual Class Size Maximum (Note 3)	Recommended Class Size (previous levels)	
Cross	K	1:18	18	21	--
	1 -- 3	1:17	17	20	--
	4 -- 6	1:24	Any (See note 4)		26
	7 -- 8	1:23			26
	9	1:26.5			26
	10 -- 12	1:29			29

Teacher Allotment Ratio includes the individual classroom teacher plus other support faculty/staff who serve more than just a single classroom.

- Note 1: from State Initial Allotment Formulas, FY 2014-15, on DPI website <http://www.ncpublicschools.org/fbs/allotments/state/>
- Note 2: Average class size in K-3 shall not exceed the funded allotment ratio: NC GS 115C-301.c
- Note 3: An individual class size in K-3 shall not exceed the allotment ratio by more than three students: NC GS 115C-301.c.
- Note 4: S.L. 2013-363, Section 3.3.(a) removed previous class size limitations in grades 4-12, and provided that "local school administrative units shall have the maximum flexibility to use allotted teacher positions to maximize student achievement."

References: As to the allotment of classified principals, see §115C-284.

§ 115C-307. Duties of teachers

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-307>

See especially paragraph (h): Instruct students to care for school property

The School Budget and Fiscal Control Act

§ 115C-426. Uniform budget format

Description: Fund shall include appropriations for property, construction, furnishings and equipment, and school transportation made available by the SBE, and board of local county commissioners

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-426>

See especially paragraph (f), capital outlay appropriations.

§ 115C-426.2. Joint planning

Description: Joint meetings between local boards of education and boards of county commissioners encouraged to discuss school capital outlay needs and 5 year plan to meet these needs.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-426.2>

Part 3. Fiscal Control

§ 115C-441. Budgetary accounting for appropriations

Description: Stipulations for capital outlay expenditures contracts, by LEA.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-441>

See especially paragraph (c1), Continuing Contracts for Capital Outlay.

§ 115C-457.2. Remittance of moneys to the Fund

Description: All civil fines collected shall be turned over to the Office of State Budget and Management within 10 days after the close of the calendar month in which the fines were collected.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-457.2>

Loans from State Literary Fund

§ 115C-458. Loans by State Board from State Literary Fund

Description: Funds from the State Literary Fund shall be appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-458>

§ 115C-459. Terms of loans

Description: Loans payable in 10 installments with 8% interest rate or less. Loans payable on February 10th each year.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-459>

Note: the following paragraphs are repealed, effective July 1, 2009:

- § 115C-460. How secured and paid
- § 115C-461. Loans by county boards to school districts
- § 115C-462. State Board of Education authorized to accept funding or refunding bonds of counties for loans; approval by Local Government Commission
- § 115C-463. Issuance of bonds as part of general refunding plan
- § 115C-464. Validating certain funding and refunding notes of counties
- § 115C-465. Special appropriation from fund
- § 115C-466. Loans not granted in accordance with § 115C-458
- § 115C-467. Pledge of no tax revenues to repayment of loans from State Literary Fund

School Sites and Property

§ 115C-517. Acquisition of sites

Description: Schools may not be operated by an LEA outside its boundaries.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-517>

See editor's notes and case notes. Selected excerpts are as follows:

Discretion of School Authorities: The question of changing the location of a schoolhouse, as well as the selection of a site for a new one, is vested in the sound discretion of the school authorities, and their action cannot be restrained by the courts, unless it is in violation of some provision of the law, or the authorities have been influenced by improper motives, or there has been a manifest abuse of discretion on their part. *Atkins v. McAden*, 229 N.C. 752, 51 S.E.2d 484 (1949); *Wayne County Board of Education v. Lewis*, 231 N.C. 661, 58 S.E.2d 725 (1950); *Feezor v. Siceloff*, 232 N.C. 563, 61 S.E.2d 714 (1950).

While school authorities have the discretionary power to select sites for new schools and to change the location of existing schools, their action in this regard may be enjoined when it is without authority of law, or when the selection of a proposed site is so clearly unreasonable as to amount to a manifest abuse of their discretion. *Brown v. Candler*, 236 N.C. 576, 73 S.E.2d 550 (1952).

The advisability of taking property for public school use is a matter committed to the sound discretion of the petitioner, with the exercise of which neither the respondents nor the courts can interfere. *Burlington City Board of Education v. Allen*, 243 N.C. 520, 91 S.E.2d 180 (1956).

The board of education determines whether new school buildings are needed and, if so, where they shall be located. Such decisions are vested in the sound discretion of the board, and its discretion with reference thereto cannot be restrained by the courts absent a manifest abuse of discretion or a disregard of law. *Painter v. Wake County Board of Education*, 288 N.C. 165, 217 S.E.2d 650 (1975).

County board of education had the discretion to determine what land constituted a "suitable site" to construct its athletic facilities and what land was "necessary" to construct its athletic facilities. The board had authority to condemn land to be used as wetlands mitigation and a source of fill as necessary to building athletic facilities in an environmentally sensitive area. *Dare County Board of Education v. Sakaria*, 118 N.C. App. 609, 456 S.E.2d 842 (1995).

The courts are bound by the discretionary decision of a local board of education in selecting and determining the land necessary to construct a school, school building, school bus garage, a parking area, an access road suitable for school buses or "other school facilities" unless that decision is an arbitrary abuse of

discretion or disregard of law. *Dare County Board of Education v. Sakaria*, 118 N.C. App. 609, 456 S.E.2d 842 (1995).

Facts Not Showing Abuse of Discretion: The fact that the site for a high school selected by the school authorities in a mountainous section of the State could be approached only by a crooked highway and over a narrow bridge, and that there might have been other satisfactory sites for such school, did not compel or support the conclusion that the school authorities abused their discretion in selecting the site. *Brown v. Candler*, 236 N.C. 576, 73 S.E.2d 550 (1952).

Effect of Restrictive Covenants: A board of education which purchases property for a valid school purpose cannot be enjoined to comply with restrictive covenants requiring that the property be used exclusively for residential purposes, the appropriate remedy for other landowners protected by the covenant being an action to recover damages for the taking of their property rights. *Carolina Mills, Inc. v. Catawba County Board of Education*, 27 N.C. App. 524, 219 S.E.2d 509 (1975).

