

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 90
Education/Higher Education Committee Substitute Adopted 3/15/23
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PROPOSED HOUSE COMMITTEE SUBSTITUTE S90-PCS35378-TC-78

Short Title: Schools for the Deaf and Blind Transition. (Public)

Sponsors:

Referred to:

February 13, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE ADDITIONAL CHANGES TO FACILITATE THE TRANSITION OF
3 THE SCHOOLS FOR THE DEAF AND BLIND TO GOVERNANCE BY BOARDS OF
4 TRUSTEES.

5 The General Assembly of North Carolina enacts:

6
7 **CLARIFY INDEPENDENCE OF SCHOOLS**

8 **SECTION 1.(a)** G.S. 115C-150.11 reads as rewritten:

9 "**§ 115C-150.11. ~~General supervision over~~ Establishment of the schools for the deaf and**
10 **blind.**

11 (a) Establishment. – The following are created as separate State agencies governed
12 respectively by boards of trustees:

13 (1) The Governor Morehead School for the Blind of the Department of Public
14 Instruction, for the function, purpose, and duty of serving students who are
15 blind or visually impaired from birth to age 22. The Governor Morehead
16 School for the Blind shall include the Governor Morehead Preschool.

17 (2) The Eastern North Carolina School for the Deaf of the Department of Public
18 Instruction, for the function, purpose, and duty of serving students who are
19 deaf or hard of hearing.

20 (3) The North Carolina School for the Deaf of the Department of Public
21 Instruction, for the function, purpose, and duty of serving students who are
22 deaf or hard of hearing.

23 (a1) State Board of Education Supervision. – The State Board of Education shall have
24 general supervision over the schools for the deaf and blind in accordance with G.S. 115C-12 and
25 shall establish approximately equivalent service areas for each school for the deaf that cover the
26 entire State. In establishing the service area for each school for the deaf, the State Board shall
27 consider both the geographic proximity to the school for the deaf and the population of the service
28 area. The State Board shall evaluate the effectiveness of the schools for the deaf and blind and
29 shall, through the application of the accountability system developed under G.S. 115C-83.15 and
30 G.S. 115C-105.35, measure the educational performance and growth of students placed in each
31 school. If appropriate, the Board may modify this system to adapt to the specific characteristics
32 of these schools. The boards of trustees for the schools for the deaf and blind shall be subject to
33 rules adopted by the State Board of Education in accordance with Chapter 150B of the General
34 ~~Statutes.~~ Statutes for public school units.



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1 (b) ~~Independent Operation.~~ Except as otherwise provided for in this Article, the schools
 2 ~~for the deaf and blind shall be housed administratively within the Department of Public~~
 3 ~~Instruction for purposes of distribution of State funds, but each school for the deaf and blind shall~~
 4 ~~operate independently with a board of trustees as the governing body.~~ Department of Public
 5 Instruction Support. – The Department of Public Instruction shall include employees of the
 6 schools for the deaf and blind in coverage for professional liability policies purchased by the
 7 Department for its employees and shall enter into a memorandum of understanding with the
 8 schools to facilitate the purchase of other insurance policies for those schools. In all other matters,
 9 the Department of Public Instruction shall provide services, support, and assistance to schools
 10 for the deaf and blind in the same manner and degree as for a local school administrative unit.

11 (c) Administrative Support. – The Department of Administration shall provide support
 12 to each school in matters related to finance, human resources, capital, and information
 13 technology. Each school shall enter into a memorandum of understanding with the Department
 14 of Administration with regard to this support. No civil liability shall attach to the Department of
 15 Administration, or to any of its employees, individually or collectively, for any acts or omissions
 16 of a school.

17 (d) Immunity. – In addition to all other immunities provided to them by applicable State
 18 law, a school, its board of trustees, and the school's members, employees, and agents shall be
 19 entitled to the specific immunities provided for this Chapter applying to the State Board of
 20 Education, Superintendent of Public Instruction, a local board of education, a local school
 21 administrative unit, and their members and employees. Immunity established by this subsection
 22 shall be deemed to be waived to the extent of indemnification under Article 31A and Article 31B
 23 of Chapter 143 of the General Statutes and to the extent sovereign immunity is waived under the
 24 State Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

25 **SECTION 1.(b)** G.S. 115C-150.16 reads as rewritten:

