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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2019

SESSION LAW 2020-49

SENATE BILL 113

AN ACT TO EXEMPT CERTAIN SCHOOL PSYCHOLOGISTS FROM NORTH CAROLINA PSYCHOLOGY BOARD LICENSURE; TO CLARIFY USE OF DIGITAL LEARNING PLAN FUNDS; TO MAKE MODIFICATIONS TO THE 2020-2021 SCHOOL CALENDAR REQUIREMENTS TO EXPAND THE USE OF REMOTE LEARNING DAYS AND ALLOW MODIFICATIONS FOR SINGLE-TRACK YEAR-ROUND SCHOOLS; TO CLARIFY THAT SCHOOL NUTRITION FUNDS FROM THE CORONAVIRUS RELIEF FUND ARE FOR EMERGENCY SCHOOL NUTRITION SERVICES, AUTHORIZE THE USE OF THESE FUNDS FOR THE SUMMER FOOD SERVICE PROGRAM, AND EXTEND THE PERIOD OF USE FOR THESE FUNDS UNTIL DECEMBER 30, 2020; TO ALLOW LME/MCO REINVESTMENT PLANS TO INCLUDE PROVIDING ASSISTANCE TO PUBLIC SCHOOL UNITS; TO CHANGE A CHARTER SCHOOL REPORT DATE; TO DESIGNATE THE SUPERINTENDENT OF PUBLIC INSTRUCTION AS AN APPROVER OF PRIVATE ACTIVITY BONDS; TO REVISE THE CALCULATION OF THE SCHOOL ADMINISTRATOR INTERN STIPEND; TO EXTEND THE GRANT TERM FOR THE NORTH CAROLINA TRANSFORMING PRINCIPAL PREPARATION PROGRAM; AND TO PROVIDE IMMUNITY FOR NONPUBLIC SCHOOLS FOR CLAIMS RELATED TO COVID-19 CLOSURES FOR 2019-2020.

The General Assembly of North Carolina enacts:

PART I. SCHOOL PSYCHOLOGIST LICENSURE EXEMPTION

SECTION 1. G.S. 90-270.4(c) reads as rewritten:

"(c) Persons ~~certified~~ licensed by the State Board of Education as school psychologists and serving as ~~regular salaried~~ employees or contractors of the Department of Public Instruction or ~~local boards of education~~ any public school unit are not required to be licensed under this Article in order to perform the duties for which they serve the Department of Public Instruction or ~~local boards of education,~~ public school unit, and nothing in this Article shall be construed as limiting their activities, services, or titles while performing those duties for which they serve the Department of Public Instruction or ~~local boards of education.~~ public school units. If a person ~~certified~~ licensed by the State Board of Education as a school psychologist and serving as ~~a regular salaried~~ an employee or contractor of the Department of Public Instruction or a ~~local board of education~~ public school unit is or becomes a licensed psychologist under this Article, he or she shall be required to comply with all conditions, requirements, and obligations imposed by statute or by Board rules upon all other licensed psychologists as a condition to retaining that license. Other provisions of this Article notwithstanding, if a person ~~certified~~ licensed by the State Board of Education as a school psychologist and serving as ~~a regular salaried~~ an employee or contractor of the Department of Public Instruction or a ~~local board of education~~ public school unit is or becomes a licensed psychological associate under this Article, he or she shall not be required to comply with the supervision requirements otherwise applicable to licensed psychological associates by Board rules or by this Article in the course of his or her ~~regular salaried~~ employment or contractual relationship with the Department of Public Instruction or a ~~local board of education,~~ public school unit, but he or she shall be required to comply with all other conditions, requirements, and obligations imposed by statute or a ~~local board of education~~ public school unit or by Board rules upon all other licensed psychological associates as a condition to retaining that license."