There is no limitation on the acreage which may be purchased or donated for a school use. The limitation applies only where the site, or any part thereof, must be obtained by condemnation. In such cases, the land owned, donated or purchased, together with the adjacent lands to be condemned, shall not exceed 10 (now 50) acres. *Wayne County Board of Education v. Lewis*, 231 N.C. 661, 58 S.E.2d 725 (1950).

OPINIONS OF ATTORNEY GENERAL

Acquisition of Land by Purchase Does Not Affect Right to Condemn Additional Land: Where a board of education has acquired a tract of land by purchase and because of the nature of the land an additional five acres is required, the board may resort to condemnation for the extra five acres needed, and this right is not nullified by the fact that the board has heretofore acquired some land for the school site by purchase. See opinion of the Attorney General to Mr. W. Earl Britt, Attorney for Fairmont Board of Education, 40 N.C.A.G. 216 (1969), rendered under former corresponding provisions.

§ 115C-518. Disposition of school property; easements and rights-of-way

Description: *Guidelines for the selling off of school grounds. All proceeds shall be applied to reduce the county's indebtedness for the school administrative unit.*

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-518>

Cross References: For provision exempting services, products, and properties generated through vocational education instructional activities from the requirements of this section, see §115C-159. As to sale, lease, exchange and joint use of governmental property by State and local governmental units, see • 160A-274.

CASE NOTES

Editor's Note: Many of the cases below were decided under corresponding provisions of former Chapter 115 and earlier statutes.

Power to Acquire Land: Subsection (d) of former § 115C-126 did not give the board of education any additional power to acquire land for school purposes. This power was given by § 115-27, 115-35(b) and 115-

125 (see now, § 115C-40, 115C-36 and 115C-517). *Painter v. Wake County Board Of Education*, 288 N.C. 165, 217 S.E.2d 650 (1975).

There is nothing in the Constitution which prohibits the board of education from exchanging land which it owns for other land for school purposes. *Painter v. Wake County Board of Education*, 288 N.C. 165, 217 S.E.2d 650 (1975).

No Claim Would Lie Against Board of Commissioners: The court did not err in determining complaint failed to state a claim as to the proposed sale of school and its adjacent property; the county board of education, not the board of commissioners, holds all school property and is capable of selling and transferring the same for school purposes; applying this law to the case under review, no claim with respect to disposition of the school property would lie against defendant board of commissioners. *Moore v. Wykle*, 107 N.C. App. 120, 419 S.E.2d 164, cert. denied, 332 N.C. 666, 424 S.E.2d 405 (1992).

If a discrepancy in valuation exists it bears only on the question of abuse of discretion, and any such discrepancy is only one of the factors to be considered in determining whether the board has abused its discretion. *Painter v. Wake County Board of Education*, 288 N.C. 165, 217 S.E.2d 650 (1975).

Burden to Overcome Presumption: The burden was on plaintiffs to overcome the presumption that the board of education, in proposing an exchange of property, was acting in good faith and in accord with the spirit and purpose of former § 115-126. *Painter v. Wake County Board of Education*, 288 N.C. 165, 217 S.E.2d 650 (1975).

Lease of Surplus Lands: a city school administrative unit contemplated by § 115-s (see now § 115C-66) was a governmental agency separate and distinct from the city, and such administrative unit, having acquired more land than presently needed for school purposes, had legislative authority to lease the surplus, either for a public or a private purpose, so long as it exercised its discretion in good faith. Where lease stipulated that use was to be for a public or semipublic purpose, the law would presume that the parties intended and contemplated use of the property without unlawful discrimination because of race, religion or other illegal classification. *State v Cooke*, 248 N.C. 485, 103 S.E.2d 846 (1958), appeal dismissed, 364 U.S. 177, 80 S. Ct. 1482, 4 L. Ed. 2d 1650, rehearing denied, 364 U.S. 856, 81 S. Ct. 29, 5 L. Ed. 2d 80 (1960).

Delegation of Authority: Where a chartered school district acquired property by foreclosure of a loan made from its sinking fund, the property thus acquired being in no way connected with the operation of its schools, and the trustees of the district instructed the property committee to consider any offers for the property in excess of a stipulated sum, and delegated "power to act" in the matter, and where the chairman thereafter entered into a contract for the sale of the property for a price in excess of the minimum amount stipulated by the trustees, upon a suit by a taxpayer of the district to restrain conveyance to the purchaser in the contract, it was held that the trustees of the district were without power to delegate authority to sell the school property, and the district was not bound by the contract entered into, and a decree restraining the execution of the contract was proper. *Bowles v. Fayetteville Graded Schools*, 211 N.C. 36, 188 S.E. 615 (1936).

Statutory Discretion Was Not Withdrawn by Purchase of Facility: Where plaintiffs alleged that defendants made unauthorized diversions of school bond proceeds to purposes other than those authorized by the bond resolution, namely for purpose of facility, although the sale of the school property may have resulted from the purchase of facility, the Board of Education's statutory discretion to determine that the school property was surplus property no longer needed for school purposes was not withdrawn by its actions with respect to the facility. *Moore v. Wykle*, 107 N.C. App. 120, 419 S.E.2d 164, cert. denied, 332 N.C. 666, 424 S.E.2d 405 (1992)

§ 115C-521. Erection of school buildings

Description: Guidelines for DPI review / comments for an addition, renovation, or construction of a new school building. New subsections (f) and (g) allows the use of prototype designs from the School Planning clearinghouse, exempt from the standard procedure for designer selection [2013].

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-521>

Cross References: As to penalty for school officials having pecuniary interest in school supplies, see § 14-236 and 14-237.

CASE NOTES

Editor's Note: The cases below were decided under corresponding provisions of former Chapter 115 and earlier statutes.

Board of Education Presents Needs to Commissioners: Each year the board of education surveys the needs of its school system with reference to buildings and equipment. By resolution it presents these needs, together with their costs, to the commissioners, who are given a reasonable time to provide the funds which they, upon investigation, shall find to be necessary for providing their respective units with buildings suitably equipped. *Dilday v. Beaufort County Board of Education*, 267 N.C. 438, 148 S.E.2d 513, 149 S.E.2d 345 (1966).

