

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 522
HOUSE BILL 935

AN ACT TO DELETE THE REFERENCES TO THE DEPARTMENT OF PUBLIC
EDUCATION.

Whereas, a Department of Public Education was created in the Executive Reorganization Act of 1971; and

Whereas, the Department of Public Education is the only department created in the Executive Reorganization Act of 1971 that never had staff positions funded by the General Assembly; and

Whereas, the Department of Public Instruction was organized and established pursuant to G.S. 115C-21(a)(1); and

Whereas, the functions of the Department of Public Education have been and continue to be performed by the Department of Public Instruction under the supervision of the Superintendent of Public Instruction, and

Whereas, the current references in the General Statutes to the Department of Public Education and the Department of Public Instruction have resulted in confusion about the respective roles of the State Board of Education and the Superintendent that resulted in litigation between them; and

Whereas, the General Assembly is authorized under Article IX, Sections 2 and 5, and Article III, Section 7(1) and (2), of the Constitution to enact legislation defining the respective roles of the State Board of Education and the Superintendent of Public Instruction under the Constitution; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-21(b)(1a) reads as rewritten:

"(1a) To administer the funds appropriated ~~to the Department of Public Education~~ for the operations of the State Board of Education and for aid to local school administrative units."

Sec. 2. G.S. 115C-146.3(b) reads as rewritten:

"(b) ~~The Department of Public Education~~ State Board of Education shall cause local school administrative units to make available special education and related services to all preschool handicapped children whose parents or guardians request these services."

Sec. 3. G.S. 115C-238.2(b)(1) reads as rewritten:

"(1) Are exempt from State requirements to submit reports and plans, other than local school improvement plans, to the ~~Department of Public Education~~; they State Board of Education and the Department of

Public Instruction. They are not exempt from federal requirements to submit reports and plans to the Department."

Sec. 4. G.S. 115C-318 reads as rewritten:

"§ 115C-318. Liability insurance for nonteaching public school personnel.

~~The Department of Public Education and the~~ The State Board of Education shall provide for liability insurance for nonteaching public school personnel to the extent that such personnel's salaries are funded by the State. The insurance shall cover claims made for injury liability and property damage liability on account of an act done or an omission made in the course of the employee's duties. As provided by law or the rules and policies of the ~~Department of Public Education~~ State Board of Education or the local school administrative unit, the ~~Department and~~ State Board of Education shall comply with the State's laws in securing the insurance and shall provide it at the earliest possible date for the 1982-83 school year. Funds for this purpose shall be allocated from the State's Contingency and Emergency Fund. Nothing in this section shall prevent ~~the Department and~~ the State Board from furnishing the same liability insurance protection for nonteaching public school personnel not supported by State funds, provided that the cost of the protection shall be funded from the same source that supports the salaries of these employees."

Sec. 5. G.S. 115C-489.4(a) reads as rewritten:

"(a) There is created the Commission on School Facility Needs. The Commission shall be located administratively in the Department of Public ~~Education~~ Instruction but shall exercise all its prescribed statutory powers independently of the State Board of Education and the Department of Public Instruction."

The Commission shall consist of five members appointed by the General Assembly upon the recommendation of the President of the Senate in accordance with G.S. 120-121, one of whom shall be recommended by the President of the Senate to serve as cochairman, and five members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, one of whom shall be recommended by the Speaker of the House of Representatives to serve as cochairman.

The initial terms of members shall expire July 1, 1991. Their successors shall serve for four-year terms. A vacancy shall be filled for the remainder of the unexpired term in accordance with G.S. 120-122.

The initial meeting of the Commission shall be called jointly by the cochairmen.

Members of the Commission who are not State officers or employees shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5. Members who are State officers or employees shall be reimbursed for travel and subsistence in accordance with G.S. 138-6.

The Department of Public Instruction shall provide requested professional and clerical staff to the Commission. The Commission may also employ professional and clerical staff and may hire outside consultants to assist it in its work."

