

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 935
Committee Substitute Favorable 5/1/13

Short Title: NC Pre-K Law Changes.

(Public)

Sponsors:

Referred to:

April 15, 2013

A BILL TO BE ENTITLED

AN ACT RENAMING THE CHILD CARE COMMISSION THE EARLY CHILDHOOD CARE AND EDUCATION COMMISSION, EXPANDING THE SCOPE OF THE COMMISSION TO ENCOMPASS ISSUES RELATING TO EARLY CHILDHOOD EDUCATION PROGRAMS, AND MAKING OTHER CONFORMING STATUTORY CHANGES; REQUIRING THAT LOCAL PARTNERSHIPS SHALL BE THE SOLE CONTRACT ADMINISTRATORS FOR THE PREKINDERGARTEN (NC PRE-K) PROGRAM; AND CLARIFYING THE DEFINITION OF "AT-RISK" AS RELATED TO ELIGIBILITY FOR PARTICIPATION IN NC PREKINDERGARTEN PROGRAM.

The General Assembly of North Carolina enacts:

PART I. EARLY CHILDHOOD CARE AND EDUCATION COMMISSION

SECTION 1. G.S. 110-86(1) reads as rewritten:

"§ 110-86. Definitions.

Unless the context or subject matter otherwise requires, the terms or phrases used in this Article shall be defined as follows:

(1) Commission. – ~~The Child Care Commission created under this Article.~~ Early Childhood Care and Education Commission."

SECTION 2. G.S. 110-91(4) reads as rewritten:

"§ 110-91. Mandatory standards for a license.

All child care facilities shall comply with all State laws and federal laws and local ordinances that pertain to child health, safety, and welfare. Except as otherwise provided in this Article, the standards in this section shall be complied with by all child care facilities. However, none of the standards in this section apply to the school-age children of the operator of a child care facility but do apply to the preschool-age children of the operator. Children 13 years of age or older may receive child care on a voluntary basis provided all applicable required standards are met. The standards in this section, along with any other applicable State laws and federal laws or local ordinances, shall be the required standards for the issuance of a license by the Secretary under the policies and procedures of the Commission except that the Commission may, in its discretion, adopt less stringent standards for the licensing of facilities which provide care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time basis.

(4) Building. – Each child care facility shall be located in a building which meets the appropriate requirements of the North Carolina Building Code under standards which shall be developed by the Building Code Council,



1 subject to adoption by the Commission specifically for child care facilities,
 2 including facilities operated in a private residence. These standards shall be
 3 consistent with the provisions of this Article. A local building code
 4 enforcement officer shall approve any proposed alternate material, design, or
 5 method of construction, provided the building code enforcement officer
 6 finds that the alternate, for the purpose intended, is at least the equivalent of
 7 that prescribed in the technical building codes in quality, strength,
 8 effectiveness, fire resistance, durability, or safety. A local building code
 9 enforcement officer shall require that sufficient evidence or proof be
 10 submitted to substantiate any claim made regarding the alternate. The ~~Child~~
 11 Early Childhood Care and Education Commission may request changes to
 12 the Building Code to suit the special needs of preschool children.
 13 Satisfactorily written reports from representatives of building inspection
 14 agencies shall be required prior to the issuance of a license and whenever
 15 renovations are made to a child care center, or when the operator requests
 16 licensure of space not previously approved for child care."

17 **SECTION 3.** G.S. 120-123(44) reads as rewritten:

18 **"§ 120-123. Service by members of the General Assembly on certain boards and**
 19 **commissions.**

20 No member of the General Assembly may serve on any of the following boards or
 21 commissions:

22 ...

23 (44) ~~The Child~~ Early Childhood Care and Education Commission, as established
 24 by G.S. 143B-168.3."

25 **SECTION 4.** G.S. 143B-138.1 reads as rewritten:

26 **"§ 143B-138.1. Department of Health and Human Services – functions and organization.**

27 (a) All functions, powers, duties, and obligations previously vested in the following
 28 commissions, boards, councils, committees, or subunits of the Department of Human
 29 Resources are transferred to and vested in the Department of Health and Human Services by a
 30 Type I transfer, as defined in G.S. 143A-6:

31 ...