Commissioners to Determine What Expenditures Shall Be Made: The board of commissioners of the county, and not the board of education, are charged with the duty to determine what expenditures shall be made for the erection, repair and equipment of school buildings in the county. *Johnson v. Marrow*, 228 N.C. 58, 44 S.E.2d 468 (1947).

The county board of education surveys annually the needs of the county school system in respect to school plant facilities and equipment and by resolution presents its plan to the board of commissioners. Then, and only then, it becomes the duty of the board of commissioners to determine what expenditures, if any, proposed for such purposes by the board of education are necessary. When it determines that funds are necessary for any one or all of the proposed projects, then it must furnish the funds necessary to provide the facilities incorporated in the approved projects. *Parker v. Anson County*, 237 N.C. 78, 74 S.E.2d 338 (1953).

The right of the board of commissioners to determine what expenditure shall be made arises when a proposal for the expenditure of funds for school facilities is made by the board of education. Having determined that question and having provided the funds it deems necessary, its jurisdiction ends and the authority to execute the plan of enlargement or improvement reverts to the board of education. *Parker v. Anson County*, 237 N.C. 78, 74 S.E.2d 338 (1953).

It is the board of commissioners which is charged with the duty of determining what expenditures shall be made for the erection, repairs, and equipment of school buildings in the county. *Dilday v. Beaufort County Board of Education*, 267 N.C. 438, 148 S.E.2d 513, 149 S.E.2d 345 (1966).

But They Cannot Interfere with Authority of Board of Education: The control of the board of county commissioner over the expenditure of funds for the erection, repair and equipment of school buildings will not be construed so as to interfere with the exclusive control of the schools vested in the county board of education or the trustees of an administrative unit. *Atkins v. McAden*, 229 N.C. 752, 51 S.E.2d 484 (1949); *Parker v. Anson County*, 237 N.C. 78, 74 S.E.2d 338 (1953).

The commissioners' control over the expenditure of funds for the erection, repair, and equipment of school buildings does not interfere with the exclusive control of the schools which is vested in the county

board of education or in the trustees of administrative units. Having determined what expenditures are necessary and possible, and having provided the funds, the jurisdiction of the commissioners ends. The authority to execute the plans is in the board of education. *Dilday v. Beaufort County Board of Education*, 267 N.C. 438, 148 S.E.2d 513, 149 S.E.2d 345 (1966).

All Expenditures Must Be Authorized: All expenditures for the construction, repair and equipment of school buildings in a county must be authorized by the board of county commissioners, acting in good faith, pursuant to statutory and constitutional authority. *Atkins v. McAden*, 229 N.C. 752, 51 S.E.2d 484 (1949).

Expense a Countywide Charge: It is the duty of the county commissioners, upon information being furnished by the county boards of education, to provide the funds necessary for suitable buildings and proper equipment, and such expenses are a countywide charge. *Reeves v. Board of Education*, 204 N.C. 74, 167 S.E. 454 (1933).

Commissioners May Reallocate Proceeds of Bond Issue: A bond order issued under former §153-78 set out in detail the estimates and projects for which the funds were proposed to be used in discharge of the constitutional requirement of a six months' school term within the municipal administrative unit. It was held that former §153-107 did not preclude the board of county commissioners, upon its finding, after investigation, of changed conditions, from reallocating the proceeds of bonds to different projects upon further finding, after investigation, that such reallocation of the funds was necessary to effectuate the purpose of the bond issue. *Atkins v. McAden*, 229 N.C. 752, 51 S.E.2d 484 (1949).

But may Not Change Purpose for Which bonds Were Issued: Where the county commissioners attempted to change the purpose for which school bonds were issued, such action of the commissioners was held to constitute a clear invasion of the prerogatives of the board of education. *Parker v. Anson County*, 237 N.C. 78, 74 S.E.2d 338 (1953).

Any change in plan must be initiated by the board of education. Then the board of commissioners, acting in good faith, may, in proper cases, after finding the facts required by statute, determine whether the reallocation of funds or the change in plans is or is not necessary, and approve or disapprove the expenditure of the funds theretofore furnished by it for the execution of the amended plan. *Parker v. Anson County*, 237 N.C. 78, 74 S.E.2d 338 (1953).

Power of board of Education Discretionary: The building of a school is a matter vested by statute in the sound discretion of the county board of education and is not to be restrained by the courts, unless it is in violation of some provision of law, or unless the committee is influenced by improper motives, or there is misconduct on their part. *Venable V. School Comm.*, 149 N.C. 120; 62 S.E. 902 (1908); *Pickler v. County Board*, 149 N.C. 221, 62 S.E. 901 (1908).

Whether a change should be made in the location of a school, as well as the selection of a site for a new one, is vested in the sound discretion of the school authorities, and their action cannot be restrained by the courts unless it is in violation of some provision of law, or the authorities have been influenced by improper motives, or there has been a manifest abuse of discretion on their part. *Feezor v. Siceloff*, 232 N.C. 563, 61 S.E.2d 714 (1950).

Courts Cannot Interfere with Discretion of Board of Education Absent Abuse: The board of education determines, in the first instance, what buildings require repairs, remodeling, or enlarging; whether new schoolhouses are needed; and if so, where they shall be located. Such decisions are vested in the sound discretion of the board of education, and its actions with reference thereto cannot be restrained by the courts absent a manifest abuse of discretion or a disregard of law. *Dilday v. Beaufort County Board of Education*, 267 N.C. 438, 148 S.E.2d 513, 149 S.E.2d 345 (1966).

Money Available for Erection of Building: Where a county board of education consolidated five existing high schools into one countywide high school with the approval of the State Board of Education, and plans for the new school building were approved by the State Superintendent of Public Instruction, and public moneys for the erection of the building were allocated to the county board of education, equity would not enjoin the county board of education from entering into a contract for the construction of the building on the ground that the county board of commissioners had refused to provide funds for the construction of the building, and that the proposed contract would offend former corresponding section, providing that a county board of education has no authority to contract for the construction of a new schoolhouse costing more than the "money . . . available for its erection." *Edwards v. Yancey County Board of Education*, 235 N.C. 345, 70 S.E.2d 170 (1952).