PART II. CLARIFY USE OF DIGITAL LEARNING PLAN FUNDS

SECTION 2.(a) Of the funds appropriated to the Department of Public Instruction for the 2020-2021 fiscal year for the Digital Learning Plan, as set out in S.L. 2016-94, beginning with the 2020-2021 fiscal year, any portion of the funds in the amount of up to one million eight hundred thousand dollars ($1,800,000) that are, pursuant to Section 7.23K(c) of S.L. 2017-57, as amended by Section 7.7 of S.L. 2018-5, used to implement the requirements of Section 7.23 of S.L. 2017-57, and that the Department allots to local school administrative units, charter schools, and Innovative School District schools within economically distressed counties to support adoption of the digital literacy curriculum provider selected via the competitive procurement process pursuant to Section 7.23K(b) of S.L. 2017-57, shall be used solely for software licenses from that vendor.

SECTION 2.(b) This section becomes effective July 1, 2020.

PART III. MODIFICATIONS TO THE 2020-2021 SCHOOL CALENDAR

SECTION 3.(a) Subdivision (6) of Section 2.1 of S.L. 2020-3 reads as rewritten:

"(6) Year-round school. – A school with a single or multi-track instructional calendar that was adopted prior to March 1, 2020, and provides instructional days in compliance with Section 2.11(b)(1) of this Part throughout the entire school calendar year, beginning July 1 and ending June 30, by utilizing at least one of the following plans:

a. A plan dividing students into four groups and requiring each group to be in school for assigned and staggered quarters each school calendar year.

b. A plan providing students be scheduled to attend ~~45~~ an average of between 44 and 46 instructional days followed by an average of between 15 and 20 days of vacation, repeated throughout the school calendar year.

c. A plan dividing the school calendar year into five nine-week sessions of classes and requiring each student to attend four assigned and staggered sessions out of the five nine-week sessions to complete the student's instructional year."

SECTION 3.(b) Section 2.11(b) of S.L. 2020-3 reads as rewritten:

"**SECTION 2.11.(b)** School Calendar. – Except as otherwise provided in this subsection, the requirements of G.S. 115C-84.2, including the requirement that a school calendar consist of 215 days, apply to the 2020-2021 school calendar for local school administrative units. The provisions of this subsection supersede any school calendar adopted by a public school unit prior to the enactment of this Part. For the 2020-2021 school year only, the following applies to the school calendar for public school units:

(1) Notwithstanding any provisions of G.S. 115C-75.8(d)(9), 115C-84.2(a)(1), 115C-150.12, 115C-218.85(a)(1), 115C-238.53(d), 115C-238.66(1)d., 116-239.8(b)(2)c., and Section 6(e) of S.L. 2018-32 to the contrary, each public school unit shall adopt a calendar that includes 190 days of instruction as follows:

a. 185 days or 1,025 hours of instruction that include five remote instruction days in accordance with the Plan developed pursuant to subsection (a) of this section. Each of the five remote instruction days may be scheduled in the discretion of the public school unit, except as provided in subdivision (2) of this subsection.

b. An additional five instructional days that shall be satisfied only by five individually separate and distinct full instructional days and not by an accumulation of instructional hours.

(2) Notwithstanding any provisions of G.S. 115C-84.2(d) to the contrary, each local school administrative unit shall adopt a school calendar in accordance with the following:

a. Except for schools defined in subdivision (4) or (6) of Section 2.1 of this Part, an opening date for students of August 17, 2020.

b. Except for schools defined in subdivision (4) or (6) of Section 2.1 of this Part, a closing date for students no later than June 11, 2021.

c. No remote instruction day shall be scheduled prior to August 24, 2020, unless the school operates on a year-round or modified calendar schedule. A year-round or modified calendar school shall not schedule a remote instruction day prior to the sixth instructional day of the year-round or modified calendar.

c1. A local board of education may alter the adopted calendar of a single-track year-round school in a manner that no longer meets the requirements of Section 2.1(6)b. of this act, if both of the following are met:

1. The local board of education determines the modification is necessary to ensure the health and safety of students.

2. The altered calendar complies with all other requirements for year-round schools in this section.

d. Remote instruction days may be scheduled for use as teacher workdays, including as teacher workdays on which teachers may take accumulated vacation leave, provided that remote instruction material is prepared and provided for students to use during the remote instruction days. Local school administrative units may, in their discretion, schedule remote instruction days as teacher workdays to facilitate completion of first semester course exams prior to a winter holiday period. This sub-subdivision only applies to the five remote instruction days scheduled as required by sub-subdivision a. of subdivision (1) of this subsection.

e. The following apply for a local school administrative unit granted a good cause waiver for the 2020-2021 school year:

1. The opening date for students shall not be earlier than August 17, 2020, except for schools defined in subdivision (4) or (6) of Section 2.1 of this Part.