32 (11) ~~Division of Child Development.~~ Development and Early Education.

33 ...

34 (b) All functions, powers, duties, and obligations previously vested in the following
 35 commissions, boards, councils, committees, or subunits of the Department of Human
 36 Resources are transferred to and vested in the Department of Health and Human Services by a
 37 Type II transfer, as defined in G.S. 143A-6:

38 ...

39 (8) ~~Child Day Care Commission.~~ Early Childhood Care and Education
 40 Commission.

41"

42 **SECTION 5.** G.S. 143B-147(a) reads as rewritten:

43 "(a) There is hereby created the Commission for Mental Health, Developmental
 44 Disabilities, and Substance Abuse Services of the Department of Health and Human Services
 45 with the power and duty to adopt, amend and repeal rules to be followed in the conduct of State
 46 and local mental health, developmental disabilities, substance abuse programs including
 47 education, prevention, intervention, screening, assessment, referral, detoxification, treatment,
 48 rehabilitation, continuing care, emergency services, case management, and other related
 49 services. Such rules shall be designed to promote the amelioration or elimination of the mental
 50 illness, developmental disabilities, or substance abuse problems of the citizens of this State.
 51 Rules establishing standards for certification of child care centers providing Developmental

1 Day programs are excluded from this section and shall be adopted by the ~~Child~~Early
 2 Childhood Care and Education Commission under G.S. 110-88. The Commission for Mental
 3 Health, Developmental Disabilities, and Substance Abuse Services shall have the authority:

4"

5 **SECTION 6.** G.S. 143B-168.3 reads as rewritten:

6 "**§ 143B-168.3. Child Care Commission – powers and duties.**

7 (a) The Child Day-Care Licensing Commission of the Department of Administration ~~is~~
 8 ~~that was transferred, recodified, and renamed the Child Care Commission of the Department of~~
 9 ~~Health and Human Services~~ is renamed the Early Childhood Care and Education Commission
 10 of the Department of Health and Human Services with the power and duty to adopt rules to be
 11 followed in the licensing and operation of child care facilities as provided by Article 7 of
 12 Chapter 110 of the General ~~Statutes.~~Statutes and regarding the provision of early childhood
 13 care and education programs.

14 (a1) The ~~Child~~Early Childhood Care and Education Commission shall adopt rules:

15 (1) For the issuance of licenses to any child care facility; and

16 (2) To adopt rules as provided by Article 7 of Chapter 110 of the General
 17 Statutes of the State of North Carolina, and to establish standards for
 18 enhanced program licenses, as authorized by G.S. 110-88(7).

19 (3) In collaboration with appropriate agencies, establishing policies and
 20 procedures to ensure coordination among early childhood care and education
 21 programs, including completing necessary memoranda of agreement among
 22 federal- and State-funded programs.

23 (b) The Early Childhood Care and Education Commission shall adopt rules consistent
 24 with the provisions of this Chapter. All rules ~~not inconsistent~~consistent with the provisions of
 25 this Chapter ~~heretofore previously adopted by the Child Day-Care Licensing Commission and~~
 26 ~~the Child Care Commission~~ shall remain in full force and effect unless and until repealed or
 27 superseded by action of the ~~Child~~Early Childhood Care and Education Commission. All rules
 28 and regulations adopted by the Early Childhood Care and Education Commission shall be
 29 enforced by the Department of Health and Human Services."