§ 115C-523. Care of school property

Description: Teachers and principals are responsible for monitoring school property. Any damage should be reported to the superintendent. Parents or legal guardians are liable for up to \$5,000.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-523>

§ 115C-524. Repair of school property; use of buildings for other than school purposes

Description: Principals, teachers, and janitors should report repairs to be made and are not held responsible for any damages that could not have been prevented.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-524>

Added by SL 2015-64 (SB 315):

[Added 2015]

(d) Local boards of education may make outdoor school property available to the public for recreational purposes, subject to any terms and conditions each board deems appropriate, (i) when not otherwise being used for school purposes and (ii) so long as such use is consistent with the proper preservation and care of the outdoor school property. No liability shall attach to any board of education or to any individual board member for personal injury suffered by reason of the use of such school property."

CASE NOTES

This section explicitly precludes liability from attaching to schools when the school facilities are being used for nonschool purposes. *Lindler v. Duplin County Board of Education*, 108 N.C. App. 757, 425 S.E.2d 465, cert. denied, 333 N.C. 791, 431 S.E.2d 25 (1993).

Day Care Program: The legislature may constitutionally delegate to the school board the power or authority to maintain a day care program. *Kiddie Korner Day Schools, Inc. v. Charlotte-Mecklenburg Board of Education*, 55 N.C. App. 134, 285 S.E.2d 110 (1981), cert. denied and appeal dismissed, 305 N.C. 300 291, S.E.2d 150 (1982), decided under former § 115-133.

Immunity from Liability: There is not exception, in cases of active negligence, to the immunity provided by this section. The legislature clearly intended to do more than codify the old common-law rule that if an affirmative act of negligence were committed or the premises were leased in a ruinous condition, a third

party injured on school premises would have recourse against the county board of education. *Plemmons v. City of Gastonia*, 62 N.C. App. 470, 302 S.E.2d 905, cert. denied, 309 N.C. 322, 307 S.E.2d 165, 166 (1983)

A county board of education was immune from liability for injury to a minor who fell from gymnasium bleachers. *Plemmons v. City of Gastonia*, 62 N.C. App. 470, 302 S.E.2d 905, cert. denied, 309 N.C. 322, 307 S.E.2d 165, 166 (1983).

The county school board's action to recover lost tax dollars expended in removing asbestos from school property was a governmental function exercised in pursuit of a sovereign purpose for the public good on behalf of the State, and the action was not barred by the statute of limitations. *Rowan County Board of Education v. United States Gypsum Co.*, 87 N.C. App. 106, 359 S.E.2d 814, cert. denied, 321 N.C. 298, 362 S.E.2d 781 (1987).

§ 115C-525. Fire prevention

Description: Principals are responsible for inspecting school grounds periodically for fire hazards, with proper adjustments addressed when needed. The board of county commissioners shall designate a qualified city or county inspection official to formally inspect the school grounds a minimum of twice a year.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-525>

§ 115C-528. Lease purchase and installment purchase contracts for certain equipment

Description: Guidelines to contracts involving purchasing equipment to improve the overall functionality of a school.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-528>

Note: SL 2014-100 added "athletic lighting" to the list of approved item.

§ 115C-531. Capital leases of school buildings and school facilities

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-531>

§ 115C-532. Additional provisions applicable to build-to-suit capital leases

Description: Contracts that exceed \$300,000

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-532>

§ 115C-538. Inspections of insured public school properties

Description: Periodic inspections of all public school properties in hopes of improving the safety of children during a fire or explosion.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-538>

Public School Building Capital Fund

§ 115C-546.1. Creation of the fund

Description: Changes consistent with repeal of allocations of Corporate Tax to ADM Fund.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-546.1>

§ 115C-546.2. Allocations from the fund

Description: Revisions to the Public School Building Capital Fund: Lottery funds to be appropriated (not as percentage of net revenue); funds allocated per ADM, not by 65/45 formula; funds remaining in the PSBCF can continue to be used under original provisions; Lottery funding for DPI positions which were formerly receipt-supported or funded from ADM Fund. [Rewritten 2013]

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115C-546.2>

Chapter 115D Community Colleges

§ 115D-41. Restrictions on contracts with local school administrative units

Description: Funding restrictions for teachers; codes for community college facilities.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115D-41>

Chapter 116 Higher Education

§ 116-44.5. Use of college or university facilities by public school students pursuant to cooperative programs

Description: Facilities may be used without modification for public school students in joint or cooperative programs such as middle or early college programs and dual enrollment programs.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=116-43.15>

Chapter 121 Archives and History

§ 121-12. North Carolina Historical Commission

Description: Any property to be purchased for public school use must first be declared as a non-historical site or grounds. Any property proposed to be demolished will first be reviewed by the Commission, for comment regarding historical significance.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=121-12>

Legal Periodicals: For symposium on historic preservation which includes a discussion of relevant North Carolina law, see 12 Wake Forest L. Rev. 9 (1976).

For article, "A Decade of Preservation and Preservation Law," see 11 N.C. Cent. L.J. 214 (1980).

Chapter 133 Public Works

§ 133-1. Employment of architects, etc., on public works when interested in use of materials prohibited

Description: It is unlawful for architects, etc., to specify building materials from a firm, etc., in which he has a financial interest.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=133-1>

§ 133-1.1. Certain buildings involving public funds to be designed, etc., by architect or engineer

Description: Project costs thresholds for renovations or additions that must be prepared by an architect or engineer before any type of repair or construction is started. The architect or engineer must conduct frequent inspections of the construction site.