2. Up to an additional five remote instruction days may be used, if those days are (i) provided in accordance with the requirements of this subsection for remote instruction days and (ii) used solely as make-up days for days on which schools have been closed due to inclement weather or other emergency situations.

(3) ~~If, during the 2020-2021 school year, a state of emergency or disaster is declared under Chapter 166A of the General Statutes ordering school closure for more than five days,~~ If the governing board of a public school unit determines that additional remote instruction beyond the five days required by subdivision (1) of this subsection is needed to ensure the health and safety of students, a public school unit ~~providing~~ may provide remote instruction in accordance with the Plan developed pursuant to subsection (a) of this

section ~~may use additional remote instruction days~~ as necessary to satisfy instructional time requirements. The public school unit shall ensure that it is in compliance with all required COVID-19 guidance related to the operation of elementary and secondary schools issued by the State Board of Education, the Department of Public Instruction, and the Department of Health and Human Services."

SECTION 3.(c) This section is effective when it becomes law.

PART IV. MODIFY USE OF SCHOOL NUTRITION FUNDS

SECTION 4. Subdivision (6) of Section 3.3 of S.L. 2020-4 reads as rewritten:

"(6) $75,000,000 to the Department of Public Instruction for emergency school nutrition ~~services~~ services, including innovative school meals, provided to students in response to COVID-19 by public school units participating in the National School Lunch ~~Program or~~ Program, School Breakfast ~~Program~~ Program, or Summer Food Service Program from March 16, 2020, through ~~the end of the 2019-2020 school year.~~ December 30, 2020. Funds for these services shall be allocated in the same manner as if the participating public school units were reimbursed by school meal receipts or federal funds."

PART V. LME/MCO EXPENDITURE FOR STUDENT BEHAVIORAL HEALTH NEEDS

SECTION 5. G.S. 122C-125.2(a) reads as rewritten:

"(a) Beginning on September 1, 2018, the Department shall calculate on a quarterly basis a solvency range for each LME/MCO as a sum of the following figures to produce upper and lower range values:

(1) Incurred but not reported claims figure. – The incurred but not reported claims figure shall be calculated by multiplying an LME/MCO's service spending for the preceding 12 months by six and eight-tenths percent (6.8%). If an LME/MCO experiences extenuating circumstances supported by actuarial documentation, then the Department may utilize a percentage other than six and eight-tenths (6.8%) for that LME/MCO.

(2) Net operating liabilities figure. – The net operating liabilities figure shall be calculated by subtracting noncash current accounts receivable from the nonclaims current liabilities, as reported on the LME/MCO's most recent balance sheet. If the noncash accounts receivable are greater than the nonclaim liabilities, then the value for the net operating liabilities figure is zero.

(3) Catastrophic or extraordinary events range. – The catastrophic or extraordinary events range shall be calculated as the range between a lower figure and an upper figure. The lower figure shall be calculated by multiplying an LME/MCO's service expenditures from the preceding 12 months by four and fifteen-hundredths percent (4.15%). The upper figure shall be calculated by multiplying an LME/MCO's service expenditures from the preceding 12 months by eight and three-tenths percent (8.3%).

(4) Required intergovernmental transfers figure. – The required intergovernmental transfers figure is the amount of funds needed by an LME/MCO to make any intergovernmental transfers required by law over the subsequent 24 months.