Sec. 6. G.S. 115D-3 reads as rewritten:

"§ 115D-3. Department of Community Colleges; staff.

The Department of Community Colleges shall be a principal administrative department of State government under the direction of the State Board of Community Colleges, and shall be separate from the free public school system of the ~~State and the Department of Public Education.~~ State, the State Board of Education, and the Department of Public Instruction. The State Board has authority to adopt and administer all policies, regulations, and standards which it deems necessary for the operation of the Department.

The State Board shall elect a President of the North Carolina System of Community Colleges who shall serve as chief administrative officer of the Department of Community Colleges. The compensation of this position shall be fixed by the State Board from funds provided by the General Assembly in the Current Operations Appropriations Act.

The President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Chapter, who shall be elected by the State Board on nomination of the President. The compensation of the staff members elected by the Board shall be fixed by the State Board of Community Colleges, upon recommendation of the President of the Community College System, from funds provided in the Current Operations Appropriations Act. These staff members shall include such officers as may be deemed desirable by the President and State Board. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs and institutional development, and for State and federal programs administered by the State Board. In addition, the President shall be assisted by such other employees as may be needed to carry out the provisions of this Chapter, who shall be subject to the provisions of Chapter 126 of the General Statutes. The staff complement shall be established by the State Board on recommendation of the President to insure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to insure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the system. The State Board of Community Colleges shall have all other powers, duties, and responsibilities delegated to the State Board of Education affecting the Department of Community Colleges not otherwise stated in this Chapter."

Sec. 7. G.S. 120-65 reads as rewritten:

"§ 120-65. Assistance of ~~Department of Human Resources and Department of Public Education.~~ Resources, State Board of Education, and Department of Public Instruction.

The Department of Human ~~Resources and the Department of Public Education~~ Resources, the State Board of Education, and the Department of Public Instruction are hereby declared vital departments of State government to ~~especially assist said especially the~~ Commission and to furnish ~~them~~ it with information, and to the extent permitted by the Commission, to ~~actively~~ participate actively in the work and deliberations of the Commission."

Sec. 8. G.S. 121-4(5) reads as rewritten:

"(5) With the cooperation of the ~~Department of Public Education, State Board of Education and the Department of Public Instruction~~ to develop, conduct, and assist in the coordination of a program for the better and more adequate teaching of State and local history in the public schools and the institutions of the community college system of North Carolina, including, as appropriate, the preparation and publication of suitable histories of all counties and of other appropriate materials, the distribution of such materials to the public schools and community college system for a reasonable charge, and the coordination of this program throughout the State."

Sec. 9. G.S. 122C-113(b1) reads as rewritten:

"(b1) The Secretary shall cooperate with the State Board of Education in coordinating the responsibilities of the Department of Human Resources ~~and of the Department of Public Education Resources~~, the State Board of Education, and the ~~Department of Public Instruction~~ for adolescent substance abuse programs. The Department of Human Resources, through its Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall be responsible for intervention and treatment in non-school based programs. The ~~Department of Public Education State Board of Education and the Department of Public Instruction~~ shall have primary responsibility for in-school education, identification, and intervention services, including student assistance programs."

Sec. 10. G.S. 126-4(7) reads as rewritten:

"(7) Cooperation with the ~~Department of Public Education, State Board of Education, the Department of Public Instruction~~, the University of North Carolina, and the Community Colleges of the State and other appropriate resources in developing programs in, including but not limited to, management and supervisory skills, performance evaluation, specialized employee skills, accident prevention, equal employment opportunity awareness, and customer service; and to maintain an accredited Certified Public Manager program."

Sec. 11. G.S. 130A-236 reads as rewritten:

"§ 130A-236. Regulation of sanitation in schools.