Projects Requiring Licensed Architect / Engineer: ***Project Cost Threshold**

Projects Requiring Licensed Architect / Engineer:	*Project Cost Threshold
<i>New Construction or Additions</i>	<i>\$135,000 +</i>
<i>Major Repairs with Structural Changes</i>	<i>\$135,000 +</i>
<i>Non-Structural Repairs</i>	<i>\$300,000 +</i>
<i>Repairs / Renovation Work Affecting "Life Safety Systems"</i>	<i>\$100,000 +</i>
<i>Buildings Classified by Building Code as "Business" (Concession / Toilet / Field House, etc.)</i>	<i>Over 2,500 sq ft</i>

**Project costs are market value / replacement costs if competitively bid (not reduced by any donated labor, material, or cash)*

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=133-1.1>

§ 133-2. Drawing of plans by material furnisher prohibited

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=133-2>

§ 133-3. Specifications to carry competitive items; substitution of materials

Description: Performance and design characteristics should be specified for materials required. If possible, brand name specifications, listing three or more equivalent design should be used. Equivalent designs are used to denote standards but are not restrictive. If three equivalent designs are not available, and specification of performance and design characteristics are not possible, list as many as are available. Substitution of materials of equivalent design must be submitted to the design professional, and either approved or disapproved, prior to bid opening. Specifications may list one or more preferred brands as an alternate bid and must identify performance standards that support the preference. Performance standards for the preference must be approved by the Board of Education in an open meeting.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=133-3>

§ 133-4. Violation of Chapter made misdemeanor

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=133-4>

Chapter 136 Roads and Highways

§ 136-18. Powers of Department of Transportation

Description: See especially subparagraph (17): DOT must construct and repair roads leading to a public school.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=136-18>

§ 136-27.1. Relocation of water and sewer lines...

Description: DOT shall pay the cost of relocating existing water and sewer lines in the DOT right-of-way, made necessary by a DOT project. [Added 2015]

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2015&BillID=h+86&submitButton=Go>

Chapter 143 State Departments, Institutions, and Commissions

Energy Conservation in Public Facilities

Part 2. Guaranteed Energy Savings Contracts for Local Governmental Units

§ 143-64.17. Definitions

Description: Defines terms or phrases used in this Part

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-64.17>

Editor's Note: Session Laws 1993 (Regular Session, 1994), c. 775, which enacted this Part, in s. 9 provides that a local governmental unit that enters into a guaranteed energy savings contract must report it to the Local Government Commission.

§ 143-64.17A. Solicitation of guaranteed energy savings contracts

Description: Request should be published 15 days before a provider is chosen. There must be a minimum of 2 applicants to open proposals after first notice.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-64.17A>

§ 143-64.17B. Guaranteed energy savings contracts

Description: Contract terms not to exceed 20 years. Contracts are for existing buildings only.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-64.17B>

Editor's Note: Session Laws 1993 (Regular Session, 1994), c. 775, which enacted this Part, in s. 10, as amended by Session Laws 1995, c. 295, s. 3, provides: "A local governmental unit may not enter into a guaranteed energy savings contract under Part 2 of Article 3B of Chapter 143 of the General Statutes, as enacted by this act, on or after July 1, 1999."

§ 143-64.17C. Repealed by Session Laws 2002, ch. 161, s. 5, effective January 1, 2003, and applicable to contracts entered into on or after that date.

§ 143-64.17D. Contract continuance

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-64.17D>

§ 143-64.17E. Payments under contract

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-64.17E>

Procurement of Architectural, Engineering, and Surveying Services

§ 143-64.31. Declaration of public policy.

Description: Rewritten in 2013 to include design-build services and public-private partnership construction services; added subparagraphs (d) and (e) to require reports on certain methods of project delivery.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-64.31>

§ 143-64.32. Written exemption of particular contracts.

Description: Units of local government may exempt proposed projects in which the estimated professional fee is less than \$50,000.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-64.32>

§ 143-64.33. Advice in selecting consultants or negotiating consultant contracts

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-64.33>

Public Contracts

§ 143-128. Requirements for certain building contracts

Description: Contracts must meet certain criteria before being finalized, including preparation of specifications and construction methods. Provisions of SL 2013-401 :: HB 857 have rewritten GS 143-128(a1) to allow the use of Public-Private Partnerships and Design/Build contracts in the construction of public schools.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-128>

§ 143-128.1. Construction management at risk contracts

Description: Provisions of CM @ Risk services; the Owner shall make a good-faith effort to recruit and select small business entities for CM @ Risk.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-128.1>

§ 143-128.1A. Design-build contracts

Description: New section added [2013] regarding Design-Build Contracts.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-128.1a>

§ 143-128.1B. Design-build bridging contracts

Description: New section added [2013] regarding Design-Build Bridging Contracts.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-128.1b>

§ 143-128.1C. Public-private partnership construction contracts

Description: New section added [2013] regarding Public-Private Partnership Contracts.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-128.1c>

[See also G.S. 44A-16, above, as amended; and G.S. 115C-521, above, as amended, 2013]

§ 143-128.2. Minority business participation goals

Description: Solicitation of minority business participation is required when the project cost is over \$5,000. A verifiable State goal of 10% participation is used for projects over \$100,000 if state funds are used, unless pre-existing local goals are justified. A good faith effort to encourage minority business participation is required. Efforts made and participation achieved must be documented. Reporting requirements by NC Department of Administration must be complied with.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-128.2>

§ 143-128.3. Minority business participation administration

Description: Outlines the documentation required in regards to making sure minority businesses are given an opportunity for being selected for construction projects.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-128.3>

§ 143-129. Procedure for letting of public contracts

Description: Construction or repair work equal to or more than \$500,000 must be formally bid in compliance with this section.

**Estimated Project
Cost**

<i>Formal Bids:</i> <ul style="list-style-type: none">- 7-day advertisement in newspaper of general circulation in area of project (electronic ads if authorized by Board of Education), time & place where plans and specs are available, time & place for opening bids- 5% bid bond- Sealed bids- Bids opened in public- Bids recorded in minutes of Board of Education- Bidders provide performance & labor and materials payment bonds- Comply with minority participation requirements	\$500,000 +
<i>Informal Bids:</i> <ul style="list-style-type: none">- No advertisement required- No particular number of bids required- Bids may be obtained verbally, by electronic or written submission- Bid deposit not mandated but, at owner's option, may be required- Performance and payment bonds not mandated, but may be required by owner- Comply with minority participation requirements	\$30,000 to < \$500,000

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-129>

§ 143-129.1. Withdrawal of bid

Description: Bidder can withdraw a bid within 72 hours, if a clerical or mathematical mistake was made during calculations of the project at hand.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-129.1>

§ 143-129.4. Guaranteed energy savings contracts

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-129.4>

Editor's Note: Session Laws 1993 (Regular Session, 1994), c. 775, which enacted this section, in s. 9 provides that a local governmental unit that enters into a guaranteed energy savings contract must report it to the Local Government Commission.