30 **SECTION 7.** G.S. 143B-168.4 reads as rewritten:

31 "**§ 143B-168.4. ChildEarly Childhood Care and Education Commission – members;**
 32 **selection; quorum.**

33 (a) The ~~Child~~Early Childhood Care and Education Commission of the Department of
 34 Health and Human Services shall consist of ~~17~~11 members. ~~Seven~~Five of the members shall
 35 be appointed by the Governor and ~~10~~six by the General Assembly, ~~five~~three upon the
 36 recommendation of the President Pro Tempore of the Senate, and ~~five~~three upon the
 37 recommendation of the Speaker of the House of Representatives. ~~Four~~Two of the members
 38 appointed by the Governor, ~~two~~ by the General Assembly ~~on the recommendation of the~~
 39 ~~President Pro Tempore of the Senate, and two by the General Assembly on the~~
 40 ~~recommendation of the Speaker of the House of Representatives,~~Governor shall be members of
 41 the public who are not employed in, or providing, child care and who have no financial interest
 42 in a child care facility. ~~Two of the foregoing~~One of the public members appointed by the
 43 Governor, one of the ~~foregoing~~ public members recommended by the President Pro Tempore of
 44 the Senate, and one of the ~~foregoing~~ public members recommended by the Speaker of the
 45 House of Representatives shall be parents of children receiving child care or early childhood
 46 education services. ~~Of the remaining two public members appointed by the Governor, one~~One
 47 member appointed by the Governor shall be a pediatrician currently licensed to practice in
 48 North Carolina. ~~Three of the members~~One member appointed by the Governor shall be a child
 49 care provider, ~~one of whom shall be affiliated with a for profit child care center, one of whom~~
 50 ~~shall be provider~~ affiliated with a for profit family child care ~~home, and one of whom shall be~~
 51 ~~affiliated with a nonprofit facility.~~ Two home. One of the members appointed by the General

1 Assembly on the recommendation of the President Pro Tempore of the Senate, and ~~two~~ one of
2 the members appointed by the General Assembly on the recommendation of the Speaker of the
3 House of Representatives, shall be child care providers, one affiliated with a for profit child
4 care facility, and one affiliated with a nonprofit child care facility. At least one of the appointed
5 child care providers shall participate in the NC Pre-K program. The General Assembly, upon
6 the recommendation of the President Pro Tempore of the Senate, and the General Assembly,
7 upon the recommendation of the Speaker of the House of Representatives, shall appoint two
8 early childhood education specialists. None of the members appointed to the Commission may
9 be employees of the State.

10 (b) ~~Members shall be appointed as follows:~~

11 (1) ~~Of the Governor's initial appointees, four shall be appointed for terms~~
12 ~~expiring June 30, 1986, and three shall be appointed for terms expiring June~~
13 ~~30, 1987;~~

14 (2) ~~Of the General Assembly's initial appointees appointed upon~~
15 ~~recommendation of the President of the Senate, two shall be appointed for~~
16 ~~terms expiring June 30, 1986, and two shall be appointed for terms expiring~~
17 ~~June 30, 1987;~~

18 (3) ~~Of the General Assembly's initial appointees appointed upon~~
19 ~~recommendation of the Speaker of the House of Representatives, two shall~~
20 ~~be appointed for terms expiring June 30, 1986, and two shall be appointed~~
21 ~~for terms expiring June 30, 1987.~~

22 Appointments by the General Assembly shall be made in accordance with G.S. 120-121. ~~After~~
23 ~~the initial appointees' terms have expired, all~~ All members shall be appointed to serve two-year
24 terms. Any appointment to fill a vacancy on the Commission created by the resignation,
25 dismissal, death, or disability of a member shall be for the balance of the unexpired term.

26 (c) A vacancy occurring during a term of office is filled:

27 (1) By the Governor, if the Governor made the initial appointment;

28 (2) By the General Assembly, if the General Assembly made the initial
29 appointment in accordance with G.S. 120-122.

30 ~~At its first meeting the~~ The Commission members shall elect a chairman to serve a two-year
31 term. ~~Chairmen shall be elected for two year terms thereafter.~~ The same member may serve as
32 chairman for two consecutive terms.

33 Commission members may be reappointed and may succeed themselves for a maximum of
34 four consecutive terms.

35 The Commission shall meet quarterly, and at other times at the call of the chairman or upon
36 written request of at least six members.