26 "**§ 115C-150.16. Applicability of Chapter.**

27 Except as otherwise provided in this Article and Article 7B of this Chapter, the requirements
 28 of this Chapter shall not apply to the schools for the deaf and blind. Schools for the deaf and
 29 blind shall ~~be considered a State agency, as defined in G.S. 143C-1-1, and shall comply with all~~
 30 requirements for State agencies in State law unless otherwise specified in this Article. Schools
 31 for the deaf and blind shall not be considered local school administrative units."
 32

33 **CLARIFY QUORUM REQUIREMENTS AND QUALIFICATIONS OF BOARD** 34 **MEMBERS**

35 **SECTION 2.(a)** G.S. 115C-150.12A(b) reads as rewritten:

36 "(b) Qualifications. – No employee of the school may be a member of the board of trustees
 37 of that school. A board member that becomes an employee of that school shall be deemed to
 38 resign from his or her membership on the board of trustees. Appointing entities are strongly
 39 encouraged to fill the appointments to each board of trustees with persons with expertise or
 40 experience in the areas of education for those who are deaf or hard of hearing or who are blind
 41 or visually impaired, administration and governance, finance and budgeting, or who otherwise
 42 have demonstrated concern for quality of education for those who are deaf or hard of hearing or
 43 who are blind or visually impaired."

44 **SECTION 2.(b)** G.S. 115C-150.12A(f) reads as rewritten:

45 "(f) Meetings. – A board of trustees shall meet at least four times a year and also at such
 46 other times as it may deem necessary. A majority of the voting members of the board shall
 47 constitute a quorum for the transaction of business. All meetings shall be subject to Article 33C
 48 of Chapter 143 of the General Statutes. The members shall receive per diem compensation and
 49 necessary travel and subsistence expenses while engaged in the discharge of their official duties,
 50 in accordance with the provisions of G.S. 138-5."
 51

CLARIFY AUTHORITY OF SCHOOL LEADERS

SECTION 3.(a) G.S. 115C-150.10(5) is repealed.

SECTION 3.(b) G.S. 115C-150.10 is amended by adding a new subdivision to read:
"(10) Superintendent. – The chief administrator of a school for the deaf or the school for the blind."

SECTION 3.(c) G.S. 115C-150.12B reads as rewritten:

"§ 115C-150.12B. Employees of schools for the deaf and blind.

(a) ~~Director. Superintendent.~~ – Each board of trustees of a school shall appoint a ~~director superintendent~~ for that school, ~~who school who~~ meets the requirements of G.S. 115C-271 for employment. The superintendent shall act as secretary to the board of trustees in accordance with G.S. 115C-150.12A and shall manage day-to-day operations of the school G.S. 115C-150.12A. All acts of the boards of trustees, not in conflict with State law, shall be binding on the superintendent, and the superintendent shall carry out all rules and regulations of the board and other duties as prescribed by the board of trustees. For purposes of application to other statutes in this Chapter, the ~~director superintendent~~ shall be the equivalent of a superintendent of schools a local school administrative unit and shall fulfill the duties of a superintendent as provided in Article 18 of this Chapter.

(b) ~~Director Superintendent Duties.~~ – The ~~director superintendent~~ shall recommend school personnel to the board of trustees. The ~~director superintendent~~ shall supervise the administrative staff of the school, including the principal, director of human resources, and director of business and finance.

...

(e) Human Resources. – The board of trustees is responsible for providing human resources and employment-related services for the school. The board of trustees may delegate some or all of this responsibility to the ~~director superintendent~~ for the school or to the director of human resources, in its discretion."

SECTION 3.(d) G.S. 115C-150.12C(14) reads as rewritten:

"(14) Conduct and duties of personnel. – The board of trustees, upon the recommendation of the ~~director superintendent~~, shall have full power to make rules governing the conduct of teachers, principals, and supervisors; the kind of reports they shall make; and their duties in the care of school property. Prior to the beginning of each school year, the board of trustees shall identify all reports that are required for the school year and shall, to the maximum extent possible, eliminate any duplicate or obsolete reporting requirements and consolidate remaining reporting requirements. Prior to the beginning of each school year, the board of trustees shall also identify software protocols that could be used to minimize repetitious data entry and shall make them available to teachers and other employees."

SECTION 3.(e) G.S. 115C-150.13A(c)(2)a. reads as rewritten:

"a. A chair designated by the ~~director superintendent~~ of the school."

SECTION 3.(f) G.S. 115C-150.13A(c)(4) reads as rewritten:

"(4) A final admissions determination made by the ~~director superintendent~~ of the school or the ~~director superintendent~~ of the school's designee."