Session Laws 1993 (Regular Session, 1994), c. 775, which enacted this section, in s. 10 provides: "A local governmental unit may not enter into a guaranteed energy savings contract under Part 2 of Article 3B of Chapter 143 of the General Statutes, as enacted by this act, on or after July 1, 1997."

§ 143-130. Allowance for convict labor must be specified

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-130>

§ 143-131. When counties, cities, towns and other subdivisions may let contracts on informal bids

Description: Informal bids may be solicited when the cost estimate is between \$30,000 and \$500,000 for construction or repair work and between \$30,000 and \$90,000 for equipment or supplies.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-131>

§ 143-132. Minimum number of bids for public contracts

Description: Minimum of three bids must be submitted before a contract is awarded for formally bid projects upon first bid opening. If less than 3 bids, Owner may readvertise and open 1 or 2 bids.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-132>

§ 143-134.1. Interest on final payments due to prime contractors; payments to subcontractors

Description: Interest incurred on delayed final payments will be at a rate of 1% per month or a fraction thereof. No retainage on public construction projects costing less than \$100,000. Retainage rate is 5% until 50% of project is completed to the owners' satisfaction.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-134.1>

§ 143-135. Limitation of application of Article

Description: Labor for a State funded project can not be performed by an employee of the agency concerned without approval by the agency director. Maximum project cost is \$125,000. Maximum labor cost is \$50,000. Bidding of materials is required.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-135>

§ 143-135.5. State policy; cooperation in promoting the use of small, minority, physically handicapped and women contractors; purpose

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-135.5>

§ 143-135.8. Prequalification (of bidders)

[Clarification 2014]

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-135.8>

Note: SL 2014-42 clarified those circumstances in which bidders can be prequalified for construction or repair work.

<http://www.ncga.state.nc.us/Sessions/2013/Bills/House/HTML/H1043v6.html>

Description: this legislation also addressed the process of bidder prequalification in a CM at Risk project and the reporting requirements borne by a governmental entity utilizing either CM at Risk or Design-Build.

§ 143-135.26. Powers and duties of the Commission

Description: Lists responsibilities and expectations of the State Building Commission

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143-135.26>

§ 143-138. North Carolina State Building Code

Note: A new subsection (b15) was added by SL 2014-90, regarding the applicability of the Energy Conservation Code to certain existing nonresidential buildings.

(b15) Exclusion from Energy Code Requirements for Existing Commercial Buildings. – The alteration of commercial buildings and structures that received a certificate of occupancy prior to January 1, 2012, may be subject to the rules pertaining to energy efficiency and energy conservation that were in effect on December 31, 2011. The addition to commercial buildings and structures that received a certificate of occupancy prior to January 1, 2012, may be subject to the rules pertaining to energy efficiency and energy conservation that were in effect on December 31, 2011, so long as the addition does not increase the building area of the existing commercial building or structure to more than one hundred fifty percent (150%) of the building area of the commercial building or structure as it was in existence on December 31, 2011. For the purpose of this subsection, the term "commercial buildings and structures" shall include all structures and buildings that are not classified as a Group R occupancy by the Building Code Council.

Chapter 143B Executive Organization Act of 1973

Description: The following provisions of SL 2013-247 :: HB 868 address operation and oversight of certain residential schools formerly governed by the Department of Health and Human Services.

§ 143B-138.1. DHHS functions and organization

Description: Subsection (b) rewritten to delete reference to Governor Morehead School and North Carolina Schools for the Deaf.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143b-138.1>

§ 143B-146.1. Mission (in residential schools)

Description: Subsection (b) rewritten to include only schools operated by DHHS, and to delete reference to the Superintendent of the Office of Education Services of the DHHS.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143b-146.1>

§ 143B-146.2. ABCs program in residential schools

Description: Subsection (a) rewritten to delete reference to Governor Morehead School and North Carolina Schools for the Deaf.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143b-146.2>

G.S. 143B-146.8(f) reads as rewritten:

(f) Evaluation of Principals. - Each year the Secretary ~~or the Superintendent~~ shall evaluate the principals.

§ 143B-146.15. Duty to report certain acts to law enforcement.

Description: Deletes reference to DHHS Superintendent.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143b-146.15>

§ 143B-146.21. Policies, reports, and other miscellaneous provisions.

Description: Deletes certain DHHS responsibilities at the Governor Morehead School and the schools for the deaf.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143b-146.21>

**Chapter 153A
Counties**

County Property

Part 1. Acquisition of Property.

§ 153A-158. Power to acquire property

<http://www.ncleg.net/gascritps/statutes/statutelookup.pl?statute=153A-158>

Local Modification: Bladen: 1981, c. 134, s. 2; Brunswick: 1981, c. 283; Cabarrus: 1985, c. 194, s. 3; Caswell: 1981, c. 941; Columbus: 1981, c. 270; Franklin: 1981, c. 941; Gaston: 1995, c. 399, ss.1, 2; Granville: 1981, c. 941; Halifax: 1995 (Regular Session, 1996), c. 706; Greene: 1995, c. 399, ss. 1, 2; Johnston: 1981, c. 459; Montgomery: 1995, c. 154, s. 3; Nash: 1995 (Regular Session, 1996), c. 706; Pender: 1981, c. 283; Person: 1981, c. 941; Sampson: 1993 (Regular Session, 1994), c. 613, s. 1; 1995, c. 399, ss. 1, 2; Union: 1983, c. 150; Vance: 1981, c. 941; Wake: 1985, c. 337; Warren: 1981, c. 941; Watauga: 1989, c. 487, s. 1; Wilson: 1995 (Regular Session, 1996), c. 706.

For additional local modifications to this section, see the main pamphlet.

Editor's Note: This section and Local Modification notes have been set out above to reflect changes due to the codification of Session Laws 1989 (Regular Session, 1990), c. 885, ss.1, 2, and Session Laws 1991 (Regular Session, 1992), c. 832, s. 1; c. 848, s. 1; c. 865, s. 1, and c. 1001, s. 1.

Effect of Amendments: The 1995 amendment, effective March 23, 1995, deleted in other counties from the end of the section catch line.

