**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3532**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Crawford

Document Path: l:\council\bills\nbd\11139ac11.docx

Introduced in the House on February 2, 2011

Currently residing in the House Committee on **Education and Public Works**

Summary: Department of Education

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/2/2011 House Introduced and read first time ([House Journal‑page 11](file:///h:\hj%20archive\2011\02-02-11.docx))

2/2/2011 House Referred to Committee on **Education and Public Works** ([House Journal‑page 11](file:///h:\hj%20archive\2011\02-02-11.docx))

**VERSIONS OF THIS BILL**

[2/2/2011](file:///p:\pprever\2011-12\3532_20110202.docx)

**A** **BILL**

TO AMEND SECTION 1‑30‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO AGENCIES PREVIOUSLY TRANSFERRED TO THE DEPARTMENT OF EDUCATION, SO AS TO TRANSFER TO AND THEREBY DEVOLVE UPON THE DEPARTMENT OF EDUCATION THE POWERS AND DUTIES OF THE SOUTH CAROLINA SCHOOL FOR THE DEAF AND BLIND, THE JOHN DE LA HOWE SCHOOL, AND THE WIL LOU GRAY OPPORTUNITY SCHOOL; TO AMEND CHAPTER 47, TITLE 59, RELATING TO THE GOVERNANCE, ORGANIZATION, AND OPERATION OF THE SOUTH CAROLINA SCHOOL FOR THE DEAF AND BLIND, SO AS TO PROVIDE THAT THE SCHOOL IS UNDER THE ADMINISTRATION AND SUPERVISION OF THE DEPARTMENT OF EDUCATION, TO PROVIDE THAT ITS BOARD OF COMMISSIONERS IS AN ADVISORY BOARD TO THE SCHOOL, AND TO CONFORM THIS CHAPTER TO THE PROVISIONS OF THIS ACT; TO AMEND CHAPTER 49, TITLE 59, RELATING TO THE GOVERNANCE, ORGANIZATION, AND OPERATION OF THE JOHN DE LA HOWE SCHOOL, SO AS TO PROVIDE THAT THE SCHOOL IS UNDER THE ADMINISTRATION AND SUPERVISION OF THE DEPARTMENT OF EDUCATION, TO PROVIDE THAT ITS BOARD OF TRUSTEES IS AN ADVISORY BOARD TO THE SCHOOL AND TO CONFORM THIS CHAPTER TO THE PROVISIONS OF THIS ACT; AND TO AMEND CHAPTER 51, TITLE 59, RELATING TO THE GOVERNANCE, ORGANIZATION, AND OPERATION OF THE WIL LOU GRAY OPPORTUNITY SCHOOL, SO AS TO PROVIDE THAT THE SCHOOL IS UNDER THE ADMINISTRATION AND SUPERVISION OF THE DEPARTMENT OF EDUCATION, TO PROVIDE THAT ITS BOARD OF TRUSTEES IS AN ADVISORY BOARD TO THE SCHOOL AND TO CONFORM THIS CHAPTER TO THE PROVISIONS OF THIS ACT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 1‑30‑40 of the 1976 Code is amended to read:

“Section 1‑30‑40. (A) Effective on July 1, 1993, the following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property and all contractual rights and obligations associated with any such agency, except for those subdivisions specifically included under another department, are hereby transferred to and incorporated in and shall be administered as part of the Department of Education:

State Department of Education, provided for at Section 59‑5‑10, et seq.

(B) Effective on July 1 2011, the following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property and all contractual rights and obligations associated with any such agency, except for those subdivisions specifically included under another department, are hereby transferred to and incorporated in and shall be administered as part of the Department of Education:

(1) South Carolina School for the Deaf and the Blind, formerly provided for in Chapter 47, Title 59;

(2) John De La Howe School, formerly provided for in Chapter 49, Title 5;

(3) Wil Lou Gray Opportunity School, formerly provided for in Chapter 51, Title 59.”

SECTION 2. Chapter 47, Title 59 of the 1976 Code is amended to read:

“CHAPTER 47

School for the Deaf and the Blind

Section 59‑47‑10. (A) The ~~board of commissioners of the~~ South Carolina School for the Deaf and the Blind ~~shall consist~~ is under the administration and supervision of the Department of Education.