For the protection of the public health, the Commission shall adopt rules to establish sanitation requirements for public, private and religious schools. The rules shall address, but not be limited to, the cleanliness of floors, walls, ceilings, storage spaces and other areas; adequacy of lighting, ventilation, water supply, toilet and lavatory facilities; sewage collection, treatment and disposal facilities; and solid waste disposal. The Department shall inspect schools at least annually. The Department shall submit written inspection reports of public schools to the ~~Department of Public Education State Board of Education~~ and written inspection reports of private and religious schools to the Department of Administration."

Sec. 12. G.S. 143A-11 reads as rewritten:

"§ 143A-11. Principal departments.

Except as otherwise provided by this Chapter, or the State Constitution, all executive and administrative powers, duties and functions, not including those of the General Assembly and the judiciary, previously vested by law in the several State agencies, are vested in the following principal offices or departments:

- (1) Office of the Governor.
- (2) Office of the Lieutenant Governor.
- (3) Department of the Secretary of State.
- (4) Department of State Auditor.
- (5) Department of State Treasurer.
- (6) Department of Public ~~Education~~-Instruction.
- (7) Department of Justice.
- (8) Department of Agriculture.
- (9) Department of Labor.
- (10) Department of Insurance.
- (11) Department of Administration.
- (12) Department of Transportation.
- (13) Department of Environment, Health, and Natural Resources.
- (14) Repealed by Session Laws 1973, c. 476, s. 6.
- (15) Department of Social Rehabilitation and Control.
- (16) Department of Commerce.
- (17), (18) Repealed by Session Laws 1973, c. 476, s. 6.
- (19) Repealed by Session Laws 1973, c. 620, s. 9."

Sec. 13. The name of Article 5 of Chapter 143A of the General Statutes reads as rewritten:

"ARTICLE 5.

"Department of Public ~~Education~~-Instruction."

Sec. 14. G.S. 143A-39, 143A-40, 143A-41, 143A-42 and 143A-44 are repealed.

Sec. 15. G.S. 143A-48 reads as rewritten:

"§ 143A-48. Textbook Commission; transfer.

The Textbook Commission, as created by G.S. 115C-87 and the laws of this State, is hereby transferred by a Type I transfer to the Department of Public ~~Education~~-Instruction."

Sec. 16. G.S. 143B-181 reads as rewritten:

"§ 143B-181. Governor's Advisory Council on Aging – members; selection; quorum; compensation.

The Governor's Advisory Council on Aging of the Department of Human Resources shall consist of 33 members, 29 members to be appointed by the Governor, two members to be appointed by the Lieutenant Governor, and two members to be appointed by the Speaker of the House of Representatives. The composition of the Council shall be as follows: one representative of the Department of Administration; one representative of the Department of Cultural Resources; one representative of the Employment Security Commission; one representative of the Teachers' and State Employees' Retirement System; one representative of the Commissioner of Labor; one

representative of the Department of Public ~~Education; Instruction;~~ one representative of the Department of Environment, Health, and Natural Resources; one representative of the Department of Insurance; one representative of the Department of Crime Control and Public Safety; one representative of the Department of Community Colleges; one representative of the School of Public Health of The University of North Carolina; one representative of the School of Social Work of The University of North Carolina; one representative of the Agricultural Extension Service of North Carolina State University; one representative of the collective body of the Medical Society of North Carolina; and 19 members at large. The at large members shall be citizens who are knowledgeable about services supported through the Older Americans Act of 1965, as amended, and shall include persons with greatest economic or social need, minority older persons, and participants in programs under the Older Americans Act of 1965, as amended. The Governor shall appoint 15 members at large who meet these qualifications and are 60 years of age or older. The four remaining members at large, two of whom shall be appointed by the Lieutenant Governor and two of whom shall be appointed by the Speaker of the House of Representatives, shall be broadly representative of the major private agencies and organizations in the State who are experienced in or have demonstrated particular interest in the special concerns of older persons. At least one of each of the at-large appointments of the Lieutenant Governor and the Speaker of the House of Representatives shall be persons 60 years of age or older. The Council shall meet at least quarterly.

Members at large shall be appointed for four-year terms and until their successors are appointed and qualify. **Ad interim** appointments shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Governor shall designate one member of the Council as chairman to serve in such capacity at his pleasure.