SECTION 3.(g) G.S. 115C-150.13A(e) reads as rewritten:

"(e) Disenrollment. – A student's continued enrollment in an educational program assignment status shall be subject to reevaluation by the admissions committee when determined necessary by the school to assess if the student continues to meet eligibility criteria. The disenrollment assessment shall follow the same procedures as the admissions process, and a final determination shall be made by the ~~director superintendent~~ or the ~~director's superintendent's~~ designee."

SECTION 3.(h) G.S. 115C-150.15 reads as rewritten:

1 **"§ 115C-150.15. Reporting to schools on deaf and blind children.**

2 (a) Request for Consent. – ~~Local superintendents~~ Superintendents of local school
3 administrative units shall require that the following request for written consent, along with any
4 informational materials provided by the school for the blind or the school for the deaf in the
5 service area in which the local school administrative unit is located, be presented to parents or
6 custodians of any children who are deaf or hard of hearing or are blind or visually impaired no
7 later than October 1 of each school year: "North Carolina provides two public schools for the
8 deaf serving students who are deaf or hard of hearing: the Eastern North Carolina School for the
9 Deaf and the North Carolina School for the Deaf. North Carolina also has a public school for the
10 blind serving students who are blind or visually impaired: the Governor Morehead School for the
11 Blind. Do you consent to the release of your contact information and information regarding your
12 child and his or her hearing or vision status to these schools so that you can receive more
13 information on services offered by those campuses?"

14 (b) Annual Report to Schools for the Deaf and Blind. – ~~Local superintendents~~
15 Superintendents of local school administrative units shall report by November 30 each year the
16 names and addresses of parents or custodians of any deaf or hard of hearing or blind or visually
17 impaired children who have given written consent to the ~~directors~~ superintendents of the schools
18 for the deaf and blind. The report shall include whether the hearing and visual impairments range
19 from partial to total disability, and if the child has multiple disabilities with the visual or hearing
20 impairment not identified as the primary disability of the student. The report shall also be made
21 to the Department of Public Instruction.

22 (c) Confidentiality of Records. – The ~~directors~~ superintendents of the schools for the deaf
23 and blind shall treat any information reported to the schools by a ~~local superintendent~~ of a local
24 school administrative unit under subsection (b) of this section as confidential, except that a
25 ~~director~~ superintendent of the schools for the deaf and blind or the ~~director's~~ superintendent's
26 designee may contact the parents or custodians of any hearing impaired or visually impaired
27 children whose information was included in the report. The information shall not be considered
28 a public record under G.S. 132-1.

29 (d) Transfer of Information. – Upon the written request of a parent or custodian of a
30 student who has applied to a school for the deaf or school for the blind, the ~~local superintendent~~
31 of a local school administrative unit or, if there is no superintendent, the staff member with the
32 highest decision-making authority in the public school unit shall share with the ~~director of the~~
33 school superintendent of the schools for the deaf and blind a copy of all current evaluation data
34 and a copy of the current or proposed individualized education plan for any child enrolled in that
35 public school unit who is identified as a child with a disability who is deaf, hard of hearing, blind,
36 or visually impaired."
37

38 **AUTHORITY TO PURCHASE LIABILITY INSURANCE**

39 **SECTION 4.(a)** G.S. 115C-150.12C(2) reads as rewritten:

40 "(2) Exercise judicial functions. – The board of trustees shall employ or contract
41 with private counsel to provide advice and representation for the school. The
42 board may institute all actions, suits, or proceedings against officers, persons,
43 or corporations, or their sureties, for the recovery, preservation, and
44 application of all money or property which may be due to or should be applied
45 to the support and maintenance of the school. In all actions brought in any
46 court against a board of trustees, the order or action of the board shall be
47 presumed to be correct, and the burden of proof shall be on the complaining
48 party to show the contrary. G.S. 114-2.3 and G.S. 147-17 shall not apply to
49 the schools for the deaf and blind. Upon the request of the board of trustees of
50 a school, the Attorney General shall provide representation as required by
51 G.S. 114-2. Each school shall be regarded as a State agency for the purposes

1 of the State Tort Claims Act and associated representation by the Office of the
 2 Attorney General with regards to litigation defense."

3 **SECTION 4.(b)** G.S. 115C-150.12C(27) reads as rewritten:

4 "(27) Group accident and health insurance for students. – students, other liability
 5 insurance. – A board of trustees may purchase group purchase:

6 a. Group accident, group health, or group accident and health insurance
 7 for students in accordance with G.S. 58-51-81.