(B) The school is supported by an advisory board consisting of ten members appointed by the Governor for terms of six years and until their successors are appointed and qualify. Each congressional district must be represented by one board member, who must be a resident of that district, and four members must be appointed at large from the State. Of the members appointed at large, one must be deaf, one must be blind, one must represent the interests of persons with multiple handicaps, and one shall represent the general public. Vacancies must be filled in the manner of the original appointment for the remainder of the unexpired term. The State Superintendent of Education and the executive officer of the Department of Health and Environmental Control are ex officio members of the board.

Section 59‑47‑20. ~~The board~~ Advisory board members shall receive no compensation for ~~its~~ their services~~. It shall be allowed actual expenses, to be paid by the superintendent of the school~~ but are entitled to entitled to mileage, per diem, and subsistence as provided to members of state boards, committees, and commissions.

Section 59‑47‑30. The ~~board of commissioners~~ Department of Education is vested with the supervision and control of the affairs and government of ~~said~~ the school, with power to regulate salaries of officers and teachers, to establish conditions, forms and regulations for the admission of pupils ~~therein~~, and to prescribe ~~such~~ rules and bylaws as ~~in its judgment shall be~~ necessary for the management and good government ~~thereof~~ of the school.

Section 59‑47‑40. The advisory board ~~of commissioners~~ shall elect a chairman, vice chairman and secretary from their number and shall meet annually at the ~~institution~~ school and at such other times and places as the chairman of the advisory board shall direct.

Section 59‑47‑50. The president of the school ~~shall~~ must be ~~elected~~ employed by, and serves at the pleasure of, the ~~board of commissioners~~ Superintendent of Education and ~~shall be~~ is the immediate executive head of the school. ~~He shall be~~ The president of the school is responsible to the ~~board of commissioners~~ Department of Education.

Section 59‑47‑60. The president of the school shall ~~nominate all his subordinate officers and~~ employ, teachers, staff, and other personnel for the school, subject to the approval of the ~~board of commissioners~~ department.  ~~He shall be~~ The president is the official medium of communication between the ~~board~~ school and the ~~subordinate officers and employees, shall make all regulations of~~ department. The president shall establish internal policy, ~~shall~~ authorize the purchase of ordinary supplies, and ~~shall~~ examine and certify to the correctness of all bills of ~~such~~ these supplies.

Section 59‑47‑70. All deaf, hard of hearing, blind, and visually impaired persons of the State who are eligible, each case to be decided by the ~~board of commissioners~~ president, must be admitted to the benefits of the school.

Section 59‑47‑80. The whole or part of the expenses of the ~~several~~ applicants ~~shall~~ must be paid, according to the ~~opinion which the commissioners may form as to the~~ pecuniary condition of the applicants. In case there are more applicants than ~~would exhaust~~ the school’s annual appropriation for this purpose, the ~~commissioners~~ president, shall make selection according to ~~their opinion of the deserts of the~~ evaluation of the various applicants.

Section 59‑47‑90. Pursuant to the authority of Section 59‑47‑80, the ~~board of commissioners~~ president shall establish a maintenance fee schedule to be charged students attending the school. ~~Such~~ The schedule may~~, in the discretion of the board,~~ be graduated in accordance with the financial resources and income of the parent or guardian of the student concerned, or may be excused entirely in proper cases. Failure to pay maintenance fees in accordance with the schedule prescribed by the ~~board~~ president may result in the discharge of a student from the school when the ~~board~~ president determines that payment of fees would not be an unreasonable burden upon those persons obligated to pay ~~such~~ the fees. All funds collected as maintenance fees~~, including any such fees collected prior to July 1 1970, shall~~ must be remitted to the State Treasurer for deposit in a special fund to be used for capital improvements at the school.

Section 59‑47‑100. The ~~board of commissioners~~ department shall draw the annual appropriations as made by the General Assembly for the support and maintenance of ~~said~~ the school and ~~shall~~ annually shall report to the General Assembly ~~an exact statement of their various acts and doings~~ activities and events during the past year, showing exactly how ~~they~~ the department disbursed the money received and expended~~,~~ to the school. The president shall submit to the department the names of the persons who have received the ~~bounty~~ funds, the ages and places of residence of ~~such~~ these persons and information as to their progress. Vouchers covering ~~all such~~ these disbursements ~~shall~~ must be filed in the Office of the Comptroller General.

Section 59‑47‑110. ~~(1)~~(A) The ~~board of commissioners of the~~ South Carolina School for the Deaf and the Blind under overall administration and supervision of the Department of Education is ~~hereby~~ empowered to employ campus police to police the buildings and grounds of the school. ~~Such~~ Campus police shall work under the supervision of the South Carolina Law Enforcement Division~~,~~ and ~~shall~~ must not enter into such employment unless and until they have been appointed Governor’s constables with general authority as peace officers.

