

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 639
Apr 9, 2019
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH30290-MKa-186A

Short Title: Clarify Roles DPI/SBE Staff. (Public)

Sponsors: Representatives Saine, Jones, and D. Hall (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE SUPERINTENDENT OF PUBLIC INSTRUCTION'S ROLE AS
3 THE ADMINISTRATIVE HEAD FOR THE STAFF OF THE DEPARTMENT OF PUBLIC
4 INSTRUCTION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 115C-11 reads as rewritten:

7 "§ 115C-11. Organization and internal procedures of Board.

8 ...

9 (i) Administrative Assistance. – The Superintendent of Public Instruction shall provide
10 technical assistance and administrative assistance, including all personnel except as otherwise
11 provided in subsection (j) of this section, assistance, administrative assistance, legal services, and
12 personnel to the State Board of Education through the Department of Public
13 Instruction. Instruction to support its operations, as needed.

14 (j) Certain Personnel Appointed by the State Board. – The State Board may appoint only
15 the following personnel positions to support the operations of the State Board of Education
16 through the Department of Public Instruction:

	Position number	Title
17		
18	(1) 65023576	Attorney I.
19	(2) 60009384	Attorney II.
20	(3) 65003194	Paralegal II.
21	(4) 60095070	Administrative Assistant I."

22 SECTION 2. G.S. 115C-13.5 reads as rewritten:

23 "§ 115C-13.5. Prohibition on use of State funds to employ private counsel in litigation.

24 As provided in G.S. 114-2.3(d) and G.S. 147-17(c1), the State Board of Education shall not
25 use any State funds to employ private counsel to provide litigation services to the State Board of
26 Education. As used in this section, litigation services include legal work conducted in anticipation
27 of or in preparation for any suit or action. As used in this section, private counsel includes any
28 licensed attorney retained, engaged, or otherwise representing the State Board of Education but
29 does not include a licensed attorney who holds a permanent budgeted position in either the
30 Department of Justice or the State Board of Education. Department of Public Instruction."

31 SECTION 3. G.S. 115C-21(a) reads as rewritten:

32 "(a) Administrative Duties. – It shall be the duty of the Superintendent of Public
33 Instruction:

- 34 (1) To organize and establish a Department of Public Instruction which shall
35 include divisions and departments for supervision and administration of the
36 public school system, to administer the funds appropriated for the operation



of the Department of Public Instruction, in accordance with all needed rules and regulations adopted by the State Board of Education, and to enter into contracts for the operations of the Department of Public Instruction. All appointments of administrative and supervisory personnel to the staff of the Department of Public Instruction and the State Board of Education, ~~except for certain personnel appointed by the State Board of Education as provided in G.S. 115C-11(j),~~ Education shall be under the control and management of the Superintendent of Public Instruction who may terminate these appointments in conformity with Chapter 126 of the General Statutes, the North Carolina Human Resources Act.

...

(9) To have under his or her direction and control all matters relating to the provision of staff ~~services, except certain personnel appointed by the State Board as provided in G.S. 115C-11(j),~~ services and support of the State Board of Education, including implementation of federal programs on behalf of the State Board."

SECTION 4. Article 3 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-23. Powers and duties of the Superintendent related to legal services.

The Superintendent of Public Instruction, as an elected officer, Council of State member, and the administrative head of the Department of Public Instruction responsible for the day-to-day supervision and administration of the public school system, shall establish a general counsel division within the Department of Public Instruction to manage the entirety of legal affairs of the Department and to provide legal services, as needed, to support the operations of the State Board of Education."

SECTION 5. Section 7.18(b) of S.L. 2017-57 is repealed.

SECTION 6. The Department of Public Instruction shall eliminate the following positions:

	<u>Position number</u>	<u>Title</u>
(1)	60009384	Attorney II.
(2)	60009394	Legislative and Community Affairs Director.

Of the two hundred seventy-six thousand one dollars (\$276,001) made available in the Department of Public Instruction's budget from the elimination of positions in accordance with this section, by July 1, 2019, the Superintendent of Public Instruction shall use up to one hundred fifteen thousand dollars (\$115,000) to establish a full-time equivalent position, including salaries and benefits, for a Rules Coordinator, who shall be responsible for oversight of all the duties and responsibilities of the State Board of Education and the Department of Public Instruction for administrative rule making and for meeting the requirements of Chapter 150B of the General Statutes.

SECTION 7. This act is effective when it becomes law.