8 b. Liability insurance as provided in G.S. 115C-42 and directors and
 9 officers insurance. G.S. 115C-42 shall apply to a school that purchases
 10 liability insurance consistent with that section."

11

12 **APPEALS OF ADMISSIONS ELIGIBILITY TO BOARDS OF TRUSTEES**

13 **SECTION 5.(a)** G.S. 115C-150.13A(f) reads as rewritten:

14 "(f) Free Appropriate Public Education. – The local school administrative unit or charter
 15 school in which the student is enrolled shall have the initial responsibility of identifying and
 16 evaluating the special education needs of the student and providing a special educational program
 17 and related services in accordance with Article 9 of this Chapter. If a parent submits an
 18 application to the school for enrollment of the parent's child in the school's educational program,
 19 and if the child is determined to meet the eligibility criteria for admission to the school's
 20 educational program, the school is responsible for the provision of a free appropriate public
 21 education. – education upon enrollment. However, a subsequent determination by the school that
 22 the student no longer meets eligibility criteria immediately transfers the responsibility for the
 23 provision of a special educational program and related services to ensure a free appropriate public
 24 education back to the local school administrative unit or charter school in which the student was
 25 previously enrolled."

26 **SECTION 5.(b)** G.S. 115C-150.13A(h) reads as rewritten:

27 "(h) Due Process Hearing. – Eligibility Appeal. – A parent may seek an impartial due
 28 process hearing appeal to the board of trustees following a final determination on a student's
 29 eligibility by the director. If the parent pursues a due process hearing to challenge the school's
 30 ineligibility determination, the student's "stay put" placement shall not be the school but shall be
 31 the student's local school administrative unit or charter school superintendent. Parents may not
 32 seek an impartial due process hearing regarding any eligibility determination."

33 **SECTION 5.(c)** G.S. 150B-1(e) is amended by adding a new subdivision to read:

34 "(29) The Governor Morehead School for the Blind, Eastern North Carolina School
 35 for the Deaf, and the North Carolina School for the Deaf, with respect to
 36 eligibility determinations under G.S. 115C-150.13A."

37

38 **TRANSITION SUPPORT**

39 **SECTION 6.(a)** Section 5 of S.L. 2023-10 is repealed.

40 **SECTION 6.(b)** Notwithstanding G.S. 115C-150.11, as amended by this act, for the
 41 2024-2025 school year, the Department of Public Instruction shall administratively house the
 42 Governor Morehead School for the Blind, Eastern North Carolina School for the Deaf, and North
 43 Carolina School for the Deaf, until the earlier of June 30, 2025, or the certification by the Office
 44 of State Budget and Management that the schools have been established as a State agency. The
 45 Department of Public Instruction shall provide each board of trustees access to all records and
 46 information pertaining to the school and shall execute administrative matters at the direction of
 47 each board of trustees.

48 **SECTION 6.(c)** No civil liability shall attach to the State Board of Education, the
 49 Department of Public Instruction, the Superintendent of Public Instruction, or to any of their
 50 members or employees, individually or collectively, for any acts or omissions of the Governor

1 Morehead School for the Blind, Eastern North Carolina School for the Deaf, and North Carolina
2 School for the Deaf, the boards of trustees of those schools, or their members and employees.

3 **SECTION 6.(d)** The Office of the State Controller, Office of State Budget and
4 Management, and Department of Administration shall each designate an individual to serve as a
5 liaison for the schools for the deaf and blind to assist with technical and administrative questions
6 until the certification by the Office of State Budget and Management that the schools have been
7 established as a State agency.

8 9 **TYPE I-LIKE TRANSFER**

10 **SECTION 7.** Effective upon the certification by the Office of State Budget and
11 Management that the schools have been established as a State agency, the powers, duties, and
12 functions, records, personnel, contracts, property, unexpended balances of appropriations,
13 allocations or other funds, including the functions of budgeting and purchasing, are transferred
14 from the Department of Public Instruction and State Board of Education to the Governor
15 Morehead School for the Blind and Governor Morehead Preschool, Eastern North Carolina
16 School for the Deaf, and North Carolina School for the Deaf, respectively. The respective boards
17 of trustees of the Governor Morehead School for the Blind, Eastern North Carolina School for
18 the Deaf, and North Carolina School for the Deaf shall exercise all prescribed statutory powers,
19 including the management functions of planning, organizing, staffing, directing, coordinating,
20 reporting, and budgeting.

