



Legislative Link

A Publication for the Members of the N.C. Association of School Administrators

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State Superintendent Wins Lawsuit Over Her Authority

State Superintendent June Atkinson has won at least the first round in the legal battle over who is in charge of public education in North Carolina.

Wake Superior Court Judge Robert Hobgood ruled today that Atkinson, who was elected statewide as the State Superintendent of Public Instruction, has the authority under North Carolina's Constitution to run the state's schools. Hobgood ruled that the State Board of Education has the authority to set policy for the state's public schools, but that the State Constitution dictates that Atkinson as State Superintendent is responsible for implementing those policies.

Atkinson, a Democrat, had sued Democratic Gov. Beverly Perdue and the State Board of Education for improperly stripping her of her duties in March by appointing former Cumberland Schools Superintendent William Harrison to run the state Department of Public Instruction in a dual role as Chief Executive Officer of Public Schools and Chairman of the State Board of Education. That prompted Atkinson to file a lawsuit in April.

Deputy Attorney General Mark Davis had argued in court earlier this week that the State Constitution gives the legislature the right to set out the State Superintendent's duties, and the law says the Superintendent will do what the State Board of Education prescribes for her job duties.

Former Supreme Court Justice Robert Orr, who is defending Atkinson in this case, argued that the State Constitution gives the State Superintendent the authority to administer public schools, and he contends that authority cannot be transferred to another person or entity without a Constitutional amendment approved by the voters of North Carolina.

Hobgood's ruling agrees that the Constitution gives the State Superintendent the right to administer public schools on a daily basis. His ruling is effective immediately because he issued a memorandum order for injunctive relief to require that the State Superintendent be given the authority to oversee the daily operations of DPI and the public school system.

Davis of the State Attorney General's Office asked the judge to delay implementation of his orders.

"This sweeping opinion will have a significant impact on the day-to-day operations of the Department of Public Instruction," Davis said. "To change (authority for the department) once and then potentially in nine months to a year have to change it back would not be beneficial to the schoolchildren of this state."

Judge Hobgood, however, denied that request, even though Davis gave notice that the state will appeal the ruling.

Media reports about this ruling, along with a copy of the ruling once it becomes available, are accessible at: <http://www.ncasa.net/displaycommon.cfm?an=1&subarticlenbr=228>.

The North Carolina Association of School Administrators (NCASA) will provide additional updates on this issue as developments occur.

State Spending Authority Extended To July 31

The House and Senate this week approved a second stopgap spending measure that will keep state government and public schools running through July 31 in the absence of a new state budget for the fiscal year that started July 1. The new legislation on continuing budget authority will fund state government operations at 84 percent of the levels authorized under the 2008-09 state budget.

The House voted for the plan contained in House Bill 1504 in a 109-9 vote; the Senate voted 46-1. Gov. Beverly Perdue signed the measure shortly after it cleared both chambers and on the same day that the first budget extension expired July 15.

As the budget extension was being finalized this week, conflicting reports on how close budget negotiators actually are to reaching a compromise on the new 2009-2011 state spending plan dominated the hallways of the General Assembly. Some reports indicated negotiators were close to clinching a deal and would likely have a final budget bill to vote on next week, while other reports caused some statewide advocacy groups to send out alerts warning that the revenue package to fund the state budget is shrinking under some of the counter-offers being exchanged by House and Senate negotiators. One such alert said the earlier agreed upon revenue package that would generate \$990 million for this current fiscal year was being cut to \$450 million and would result in \$540 million in additional cuts to education, health, public safety and other core state services.

One of the top House negotiators told the North Carolina Association of School Administrators (NCASA) late Thursday that a budget deal is close as long as the “revenue package doesn’t fall apart.” Another House budget conferee involved with negotiating the education spending plan told NCASA today that the Central Office cut has been reduced from \$60 million to \$14.6 million, the Department of Public Instruction will lose 64 positions instead of 100, and funding has been added for the N.C. Virtual School and the comprehensive reform initiative that DPI is implementing.

Still unresolved in the education budget as of this morning are decisions on class size for K-12, and thereby determining the number of teachers school districts can employ. The latest proposal that is reportedly under consideration is increasing class size by one-half a student in Grades K-3 and by 2 students in Grades 4-12 for the 2009-10 school year.

With these reports from the negotiating room, and the numerous decisions left to finalize for the education budget and the revenue package, it is more important than ever for NCASA members to make contacts with lawmakers to share the following key messages:

- **Provide adequate new revenues to prevent devastating cuts to public schools.**
- **Protect public school classrooms and jobs.**
- **Avoid deep cuts to school system central office operations**, since these cuts cannot be offset by other state or federal funds, and local funds are inadequate to cover these losses.

Contact information for budget conferees, charts and other information highlighting education budgets approved by the House and Senate, talking points about budget priorities for public schools, and other information is at <http://www.ncasa.net/displaycommon.cfm?an=1&subarticlenbr=199>. Contact information for all Representatives and Senators is at <http://www.ncasa.net/displaycommon.cfm?an=3>.

General Assembly Confirms State Board Appointments

Lawmakers have confirmed Governor Beverly Perdue's three nominations to the State Board of Education. Members of the House and Senate, meeting in a joint session Monday night, voted unanimously to give eight-year terms to Wayne McDevitt, Patricia Willoughby and Reginald Kenan.

McDevitt and Willoughby have been on the board since 2001. Kenan, a new board member, has been on the Duplin County school board since 1989.

McDevitt currently serves as Senior Vice Chancellor at his alma mater, UNC-Asheville, and has been recognized with the university's Achievement Award, Distinguished Alumnus Award and the Chancellor's Medallion. McDevitt served as Chief of Staff for Governor James B. Hunt and on the state's Executive Cabinet as Secretary of the Department of Environment and Natural Resources.

Willoughby is a former classroom teacher and a former member of the School of Education faculty at Meredith College. She received her bachelor's degree in early childhood education from the University of North Carolina at Chapel Hill and a master's degree in education from Meredith College. She served as State Superintendent of the Department of Public Instruction during 2004-05 and currently is the Executive Director of the North Carolina Business Committee for Education, a non-profit organization whose focus is K-12 education.

The Governor appoints 11 of the 13 voting members of the State Board of Education, which also includes the Lieutenant Governor and the State Treasurer, who both are elected statewide.

Summary Of This Week's Action On Bills Affecting Public Schools

For a complete summary of this week's actions on legislation affecting public schools and their personnel, please see this week's "Weekly Bill Action Summary" on NCASA's website at: <http://www.ncasa.net/displaycommon.cfm?an=1&subarticlenbr=227>. The same site offers a status report on all bills NCASA is tracking for our members during the 2009 legislative session, and that information is arranged in categories to make it easier to locate specific legislation of interest.

*For additional information on these or other legislative issues, contact
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