~~(2)~~(B) All traffic laws of the State ~~shall be~~ are in full force and effect on the streets and roads of the school, whether ~~such~~ these streets and roads are deemed public or private.

~~(3)~~(C) The ~~board~~ department ~~is hereby empowered to~~ may promulgate ~~reasonable additional rules and~~ regulations relating to vehicular traffic within the grounds of the school including, but not limited to, parking of vehicles and reduced vehicular speeds, notwithstanding any other provision of law; and to provide penalties for the ~~violation thereof~~ violations, not to exceed a fine of one hundred dollars~~; and such rules and~~ these regulations, when ~~duly~~ promulgated~~, shall~~ pursuant to the Administrative Procedures Act have the full force and effect of law and violations ~~thereof shall be~~ are triable in ~~magistrate’s~~ magistrates court.

Section 59‑47‑120. (A) Teaching or clinical staff employed by the school who attend advanced training paid for by the school may be required to enter a contract with the school to remain in the employment of the school for a minimum of one year beyond completion of the training. If an employee breaches this contract, the employee shall reimburse the school for all expenses incurred by the school in providing this training for the employee.

(B) For purposes of this section, “advanced training” means an educational course or program as defined by the school in regulation.”

SECTION 3. Chapter 49, Title 59 of the 1976 Code is amended to read:

“CHAPTER 49

John De La Howe School

Section 59‑49‑10. There is ~~hereby~~ established under the provisions of this chapter, and under the administration and supervision of the Department of Education, an institution to be known as the John De La Howe School. The business, property, and affairs of the school must be under the control of the department.

Section 59‑49‑20. ~~The business, property, and affairs of the school must be under the control of a~~ ~~the Department of Education~~ The school is supported by an advisory board ~~of trustees~~, consisting of nine members, appointed by the Governor~~, subject to confirmation by the Senate~~. The terms of the members of the advisory board must be for terms of five years. Appointments to fill vacancies must be for the remainder of the terms in the same manner of original appointments.

Section 59‑49‑30. The members of the advisory board may at any time be removed by the Governor for good cause. The failure of ~~any~~ a member of the advisory board to attend at least one meeting ~~thereof~~ in any year, unless excused by formal vote of the advisory board, may be construed by the Governor as the resignation of ~~such~~ the nonattending member.

Section 59‑49‑40. The ~~said~~ advisory board shall meet quarterly and ~~oftener~~ more often as may be required~~,~~. At least one meeting each year ~~being~~ must be held at the school.

Section 59‑49‑60. All members of the advisory board shall receive per diem and mileage as provided by law for members of state boards, committees, and commissions.

~~Section 59‑49‑70.~~ ~~The John De La Howe School is hereby declared to be a body corporate and, as such, may sue and be sued and plead and be impleaded in its corporate name, may have and use a proper seal, which it may alter at its pleasure and may acquire by purchase, deed, devise, lease for a term of years, bequest or otherwise such property, real and personal, in fee simple without limitations as may be necessary or proper for carrying out the purposes of its organization as herein declared.~~

Section 59‑49‑80. The ~~board~~ Superintendent of the Department of Education shall ~~elect~~ employ a superintendent, who serves at the pleasure of the superintendent of the department for ~~said~~ the school at such salary and for such term as ~~it~~ the superintendent of the department may fix. The superintendent for the school shall employ and discharge all employees of the school, subject to the approval of the ~~board~~ department.

~~Section 59‑49‑90.~~ ~~All of the members of the board and The superintendent of the school shall, before entering upon the discharge of their duties, take an oath faithfully to perform any and all duties imposed upon them under this chapter. The superintendent of the school shall execute a bond payable to the State in such sum as shall be required by the board, with sufficient security, which shall be filed in the office of the Secretary of State.~~

Section 59‑49‑100. It is ~~declared to be~~ the purpose and policy of the State to maintain and develop the school property in accordance with the purposes of the will of Dr. John De La Howe as interpreted by the Supreme Court of South Carolina, Mars v. Gibert, 93 SC 455, which for historical reference reads: ‘First, the establishment and maintenance of an agricultural and mechanical school as an institution in Abbeville County, stimulating and improving the industrial life of the entire community; second, the training, free of charge, of twenty‑four boys and girls, not as college men and women, but in the beginning of school life; and, third, the like training of the children of the neighborhood not supported by the fund.’ It is declared that the term ‘Abbeville County’ shall be understood to mean that portion of South Carolina known as Abbeville County at the time the will of Dr. John De La Howe was dated, namely January 2, 1797. The property is now in McCormick County. ~~It is further declared that,~~ Given the above historical perspective, the ~~Board of Trustees of John De La Howe School~~ department shall instruct the superintendent of the school to implement programs which shall meet the needs of children from all of South Carolina who for some urgent reason need to be separated from their home or community.