21 22 **REPORTING**

23 **SECTION 8.** Subsection (b) of Section 7 of S.L. 2023-10 reads as rewritten:

24 "**SECTION 7.(b)** Each board of trustees of the schools for the deaf and blind shall provide
25 interim reports to the Joint Legislative Education Oversight Committee by December 15, 2023,
26 and March 15, 2024, and a final report by ~~July 1, 2024,~~ September 1, 2024, on the plans and
27 progress in transitioning to assumption of administration of the schools for the deaf and blind,
28 with the support of and consultation with staff of the school for that board. The Department of
29 Public Instruction shall provide information as requested to each board of trustees. The reports
30 shall include the following:

31"

32 33 **GOVERNOR MOREHEAD SCHOOL FACILITIES**

34 **SECTION 9.(a)** The Department of Administration shall reassign all assets in all
35 assets in Complex 1-92-9, except for the Sunshine House, to the Governor Morehead School.

36 **SECTION 9.(b)** The Governor Morehead School and Department of Health and
37 Human Services may enter into a memorandum of understanding related to use of assets in
38 Complex 1-92-9 for shared services.

39 40 **TECHNICAL CORRECTIONS**

41 **SECTION 10.(a)** G.S. 14-458.2(a) reads as rewritten:

42 "(a) The following definitions apply in this section:

43 (1) School employee. – The term means any of the following:

44 a. An employee of a ~~local board of education, a charter school authorized~~
45 ~~under G.S. 115C 218.5, a regional school created under~~
46 ~~G.S. 115C 238.62, a laboratory school created under G.S. 116 239.7,~~
47 public school unit or a nonpublic school which has filed intent to
48 operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the
49 General Statutes.

50 b. An independent contractor or an employee of ~~an independent~~
51 ~~contractor of a local board of education, a charter school authorized~~

1 under ~~G.S. 115C-218.5~~, a regional school created under
 2 ~~G.S. 115C-238.62~~, a laboratory school created under ~~G.S. 116-239.7~~,
 3 a public school unit or a nonpublic school which has filed intent to
 4 operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the
 5 General Statutes, if the independent contractor carries out duties
 6 customarily performed by employees of the school.

- 7 (2) Student. – A person who has been assigned to a school by a local board of
 8 education as provided in ~~G.S. 115C-366~~ or has enrolled in a charter school
 9 authorized under ~~G.S. 115C-218.5~~, a regional school created under
 10 ~~G.S. 115C-238.62~~, a laboratory school created under ~~G.S. 116-239.7~~, public
 11 school unit or a nonpublic school which has filed intent to operate under Part
 12 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, or a person
 13 who has been suspended or expelled from any of those schools within the last
 14 year."

15 **SECTION 10.(b)** G.S. 115C-102.9(b) reads as rewritten:

16 "(b) Each public school unit shall annually submit all categories of information included
 17 in the digital learning dashboard no later than November 15. For subdivisions (2) and (3) of
 18 subsection (a) of this section, ~~residential~~ schools for the deaf and blind shall report on access and
 19 connectivity separately for the dormitories and the student's home."
 20

21 FUNDING

22 **SECTION 11.(a)** It is the intent of the General Assembly to appropriate funds on a
 23 recurring basis to provide for costs of the Department of Administration in providing
 24 administrative support for the Governor Morehead School for the Blind, Eastern North Carolina
 25 School for the Deaf, and North Carolina School for the Deaf. It is also the intent of the General
 26 Assembly to appropriate funds on a recurring basis to provide for insurance, legal, and
 27 information technology expenses.

28 **SECTION 11.(b)** Notwithstanding G.S. 115C-150.11(c), as enacted by this act, until
 29 the General Assembly appropriates funds to the Department of Administration (Department) to
 30 provide administrative support for the Governor Morehead School for the Blind, Eastern North
 31 Carolina School for the Deaf, and North Carolina School for the Deaf (Schools), in order to
 32 receive support from the Department, those Schools shall be required to jointly enter into a
 33 memorandum of understanding with the Department that includes payment to the Department
 34 for the costs of administrative support on a monthly basis of up to fifty-seven thousand
 35 eighty-three dollars (\$57,083). If the Department is appropriated funds for costs of administrative
 36 support for the Schools, the Department shall reimburse the Schools for any payments made
 37 under the memorandum of understanding in that fiscal year.
 38

39 EFFECTIVE DATE

40 **SECTION 12.** Sections 1, 2, 3, 4, and 5 of this act are effective July 1, 2024. The
 41 remainder of this act is effective when it becomes law.