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Human Resources."

Sec. 17. G.S. 143B-417(1) reads as rewritten:

- "(1) To determine the number of student interns to be allocated to each of the following offices or departments:
- a. Office of the Governor
 - b. Department of Administration
 - c. Department of Correction
 - d. Department of Cultural Resources
 - e. Department of Revenue
 - f. Department of Transportation
 - g. Department of Environment, Health, and Natural Resources

- h. Department of Commerce
- i. Department of Crime Control and Public Safety
- j. Department of Human Resources
- k. Office of the Lieutenant Governor
- l. Office of the Secretary of State
- m. Office of the State Auditor
- n. Office of the State Treasurer
- o. Department of Public ~~Education~~-Instruction
- p. Repealed by Session Laws 1985, c. 757, s. 162, effective July 1, 1985
- q. Department of Agriculture
- r. Department of Labor
- s. Department of Insurance
- t. Office of the Speaker of the House of Representatives
- u. Justices of the Supreme Court and Judges of the Court of Appeals
- v. Department of Community Colleges
- w. Office of State Personnel
- x. Office of the Senate President Pro Tempore;"

Sec. 18. G.S. 147-45 reads as rewritten:

"§ 147-45. Distribution of copies of State publications.

The Secretary of State shall, at the State's expense, as soon as possible after publication, provide such number of copies of the Session Laws and Senate and House Journals to federal, State, and local governmental officials, departments and agencies, and to educational institutions of instruction and exchange use, as is set out in the table below:

<u>Agency or Institution</u>	<u>Session Laws</u>	<u>Assembly Journals</u>
Governor, Office of the	3	2
Lieutenant Governor, Office of the	1	1
Secretary of State, Department of the	3	3
Auditor, Department of the State	3	1
Treasurer, Department of the State	3	1
Local Government Commission	2	0
Public Education, Department of	1	0
Superintendent of Public Instruction	3	1
Controller	1	0
Division of Community Colleges	3	1
Regional Service Centers	1 ea.	0
<u>State Board of Education</u>	<u>1</u>	<u>0</u>
<u>Department of Public Instruction</u>	<u>3</u>	<u>1</u>
<u>Controller</u>	<u>1</u>	<u>0</u>
<u>Technical Assistance Centers</u>	<u>1 ea.</u>	<u>0</u>

Department of Community Colleges	<u>3</u>	<u>1</u>
Justice, Department of		
Office of the Attorney General	25	3
Budget Bureau (Administration)	1	0
Property Control (Administration)	1	1
State Bureau of Investigation	1	0
Agriculture, Department of	3	1
Labor, Department of	5	1
Insurance, Department of	5	1
Administration, Department of	1	1
Budget Bureau	2	1
Controller	1	0
Property Control	1	0
Purchase and Contract	2	0
Policy and Development	1	0
Veterans Affairs Commission	1	0
Environment, Health, and Natural		
Resources, Department of	1	0
Division of Environmental Management	2	0
Board of Environment, Health, and		
Natural Resources	1	0
Soil and Water Conservation Commission	1	0
Wildlife Resources Commission	2	0
Revenue, Department of	5	1
Human Resources, Department of	3	0
Board of Human Resources	1	0
Health Services, Division of	3	0
Mental Health, Developmental		
Disabilities, and Substance Abuse Services,		
Division of	1	0
Social Services, Division of	3	0
Facilities Services, Division of	1	0
Youth Services, Division of	1	0
Hospitals and Institutions	1 ea.	0
Transportation, Department of	1	0
Board of Transportation	3	0
Motor Vehicles, Division of	1	0
Commerce, Department of	1	0
Economic Development, Division of	2	0
State Ports Authority	1	0
Alcoholic Beverage Control Commission,		
North Carolina	2	0
Banking Commission	2	0
Utilities Commission	8	1