Section 59‑49‑110. The ~~trustees of the~~ John De La Howe School may carry out improved forestry and farm practices on the timber holdings and farmland of the school property and apply the revenues derived from them and any other revenue source on the property for the further improvement and development of the school forest and farmlands and for other school purposes.

Section 59‑49‑120. All of the money in the hands of trustees of the estate of Dr. John De La Howe shall by them be delivered to the ~~board of trustees created by this chapter~~ superintendent of the school when ~~so~~ requested to do by the ~~board of trustees~~ superintendent. All amounts received from ~~said~~ the estate and its operation ~~shall~~ must be appropriated for the support and development of the school, in the discretion of the ~~board of trustees~~ superintendent of the school.

Section 59‑49‑130. The John De La Howe School may use all ~~moneys~~ monies received by it through condemnation or otherwise for land and other properties of the school used in connection with the development of what is known as the Clark’s Hill Project or for the development of any other similar project in the construction, erection, and building of permanent improvements of and for the school and for ~~the~~ equipping ~~of such~~ these improvements.

Section 59‑49‑140. In accordance with the purposes of the school as ~~herein~~ defined in this chapter, the ~~board of trustees~~ superintendent of the school shall ~~make such rules and~~ promulgate regulations for its own government and for the management of the school as ~~it may deem~~ the superintendent considers necessary, consistent with the laws of this State and with the terms of the will of Dr. John De La Howe.

Section 59‑49‑150. Pupils at the school whose estates are sufficient or the relatives of the pupils liable in law for their support whose estates are sufficient shall pay for the maintenance of the pupils in whole or in part. Policies concerning the manner and method of determining financial ability and the collecting and retention of amounts required to be paid must be determined by the ~~Board of Trustees~~ superintendent of the school, in accordance with state policy.”

SECTION 4. Chapter 51, Title 59 of the 1976 Code is amended to read:

“CHAPTER 51

The Wil Lou Gray Opportunity School

Section 59‑51‑10. The Wil Lou Gray Opportunity School is established under the administration and supervision of the Department of Education and must be located in Lexington County on the property formerly occupied by the Army Air Force and known as the Columbia Air Base, which property the State received by quitclaim deed in September 1947 for the joint use of the Opportunity School and the South Carolina Trade School.

Section 59‑51‑20. The Opportunity School, under the overall administration, supervision, management, and control of the Department of Education, shall:

(1) serve as an alternative school cooperating with other agencies and organizations;

(2) provide training for persons interested in continuing their elementary or high school education or in taking refresher courses preparatory to college, with emphasis on personal development, vocational efficiency, and effective citizenship;

(3) disseminate information concerning practices that have proven to be effective in working with its students; and

(4) cooperate with the vocational rehabilitation department in providing personal and social adjustment and prevocational and vocational courses for persons with disabilities.

Section 59‑51‑30. The ~~Opportunity School is under the management and control of a~~ school is supported by an advisory board of fourteen ~~trustees~~ members, twelve of whom must be ~~elected~~ appointed by the ~~General Assembly~~ Superintendent of Education. The ~~trustees so elected~~ advisory board members must be citizens of the State who are interested in the aims and ambitions of the school. The thirteenth member is the State Superintendent of Education, who shall serve ex officio. The fourteenth member is the Governor who ~~is a member of the board,~~ shall serve ex officio. Members of the board who are ~~elected~~ appointed by the ~~General Assembly~~ Superintendent of Education shall serve for terms of four years and until their successors are ~~elected~~ appointed and qualify. The advisory board shall elect a chairman, ~~vice‑chairman~~ vice chairman, secretary, and treasurer. In case a vacancy occurs on the advisory board among the ~~elected~~ appointed members f~~or any reason other than expiration of a term when the General Assembly is not in session~~, the ~~Governor~~ Superintendent may fill it by appointment ~~until the next session of the General Assembly at which time a successor must be elected for the remainder of~~ for the unexpired portion of the term. ~~Elections to fill vacancies which are caused for any reason other than expiration of a term may be held earlier than the first day of April of the year the vacancy is filled.~~

A quorum of the board is seven members.