37 The members of the Commission shall receive per diem and necessary travel and
38 subsistence expenses in accordance with the provisions of G.S. 138-5. A majority of the
39 Commission shall constitute a quorum for the transaction of business.

40 All clerical and other services required by the Commission shall be supplied by the
41 Secretary of Health and Human Services."

42 **SECTION 8.** G.S. 143B-168.5 reads as rewritten:

43 "**§ 143B-168.5. Child Care – special unit.**

44 There is established within the Department of Health and Human Services a special unit to
45 deal primarily with violations involving child abuse and neglect in child care arrangements.
46 The ~~Child~~ Early Childhood Care and Education Commission shall make rules for the
47 investigation of reports of child abuse or neglect and for administrative action when child abuse
48 or neglect is substantiated, pursuant to G.S. 110-88(6a), 110-105, and 110-105.2."

49 **SECTION 9.(a)** Except as otherwise provided in subsection (b) of this section,
50 members serving on the Early Childhood Care and Education Commission, renamed under

1 G.S. 143B-168.3, as enacted in Section 6 of this act, on the effective date of this act may
2 complete the terms for which they were appointed.

3 **SECTION 9.(b)** The terms of the two members appointed by the Governor, the
4 terms of the two members appointed by the General Assembly on the recommendation of the
5 President Pro Tempore of the Senate, and the terms of the two members appointed by the
6 General Assembly on the recommendation of the Speaker of the House of Representatives who
7 are members of the public and not employed in, or providing, child care and who have no
8 financial interest in a child care facility who are currently serving on the Child Care
9 Commission shall expire on the effective date of this act.

10 **SECTION 10.** The Department of Health and Human Services, Division of Child
11 Development and Early Education, shall report to the Joint Legislative Oversight Committee on
12 Health and Human Services no later than September 1, 2014, on the Early Childhood Care and
13 Education Commission's progress in establishing rules, policies, and procedures under
14 G.S. 143B-168.3(a1)(3), as enacted by Section 6 of this act.

15 16 **PART II. LOCAL PARTNERSHIPS SOLE CONTRACT ADMINISTRATORS/NC** 17 **PRE-K**

18 **SECTION 11.** Beginning July 1, 2013, local partnerships shall serve as the sole
19 contract administrators of the prekindergarten (NC Pre-K) program. Local school
20 administrative units shall not serve as contract administrators for the NC Pre-K program. The
21 administration of the NC Pre-K programs shall be subject to the biennial financial and
22 compliance audits authorized in G.S. 143B-168.14(b).

23 24 **PART III. CLARIFY DEFINITION OF "AT-RISK"/NC PRE-K ELIGIBILITY**

25 **SECTION 12.** The prekindergarten program may continue to serve at-risk children
26 identified through the existing "child find" methods in which at-risk children are currently
27 served within the Division of Child Development. To be enrolled in the prekindergarten
28 program, a child must be four years of age on or before August 31 of the program year. For
29 purposes of determining a child's eligibility for the prekindergarten program, the term "at-risk"
30 shall be defined to include the following:

- 31 (1) A child whose family's gross income is at or below one hundred percent
32 (100%) of the federal poverty guidelines.
- 33 (2) A child with an identified disability as indicated by the child having a
34 current Individualized Education Program (IEP) as defined under
35 G.S.115C-106.3(8).
- 36 (3) A child of either of the following: (i) an active duty member of the Armed
37 Forces of the United States, including the North Carolina National Guard,
38 State military forces, or a reserve component of the Armed Forces, who was
39 ordered to active duty by the proper authority within the last 18 months or is
40 expected to be ordered within the next 18 months or (ii) a member of the
41 Armed Forces of the United States, including the North Carolina National
42 Guard, State military forces, or a reserve component of the Armed Forces,
43 who was injured or killed while serving on active duty.

44 Eligibility determinations for prekindergarten participants may continue through local North
45 Carolina Partnership for Children, Inc., partnerships.

46 47 **PART IV. EFFECTIVE DATE**

48 **SECTION 13.** This act becomes effective July 1, 2013.