§ 153A-164. Joint buildings

Description: Counties may acquire or construct buildings in order to share office space for the involved employees.

<http://www.ncleg.net/gascritps/statutes/statutelookup.pl?statute=153A-164>

§ 153A-165. Leases

<http://www.ncleg.net/gascritps/statutes/statutelookup.pl?statute=153A-165>

§ 153A-331. Contents and requirements of ordinance.

Description: Authorize counties, in cooperation with local boards of education, to require subdividers to reserve land for later purchase of a school site.

<http://www.ncleg.net/gascritps/statutes/statutelookup.pl?statute=153A-331>

Chapter 160A Cities and Towns

Contracts

§ 160A-20. Security interest

Description: Lists stipulations involved with the purchase of property, improvements, etc. Defines the term "unit of local government".

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=160A-20>

§ 160A-372. Contents and requirements of ordinance.

Description: Authorize cities, in cooperation with local boards of education, to require subdividers to reserve land for later purchase of a school site.

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=160A-372>

North Carolina State Building Code

Fire Prevention Code:

Section 806 Decorative Vegetation

806.1 Natural cut trees. Natural cut trees, where allowed by this section, shall have the truck bottoms cut off at least 0.5 inch (12.7 mm) above the original cut and shall be placed in a support device complying with Section 806.1.2.

806.1.1 Restricted occupancies. Natural cut trees shall be prohibited in Group A, **E (Educational)**, I-1, I-2, I-3, I-4, M, R-1, R-2 and R-4 occupancies.

Exceptions:

1. Trees located in areas protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 shall not be prohibited in Groups A, **E (Educational)**, M, R-1 and R-2.
2. Trees shall be permitted within dwelling units in Group R-2 occupancies.

806.1.2 Support devices. The support device that holds the tree in an upright position shall be of a type that is stable and that meets all of the following criteria:

1. The device shall hold the tree securely and be of adequate size to avoid tipping over of the tree.
2. The device shall be capable of containing a minimum 2-day supply of water.
3. The water level, when full, shall cover the tree stem at least 2 inches (51 mm). The water level shall be maintained above the fresh cut and checked at least once daily.

806.1.3 Dryness. The tree shall be removed from the building whenever the needles or leaves fall off readily when a tree branch is shaken or if the needles are brittle and break when bent between the thumb and index finger. The tree shall be checked daily for dryness.

806.2 Artificial vegetation. Artificial decorative vegetation shall meet the flame propagation performance criteria of NFPA 701. Meeting the flame propagation performance criteria of NFPA 701 shall be documented and certified by the manufacturer in an approved manner.

806.3 Obstruction of means of egress. The required width of any portion of a means of egress shall not be obstructed by decorative vegetation.

806.4 Open flame. Candles and open flames shall not be used on or near decorative vegetation. Natural cut trees shall be kept a distance from heat vents and any open flame or heat-producing devices at least equal to the height of the tree.

806.5 Electrical fixtures and wiring. The use of unlisted electrical wiring and lighting on natural cut trees and artificial decorative vegetation shall be prohibited. The use of electrical wiring and lighting on artificial trees constructed entirely of metal shall be prohibited.

Note: Each year, as the holiday season approaches, we receive numerous inquiries related to the use of Christmas trees in schools. Because of the potential safety hazards to students and staff posed by the use of certain types of decorations, the following information is provided. Reference is made to the North Carolina State Fire Prevention Code, (2012 Edition). Specific inquiries as to the requirements or interpretation of the Code should be directed to the Engineering & Codes Division of the North Carolina Office of the State Fire Marshal at (919) 661-5880. Living Christmas trees in a balled condition with their roots protected by an earth ball may be permitted (Check with Local Fire Marshal) provided they are maintained in a fresh condition and are not allowed to become dry. The School Insurance Section of the Division of Safe and Healthy Schools Support of Department of Public Instruction strongly recommends careful placement of Christmas trees and other similar decorations away from exit traffic patterns, to include corridors and exit doors.

Miscellaneous Provisions of the Appropriations Act of 2013 SB 402 :: Session Law 2013-360

<http://www.ncleg.net/Sessions/2013/Bills/Senate/HTML/S402v7.html> (See Sections as noted)

RESIDENTIAL SCHOOLS

Section 8.15.(a). The Department of Public Instruction shall not transfer any school-based personnel from the State's residential schools to central office administrative positions.

Section 8.15.(b). Notwithstanding G.S. 146-30 or any other provision of law, the Department of Public Instruction shall retain all proceeds generated from the rental of building space on the residential school campuses. The Department of Public Instruction shall use all receipts generated from these leases to staff and operate the North Carolina School for the Deaf, the Eastern North Carolina School for the Deaf, and the Governor Morehead School. These receipts shall not be used to support administrative functions within the Department.

GRANTS FOR SCHOOL RESOURCE OFFICERS IN ELEMENTARY AND MIDDLE SCHOOLS

Section 8.36. Grants to local school administrative units, regional schools, and charter schools for school resource officers in elementary and middle schools shall be matched on the basis of two dollars (\$2.00) in State funds for every one dollar (\$1.00) in local funds and shall be used to supplement and not to supplant State, local, and federal funds for school resource officers.

The State Board of Education shall include need-based considerations in its criteria for awarding these grants to local school administrative units, regional schools, and charter schools.

Local school administrative units, regional schools, and charter schools may use these funds to employ school resource officers in elementary and middle schools, to train them, or both. Any such training shall include instruction on research into the social and cognitive development of elementary school and middle school children.

Note: This grant is administered by the School Planning section of DPI. For information, see http://www.schoolclearinghouse.org/2013Grants/School_Resource_Officer_Final_Supplemental_RF_P.doc or contact Dr. Kenneth Gattis at Kenneth.gattis@dpi.nc.gov.

Note: DPI awarded over \$6.9 million of the \$7 million appropriated in 2013. These are continuing funds. Because the legislature did not modify the law in the 2014 short session, LEAs and charter schools that received the grants last year are being allotted the money again for 2014-15. The new legislature next year will have to include the item in the biennial budget in order for the funding to continue into 2015-16.