~~Section 59‑51‑40.~~ ~~The board of trustees is a body politic, under the name and style of the Wil Lou Gray Opportunity School. It shall have a seal, which it may change at its discretion, and in its name it may contract for, purchase, and hold property for the purposes provided for in this chapter. It may take any property or money given or conveyed by deed, devised, or bequeathed to the school, and hold it for its benefit and use. The conditions of the gifts or conveyances in no case may be inconsistent with the purposes of the school, and the board may not by the acceptance thereof incur any obligation on the part of the State. It shall securely invest all funds and keep all property which may come into its possession. It may sue and be sued in its name and may do all things necessary to carry out the provisions of this chapter.~~

Section 59‑51‑50. The ~~board of trustees~~ Superintendent of Education shall employ a director who shall serve under conditions as prescribed by the ~~board~~ department. The director shall recommend and employ all personnel, as approved by the ~~board of trustees~~ department, and shall define their duties. The director shall prescribe the courses of study and make all rules and regulations for the government of the school~~, within board policy,~~ and is responsible for its operation and management within the limitations of appropriations provided by the General Assembly.”

SECTION 5. (A) Where the provisions of this act transfer particular state agencies, departments, boards, commissions, committees or entities, or sections, divisions or portions thereof (transferring departments), to another state agency, department, division or entity or make them a part of another department or division (receiving departments), the employees, authorized appropriations, bonded indebtedness if applicable, and real and personal property of the transferring department are also transferred to and become part of the receiving department or division unless otherwise specifically provided. All classified or unclassified personnel of the affected agency, department, board, commission, committee, entity, section, division or position employed by these transferring departments on the effective date of this act, either by contract or by employment at will, shall become employees of the receiving department or division, with the same compensation, classification, and grade level, as applicable. The Budget and Control Board shall cause all necessary actions to be taken to accomplish this transfer and shall in consultation with the agency head of the transferring and receiving agencies prescribe the manner in which the transfer provided for in this section shall be accomplished. The boards’ action in facilitating the provisions of this section are ministerial in nature and shall not be construed as an approval process over any of the transfers.

(B) Where an agency, department, entity or official is transferred to or consolidated with another agency, department, division, entity or official, regulations promulgated by that transferred agency, department, entity or official under the authority of former provisions of law pertaining to it are continued and are considered to be promulgated under the authority of present provisions of law pertaining to it, until such time as the regulations are amended or repealed or new regulations are promulgated by the agency, department, entity or official to which another agency, department, entity or official was transferred to or consolidated with.

(C) References to the names of agencies, departments, entities or public officials changed by this act, to their duties or functions herein devolved upon other agencies, departments, entities or officials, or to provisions of law consolidated with or transferred to other parts of the 1976 Code are considered to be and must be construed to mean appropriate references.

(D) Employees or personnel of agencies, departments, entities or public officials, or sections, divisions or portions thereof, transferred to or made a part of another agency, department, division, or official pursuant to the terms of this act shall continue to occupy the same office locations and facilities which they now occupy unless or until otherwise changed by appropriate action and authorization. The rent and physical plant operating costs of these offices and facilities, if any, shall continue to be paid by the transferring agency, department, entity or official formerly employing these personnel until otherwise provided by the General Assembly. The records and files of the agencies that formerly employed these personnel shall continue to remain the property of these transferring agencies, except that these personnel shall have complete access to these records and files in the performance of their duties as new employees of the receiving agency.

(E) Unless otherwise provided herein or by law, all fines, fees, forfeitures, or revenues imposed or levied by agencies, personnel, or portions thereof, so transferred to other agencies or departments must continue to be used and expended for those purposes provided prior to the effective date of this act. If a portion of these fines, fees, forfeitures, or revenues were required to be used for the support, benefit, or expense of personnel transferred, such funds must continue to be used for these purposes.

(F) The Budget and Control Board, in consultation with the appropriate standing committees of the General Assembly as designated by the President Pro Tempore of the Senate and the Speaker of the House of Representatives and the other affected agencies, shall prescribe the manner in which the provisions of subsections (A), (D), and (E) must be implemented where agreement between the affected agencies cannot be obtained.

(G) The membership of the Legislative Council shall cause the changes to the 1976 Code as contained in this act to be printed in replacement volumes or in cumulative supplements as they consider practical and economical.

SECTION 6. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 7. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 8. This act takes effect July 1, 2011.

‑‑‑‑XX‑‑‑‑