(5) Projected operating loss figure. – The projected operating loss figure is the projected net loss for an LME/MCO over the subsequent 24 months. In projecting the net loss for an LME/MCO, the Department shall use the net loss of the LME/MCO in the preceding 12 months adjusted for any changes in single-stream funding, intergovernmental transfers, or other factors known to the Department that will impact the LME/MCO's net loss over the subsequent 24 months. If a net profit is projected for an LME/MCO, then this figure is zero.

(6) Reinvestment plan figure. – The reinvestment plan figure is the amount required for all qualifying expenditures contained in an LME/MCO's reinvestment plans over the subsequent 36 months. To qualify as an expenditure under this subdivision, the expenditure must be related to one of the following:

a. An initiative that supports specific goals or health status outcomes of the State in relation to the State's behavioral health needs.

b. An initiative that meets a State behavioral health need, as defined in law or by the Department.

c. Funding for infrastructure that supports the effective and efficient operation of the LME/MCO.

d. Funding for a facility within the LME/MCO catchment area that is necessary to meet to the needs of the population served by the LME/MCO.

e. New or expanded initiatives and programmatic improvements to the State behavioral health system.

f. Working capital to be utilized to fund changes in rates, operations, or programs.

g. Assistance to public school units within the LME/MCO catchment area for student behavioral health needs."

PART VI. CHANGE CHARTER SCHOOL REPORT DATE

SECTION 6. G.S. 115C-218.110(b) reads as rewritten:

"(b) The State Board of Education shall review and evaluate the educational effectiveness of the charter schools authorized under this Article and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are located. The Board shall report annually no later than ~~February 15~~ June 15 to the Joint Legislative Education Oversight Committee on the following:

(1) The current and projected impact of charter schools on the delivery of services by the public schools.

(2) Student academic progress in the charter schools as measured, where available, against the academic year immediately preceding the first academic year of the charter schools' operation.

(3) Best practices resulting from charter school operations.

(4) Other information the State Board considers appropriate."

PART VII. SUPERINTENDENT MAY APPROVE BONDS TO FINANCE OR REFINANCE A CHARTER SCHOOL FACILITY

SECTION 7. Article 14A of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-218.37. Public approval for private activity bonds.**

(a) For purposes of this section, the following definitions shall apply:

(1) Charter school facility. – Real property, personal property, or both that is used or intended for use in connection with the operation of a charter school.

(2) Applicable elected representative. – An elected official of a governmental unit having jurisdiction over the area in which a charter school facility is located, as defined in section 147(f)(2) of the Internal Revenue Code (26 U.S.C. § 147(f)(2)).

(b) The Superintendent of Public Instruction is hereby designated as an applicable elected representative who may approve the issuance of one or more private activity bonds to finance or refinance a charter school facility, after a public hearing following reasonable public notice, in accordance with section 147(f) of the Internal Revenue Code (26 U.S.C. § 147(f)) and applicable State and federal laws and regulations. Procedures for the public hearing shall be determined by the Superintendent of Public Instruction, and the public hearing shall be conducted by the Superintendent or his or her designee, in the county where the charter school facility is or will be located."

PART VIII. REVISE SCHOOL ADMINISTRATOR INTERN STIPEND

SECTION 8. If Senate Bill 818, 2019 Regular Session, becomes law, then Section 6(c) of that act reads as rewritten:

"**SECTION 6.(c)** Participants in an approved full-time master's in school administration program shall receive up to a 10-month stipend during the internship period of the master's program. The stipend shall be at the beginning salary of an assistant principal ~~during the internship period of the master's program. The stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program.~~ or, for a teacher who becomes an intern, at least as much as that person would earn as a teacher on the teacher salary schedule. The Principal Fellows Program or the school of education where the intern participates in a full-time master's in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns."