Industrial Commission	7	0
Labor Force Development Council	1	0
Milk Commission	5	0
Employment Security Commission	1	1
Correction, Department of	1	0
Department of Correction	2	0
Parole Commission	2	0
State Prison	1	0
Correctional Institutions	1 ea.	0
Cultural Resources, Department of	1	0
Archives and History, Division of	5	1
State Library	5	5
Publications Division	1	1
Crime Control and Public Safety, Department of	2	1
North Carolina Crime Commission	1	0
Adjutant General	2	0
Elections, State Board of	2	0
Office of Administrative Hearings	2	0
Legislative Branch		
State Senators	1 ea.	1 ea.
State Representatives	1 ea.	1 ea.
Principal Clerk – Senate	1	1
Principal Clerk – House	1	1
Reading Clerk – Senate	1	1
Reading Clerk – House	1	1
Sergeant at Arms – House	1	1
Sergeant at Arms – Senate	1	1
Enrolling Clerk	1	0
Engrossing Clerk	1	0
Indexer of the Laws	1	0
Legislative Building Library	35	15
Judicial System		
Justices of the Supreme Court	1 ea.	1 ea.
Judges of the Court of Appeals	1 ea.	1 ea.
Judges of the Superior Court	1 ea.	0
Emergency and Special Judges of the Superior Court	1 ea.	0
District Court Judges	1 ea.	0
District Attorneys	1 ea.	0
Clerk of the Supreme Court	1	1
Clerk of the Court of Appeals	1	1
Administrative Office of the Courts	4	1
Supreme Court Library		AS MANY AS REQUESTED
Colleges and Universities		

The University North Carolina System		
Administrative Offices	3	0
University of North Carolina, Chapel Hill	65	25
University of North Carolina, Charlotte	3	1
University of North Carolina, Greensboro	3	1
University of North Carolina, Asheville	2	1
University of North Carolina, Wilmington	2	1
North Carolina State University, Raleigh	5	3
Appalachian State University	2	1
East Carolina University	3	2
Elizabeth City State University	2	1
Fayetteville State University	2	1
North Carolina Agricultural and		
Technical University	2	1
North Carolina Central University	5	5
Western Carolina University	2	1
Pembroke State University	2	1
Winston-Salem State University	2	1
North Carolina School of the Arts	1	1
Private Institutions		
Duke University	6	6
Davidson College	3	2
Wake Forest University	5	5
Lenoir Rhyne College	1	1
Elon College	1	1
Guilford College	1	1
Campbell College	5	5
Wingate College	1	1
Pfeiffer College	1	1
Barber Scotia College	1	1
Atlantic Christian College	1	1
Shaw University	1	1
St. Augustine's College	1	1
J.C. Smith University	1	1
Belmont Abbey College	1	1
Bennett College	1	1
Catawba College	1	1
Gardner-Webb College	1	1
Greensboro College	1	1
High Point College	1	1
Livingstone College	1	1
Mars Hill College	1	1
Meredith College	1	1
Methodist College	1	1

North Carolina Wesleyan College	1	1
Queens College	1	1
Sacred Heart College	1	1
St. Andrews Presbyterian College	1	1
Salem College	1	1
Warren Wilson College	1	1
County and Local Officials		
Clerks of the Superior Court	1 ea.	1 ea.
Register of Deeds	1 ea.	1 ea.
Federal, Out-of-State and Foreign		
Secretary to the President	1	0
Secretary of State	1	1
Secretary of Defense	1	0
Secretary of Agriculture	1	0
Secretary of the Interior	1	0
Secretary of Labor	1	1
Secretary of Commerce	1	1
Secretary of the Treasury	1	0
Secretary of Health, Education and Welfare	1	0
Secretary of Housing and Urban Development	1	0
Secretary of Transportation	1	0
Attorney General	1	0
Postmaster General	1	0
Bureau of Census	1	0
Bureau of Public Roads	1	0
Department of Justice	1	0
Department of Internal Revenue	1	0
Veterans' Administration	1	0
Farm Credit Administration	1	0
Securities and Exchange Commission	1	0
Social Security Board	1	0
Environmental Protection Agency	1	0
Library of Congress	8	2
Federal Judges resident in North Carolina	1 ea.	0
Federal District Attorneys resident in		
North Carolina	1 ea.	0
Marshal of the United States Supreme Court	1	0
Federal Clerks of Court resident in North Carolina	1 ea.	0
Supreme Court Library exchange list	1 ea.	0

One copy of the Session Laws shall be furnished the head of any department of State government created in the future.