PANIC ALARM SYSTEMS

Note: See G.S. 115C-47(40) for modifications to the required Emergency Response Plans (page 3 of this document.)

Section 8.37.(b). Grants to local school administrative units, regional schools, and charter schools for panic alarm systems in schools shall be matched on the basis of one dollar (\$1.00) in State funds for every one dollar (\$1.00) in local funds and shall be used to supplement and not to supplant State, local, and federal funds for panic alarm systems.

The State Board of Education shall include need based considerations in its criteria for awarding these grants to local school administrative units, regional schools, and charter schools.

Section 8.37.(c). Effective July 1, 2015, every public school shall have a panic alarm system that connects with the nearest local law enforcement agency in the local board of education's emergency response plan.

Note: This grant is administered by the School Planning Section of DPI. For grant information see http://www.schoolclearinghouse.org/2013Grants/Panic_Alarm_RFP.doc. For design criteria, see <http://www.schoolclearinghouse.org/2013Grants/Panic%20Alarm%20System%20Design%20Criteria.doc> or contact Jon Jones at jonathan.jones@dpi.nc.gov.

Miscellaneous Provisions of the Appropriations Act of 2014 SB 744 :: Session Law 2014-100

<http://www.ncga.state.nc.us/Sessions/2013/Bills/Senate/PDF/S744v9.pdf> (See sections noted)

PANIC ALARM SYSTEMS

Description: Section 8.8.(a) of SL 2014-100 added a new subsection effective June 30, 2014.

Section 8.37.(b1) Funds appropriated for the award of panic alarm system grants pursuant to subsection (b) of this section shall not revert at the end of the fiscal year but shall remain available for expenditure until the end of the subsequent fiscal year.

SCHEMATIC DIAGRAMS OF SCHOOL FACILITIES

Description: SL 2013-360 had established the requirement for "Schematic Diagrams of School Facilities," as listed in the prior edition of this publication. Section 8.20.(a) of SL 2014-100 repealed the original version and Section 8.20.(b) added the following to the General Statutes:

SECTION 8.20.(b) Article 8C of Chapter 115C of the General Statutes is amended by adding new sections to read:

§ 115C-105.53. Schematic diagrams and emergency access to school buildings for local law enforcement agencies.

(a) Each local school administrative unit shall provide the following to local law enforcement agencies: (i) schematic diagrams, including digital schematic diagrams, and (ii) emergency access to key storage devices such as KNOX® boxes for all school buildings. Local school administrative units shall provide updates of the schematic diagrams to local law enforcement agencies when substantial modifications such as new facilities or modifications to doors and windows are made to school buildings. Local school administrative units shall also be responsible for providing local law enforcement agencies with updated access to school building key storage devices such as KNOX® boxes when changes are made to these boxes or devices.

(b) The Department of Public Instruction, in consultation with the Department of Public Safety, shall develop standards and guidelines for the preparation and content of schematic diagrams and necessary updates. Local school administrative units may use these standards and guidelines to assist in the preparation of their schematic diagrams.

(c) Schematic diagrams are not considered a public record as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6.

§ 115C-105.54. Schematic diagrams and emergency response information provided to Division of Emergency Management.

(a) Each local school administrative unit shall provide the following to the Division of Emergency Management (Division) at the Department of Public Safety: (i) schematic diagrams, including digital schematic diagrams, and (ii) emergency response information requested by the Division for the School Risk Management Plan (SRMP) and the School Emergency Response Plan (SERP). Local school administrative units shall also provide updated schematic diagrams and emergency response information to the Division when such updates are made. The Division shall ensure that the diagrams and emergency response information are securely stored and distributed as provided in the SRMP and SERP to first responders, emergency personnel, and school personnel and approved by the Department of Public Instruction.

(b) The schematic diagrams and emergency response information are not considered a public record as the term "public record" is defined under G.S. 132-1 and shall not be subject to

inspection and examination under G.S. 132-6."

SECTION 8.20.(c) The schematic diagrams referenced in subsection (b) of this section shall be provided to local law enforcement agencies and the Division of Emergency Management at the Department of Public Safety by June 1, 2015.

Note: For the guidelines described in GS 115C-105.53(b) above, see the publication titled "Safe Schools Facilities Planner," numbered pages 33-39, on the website of the School Planning section at [http://www.schoolclearinghouse.org/pubs/SAFE2013%20\(December%202013\).pdf](http://www.schoolclearinghouse.org/pubs/SAFE2013%20(December%202013).pdf).

Miscellaneous Provisions of the Appropriations Act of 2015 HB 97 :: Session Law 2015-241

<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2015&BillID=H97> (see sections noted)

SECTION 8.26: (pp. 76-97) School Safety / Statewide School Risk and Response Management System *[Added 2015]*

Description: Modified and Clarified provisions of the school safety systems in prior legislation. Consult Appropriations Acts of 2013 and 2014, above, for underlying requirements. A summary follows:

School Risk Management Plan (SRMP)

Each LEA shall adopt a SRMP...by March 1, 2017

Charter Schools are encouraged to adopt a SRMP...by March 1, 2017

Regional Schools are encouraged to adopt a SRMP...by March 1, 2017

School Safety Exercises

Each LEA shall require each school to hold a table-top exercise and a drill at least annually.

Charter Schools are encouraged to hold...

Regional Schools are encouraged to hold...

Anonymous Tip Lines

Each LEA is encouraged to develop and operate an anonymous tip line.

Charter Schools are not specifically mentioned

Regional Schools are not specifically mentioned

Department of Public Safety, etc., in collaboration with DPI, shall implement and maintain a statewide panic alarm system.

Department of Public Safety shall ensure that the anonymous safety tip line application is integrated with the statewide SRRMS, by July 1, 2016.

School Crisis Kit

DPI may develop and adopt policies on the placement of school crisis kits.

The principal of each school may place one or more crisis kits at appropriate locations.

Charter Schools are not specifically mentioned

Regional Schools are encouraged to provide...

Schematic Diagrams and Emergency Access

Each LEA shall provide schematic diagrams and emergency access keys to local law enforcement

Each LEA shall provide schematic diagrams and emergency response information to Division of Emergency Management of the Department of Public Safety.

Charter Schools are encouraged to provide...

Regional Schools are encouraged to provide...

End