PART IX. EXTEND MAXIMUM GRANT TERM TO SIX YEARS FOR THE NORTH CAROLINA TRANSFORMING PRINCIPAL PREPARATION PROGRAM

SECTION 9.(a) G.S. 116-74.46(c)(1) reads as rewritten:

"(1) The duration of grants shall be as follows:

a. Grants shall be no more than ~~five~~ six years and no fewer than two years in duration, unless the Commission finds early termination of a grant is necessary due to noncompliance with grant terms.

b. The Commission may renew a grant based on compliance with the grant terms and performance, including allowing the grantee to scale up or replicate the successful program as provided in subdivision (3) of this subsection."

SECTION 9.(b) This section becomes effective July 1, 2020, and applies to grants awarded or renewed on or after that date.

PART X. COVID-19 IMMUNITY FOR NONPUBLIC SCHOOLS

SECTION 10.(a) Article 39 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 5. COVID-19 Immunity.

"**§ 115C-567.10. Definitions.**

The following definitions apply in this Part:

(1) Claim. – A claim or cause of action seeking any legal or equitable remedy or relief.

(2) COVID-19. – The coronavirus disease 2019.

(3) COVID-19 emergency declaration. – Executive Order No. 116 issued March 10, 2020, by Governor Roy A. Cooper, including any amendments issued by executive order, subject to extensions under Chapter 166A of the General Statutes.

(4) COVID-19 essential business executive order. – Executive Order No. 121 issued March 27, 2020, by Governor Roy A. Cooper, including any amendments issued by executive order, subject to extensions under Chapter 166A of the General Statutes.

(5) Individual. – A person paying, or on whose behalf a third party is paying, tuition, fees, or room and board to a nonpublic school for the 2019-2020 academic year.

(6) Nonpublic school. – Any of the following schools, including the owners, directors, trustees, officers, employees, contractors, and agents of those schools:

a. A private church school or school of religious charter in compliance with Part 1 of this Article.

b. A qualified nonpublic school in compliance with Part 2 of this Article.

"**§ 115C-567.11. Tuition liability limitation.**

(a) Notwithstanding any other provision of law and subject to G.S. 115C-567.12, a nonpublic school shall have immunity from claims by an individual, if all of the following apply:

(1) The claim arises out of or is in connection with tuition or fees paid to the nonpublic school for the 2019-2020 academic year.

(2) The claim alleges losses or damages arising from an act or omission by the nonpublic school during or in response to COVID-19, the COVID-19 emergency declaration, or the COVID-19 essential business executive order.

(3) The alleged act or omission by the nonpublic school was reasonably related to protecting the public health, safety, or welfare in response to the COVID-19 emergency declaration, COVID-19 essential business executive order, or applicable guidance from the Centers for Disease Control and Prevention.

(4) The nonpublic school offered remote learning options for enrolled students during the 2019-2020 academic year that allowed students to complete the academic year.

(b) Subsection (a) of this section shall not apply to losses or damages that resulted solely from a breach of an express contractual provision allocating liability in the event of a pandemic event.

(c) Subsection (a) of this section shall not apply to losses or damages caused by an act or omission of the nonpublic school that was in bad faith or malicious.

"**§ 115C-567.12. Applicability.**

This Part applies to alleged acts or omissions occurring on or after the issuance of the COVID-19 emergency declaration until July 1, 2020. The provisions of this Part shall be in addition to all other immunities provided by applicable State law.

"**§ 115C-567.13. Severability.**

It is a matter of vital State concern affecting the public health, safety, and welfare that nonpublic schools continue to be able to fulfill their educational missions during the COVID-19 pandemic without civil liability for any acts or omissions for which immunity is provided in this Part. This Part shall be liberally construed to effectuate those public purposes. The provisions of this Part are severable. If any part of this Part is declared to be invalid by a court, the invalidity does not affect other parts of this Part that can be given effect without the invalid provision."

SECTION 10.(b) This section is effective when it becomes law and applies to all actions commenced on or after the effective date of this section.

PART XI. EFFECTIVE DATE

SECTION 11. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of June, 2020.

s/ Philip E. Berger

President Pro Tempore of the Senate

s/ Tim Moore

Speaker of the House of Representatives

s/ Roy Cooper

Governor

Approved 1:35 p.m. this 29th day of June, 2020

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