State agencies, institutions, etc., not found in or covered by this list may, upon written request from their respective department head to the Secretary of State, and upon the discretion of the Secretary of State as to need, be issued copies of the Session

Laws on a permanent loan basis with the understanding that should said copies be needed they will be recalled."

Sec. 19. Section 86(g) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(g) Of the funds appropriated to the Board of Governors for the 1993-94 fiscal year, up to the sum of fifteen thousand dollars (\$15,000) shall be used to conduct the work of the Joint Committee. Of the funds appropriated ~~to the Department of Public Education~~ for aid to local school administrative units for the 1993-94 fiscal year, up to the sum of fifteen thousand dollars (\$15,000) shall be used to conduct the work of the Joint Committee."

Sec. 20. G.S. 115C-102.5, as enacted in Section 135(a) of Chapter 321 of the 1993 Session Laws, reads as rewritten:

"(a) There is created the Commission on School Technology. The Commission shall be located administratively in the Department of Public ~~Education~~ Instruction but shall exercise all its prescribed statutory powers independently of the ~~State Board of Education and the Department of Public Instruction~~."

Sec. 21. Section 208(c) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(c) Funds for ~~Department of Public Education~~.—Aid to Local School Administrative Units.—Funds appropriated to ~~the Department of Public Education~~ Aid to Local School Administrative Units in this act for members of the Willie M. Class are to establish a supplemental reserve fund to serve only members of the class identified in Willie M., et al. v. Hunt, et al., formerly Willie M., et al. v. Martin, et al. These funds shall be allocated by the State Board of Education to the local education agencies to serve those class members who were not included in the regular average daily membership and the census of children with special needs, and to provide the additional program costs which exceed the per pupil allocation from ~~the State Public School Fund~~ Aid to Local School Administrative Units and other State and federal funds for children with special needs."

Sec. 22. Section 208(e) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(e) Reporting Requirements. – The Department of Human ~~Resources and the Department of Public Education~~ Resources, the State Board of Education, and the Department of Public Instruction shall submit, by May 1 of each fiscal year, a joint report to the Governor and the General Assembly on the progress achieved in serving members of the Willie M. Class. The report shall include the following unduplicated data for each county: (i) the number of children nominated for the Willie M. Class; (ii) the number of children actually identified as members of the Class in each county; (iii) the number of children served as members of the Class in each county; (iv) the number of children who remain unserved or for whom additional services are needed in order to be determined to be appropriately served; (v) the types and locations of treatment and education services provided to Class members; (vi) the cost of services, by type, to members of the Class and the maximum and minimum rates paid to providers for each service; (vii) the number of cases whose treatment costs were in excess of one hundred

fifty percent (150%) of the average annual per client expenditure; (viii) information on the impact of treatment and education services on members of the Class; (ix) an explanation of, and justification for, any waiver of departmental rules that affect the Willie M. program; and (x) the total State funds expended, by program, on Willie M. Class members, other than those funds specifically appropriated for the Willie M. programs and services."

Sec. 23. Section 208(f) of Chapter 321 of the 1993 Session Laws reads as rewritten:

"(f) ~~The Departments of Human Resources and Public Education~~ Department of Human Resources, the State Board of Education, and the Department of Public Instruction shall provide periodic reports of expenditures and program effectiveness on behalf of the Willie M. Class and to the Fiscal Research Division. As part of these reports, the Departments shall explain measures they have taken to control and reduce program expenditures."

Sec. 24. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives