

ACT No. 468

HOUSE BILL NO. 253

BY REPRESENTATIVE MCKNIGHT AND SENATORS ALLAIN, BARROW, BERNARD, BOUDREAUX, CORTEZ, FESI, FIELDS, FOIL, HARRIS, JACKSON, MCMATH, MILLIGAN, ROBERT MILLS, MIZELL, MORRIS, PRICE, AND WOMACK

1 AN ACT

2 To amend and reenact R.S. 17:43(A) and (B)(1), 1945(A) and (B)(2), and 1946(A) and R.S.
3 36:642(C)(1), 643(A), and 648.1 and to enact R.S. 17:1945.1 and 1945.2 and R.S.
4 36:651(D)(11), relative to the Special School District; to provide for governance of
5 the district by a board of directors; to provide relative to the board's membership,
6 powers, and duties; to provide relative to the enrollment of students in the district's
7 schools; to provide relative to the funding of the district; to provide for the district's
8 transition from operation by the state Department of Education to independent
9 operation; to provide for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 17:43(A) and (B)(1), 1945(A) and (B)(2), and 1946(A) are hereby
12 amended and reenacted and R.S. 17:1945.1 and 1945.2 are hereby enacted to read as
13 follows:

14 §43. ~~Special schools~~ Schools defined; benefits for certificated teachers; legislative
15 policy

16 A. It is declared to be legislative policy that the Louisiana ~~special schools~~
17 Special Schools, which include the Louisiana Schools for the Deaf and Visually
18 Impaired and the ~~special schools~~ Special Schools comprising Special School
19 Programs, operated and maintained as a part of the public educational system by the
20 ~~state Department of Education,~~ Special School District, shall provide all benefits,
21 privileges, rights, and powers as provided for certificated teachers in the public
22 elementary and secondary schools in the interest of statewide uniformity of

1 administration of teacher welfare benefits, including but not limited to the benefits
2 enumerated in this Part.

3 B.(1) As used in this Part, ~~"special schools"~~ "Special Schools" includes all
4 Louisiana special schools and all schools or educational programs in Special School
5 Programs operated by the state Department of Education through the Special School
6 District.

7 * * *

8 §1945. Special ~~schools~~ Schools and school districts

9 A.(1) The Special School District is hereby created and shall be considered
10 an educational service agency ~~administered by the Department of Education~~, subject
11 to the limitations of such units which shall include no authority to levy tax. The
12 Special School District shall have the responsibility and authority to create and fill
13 positions to serve the students in the district subject to the availability of funds.

14 ~~(1) (2)~~ The state superintendent of education shall be the governing authority
15 for the Special School District shall be the board of directors as provided in R.S.
16 17:1945.1.

17 ~~(2) (3)~~ The Special School District includes:

18 (a) Louisiana ~~special schools~~ Special Schools.

19 (b) Special School Programs.

20 ~~(3) (4)~~ The services of the Special School District shall be available to all
21 eligible students as described in this Section, regardless of their place of residence
22 within the state.

23 B.

24 * * *

25 (2) The Louisiana ~~Special Schools~~ Schools for the Deaf and Visually
26 Impaired shall, at the request of the parent or legal or appointed custodian, establish
27 an annual enrollment deadline for admission to each of the respective schools. After
28 a school's deadline, any other children with hearing, visual, or orthopedic
29 impairments may enroll at the request of their parents, guardians, appointed
30 custodians, or other legal surrogates if the school, as applicable, determines that there

1 ~~are sufficient resources to meet the needs of these children as well as the needs of the~~
2 ~~children enrolled prior to the enrollment deadline~~ enroll students with low incidence
3 disabilities and students eligible under the Individuals with Disabilities Education
4 Act who require special education services upon their admission into state facilities
5 in which the Special School District provides special education services. For
6 purposes of this Subsection, the term "students with low incident disabilities" means
7 students who have a visual impairment, who are deaf or hard of hearing, who both
8 have a visual impairment and are deaf or hard of hearing, who have a significant
9 cognitive impairment, or who have any impairment for which personnel with highly
10 specialized skills and knowledge are needed in order for a child with such an
11 impairment to receive early intervention services or a free appropriate public
12 education.

* * *

14 §1945.1. Board of directors of the Special School District; creation; membership;
15 terms; powers, duties, and functions

16 A. The board of directors of the Special School District is hereby created.
17 The board shall be composed of twelve members who shall be subject to
18 confirmation by the Senate, one of whom shall be a member of the State Board of
19 Elementary and Secondary Education appointed by the president of the state board
20 and the remainder of whom shall be appointed by the governor, as follows:

21 (1) One member representing the Governor's Office of Disability Affairs.

22 (2)(a) One member who meets both of these criteria:

23 (i) Demonstrates competency in American Sign Language.

24 (ii) Possesses expertise in educating students who are deaf, hard of hearing,
25 or deaf-blind.

26 (b) If unable to appoint a person who meets both of these criteria, the
27 governor may instead appoint a member who meets only one of these criteria.

28 (3)(a) One member who meets both of these criteria:

29 (i) Demonstrates competency in braille.

1 (ii) Possesses expertise in educating students who are blind or visually
 2 impaired.

3 (b) If unable to appoint a person who meets both of these criteria, the
 4 governor may instead appoint a member who meets only one of these criteria.

5 (4) One member representing students receiving special education services
 6 at facilities operated by the Office of Juvenile Justice, selected from a list of three
 7 nominees submitted by the deputy secretary of the office.

8 (5) One member representing students receiving special education services
 9 at facilities operated by the Department of Public Safety and Corrections, selected
 10 from a list of three nominees submitted by the secretary of the department.

11 (6) One member representing students receiving special education services
 12 at facilities operated by the Louisiana Department of Health, selected from a list of
 13 three nominees submitted by the secretary of the department.

14 (7) One member representing students receiving special education services
 15 from Louisiana Rehabilitation Services, selected from a list of three nominees
 16 submitted by the secretary of the Louisiana Workforce Commission.

17 (8) One member representing persons who are deaf or hard of hearing,
 18 selected from a list of six persons, two of whom shall be nominated by each of the
 19 following:

20 (a) The Louisiana Commission for the Deaf.

21 (b) The Louisiana Association of the Deaf.

22 (c) Deaf Focus.

23 (9) One member representing persons who are visually impaired, selected
 24 from a list of six persons, two of whom shall be nominated by each of the following:

25 (a) The National Federation of the Blind of Louisiana.

26 (b) The Louisiana Association for the Blind.

27 (c) The Lighthouse for the Blind.

28 (10) One member with expertise in deaf-blindness selected from a list of
 29 three nominees submitted by the Helen Keller National Center for Deaf-Blind
 30 Youths and Adults, South Central Region.

1 (11) One alumnus of a Louisiana Special School.

2 B. Of the members appointed by the governor, there shall be at least one
3 resident of each public health region established by the office of public health of the
4 Louisiana Department of Health, with no more than two members from any region.

5 C. The terms of the members of the board shall be concurrent with the term
6 of the person making the appointment, and they shall serve at the pleasure of the
7 appointing authority. Members shall serve until their successors have been
8 appointed and qualified. A vacancy on the board shall be filled in the manner of the
9 original appointment. No member of the board shall be an employee of the Special
10 School District.

11 D. The board shall have the authority to do the following:

12 (1) Accept donations, bequests, or other forms of financial assistance for
13 educational purposes from any public or private person or agency and comply with
14 rules and regulations governing grants from the federal government or from any
15 other person or agency.

16 (2) Purchase land and equipment and make improvements to facilities
17 necessary for the use of the district in accordance with applicable law.

18 (3) Lease land or other property belonging to the district, subject to approval
19 of the commissioner of administration and in accordance with applicable law.

20 (4) Sell or exchange land or other immovable property not needed for district
21 purposes, but only when specifically authorized by law and then in accordance only
22 with the procedures provided in R.S. 41:892 for the sale of unused school lands. The
23 sale shall be authorized by resolution adopted by the board, and the act of sale shall
24 be signed by the president of the board or such other person to whom the signing
25 may be delegated by the board in the authorizing resolution.

26 (5) Adopt rules, regulations, and policies necessary or proper for the conduct
27 of the business of the board.

28 (6) Award certificates and issue diplomas for successful completion of
29 programs of study. All such certificates and diplomas shall be in addition to a
30 regular high school diploma which shall be issued by the State Board of Elementary

1 and Secondary Education in accordance with the provisions of R.S. 17:6(A)(11) to
2 any student who successfully completes the program of study adopted by the state
3 board.

4 (7) Enter into contracts and agreements which have been recommended by
5 the district superintendent, in accordance with applicable law, and to the extent that
6 funds are specifically appropriated therefor, with other public agencies with respect
7 to cooperative enterprises and undertakings related to or associated with an
8 educational purpose or program affecting education in the district. This shall not
9 preclude the board from entering into other such contracts and agreements that it
10 deems necessary to carry out its duties and functions.

11 (8) Perform such other functions as are necessary for the governance of the
12 district.

13 E. In addition to the authorities granted by this Section and any powers,
14 duties, and responsibilities vested by any other applicable laws, the board shall:

15 (1) Adopt rules, regulations, and policies that are necessary for the efficient
16 operation of the district.

17 (2) Establish criteria to be used in determining eligibility of applicants for
18 enrollment in accordance with R.S. 17:1945(B)(2). No student shall be enrolled
19 without the written consent of the student's parent or legal guardian.

20 (3) Prescribe and select for use free textbooks and other materials of
21 instruction for children enrolled in the schools and programs under its jurisdiction.

22 (4) Enter into an agreement, as recommended by the district superintendent,
23 with a city, parish, or other local public school system to participate in educational
24 and academic programs or courses.

25 (5) Select a superintendent who shall be the chief administrative officer of
26 the district and who shall administer the rules, regulations, and policies adopted by
27 the board. The board shall delegate to the superintendent such of its powers and
28 duties as it deems appropriate to aid the superintendent in the efficient administration
29 of his responsibility for the implementation of the policies of the board. The

1 superintendent shall be responsible for all the administrative functions, duties, and
2 needs of the board, including but not limited to the following:

3 (a) Preparing an annual budget necessary for the continued operation of the
4 district, the Louisiana Special Schools, and the Special School Programs and
5 submitting such budget to the board for adoption.

6 (b) Paying the salaries and expenses, including but not restricted to facilities,
7 equipment, and supplies, of the faculty and staff of the district out of funds
8 appropriated or otherwise made available for the operating and administrative
9 expenses of the board and the district.

10 (c) Exercising budgetary responsibility and allocating for expenditure by the
11 district all monies appropriated or otherwise made available for purposes of the
12 district.

13 (d) Developing and annually updating a student handbook including but not
14 limited to all rules, regulations, and policies for the disciplining of students and
15 submitting such handbook to the board for consideration and adoption.

16 (e) Determining faculty and staff positions necessary for the efficient
17 operation of the district and selecting personnel for such positions.

18 (6) Elect from its membership a president, vice president, secretary-treasurer,
19 and any other officers the board considers necessary.

20 F. Members of the board shall not receive any compensation for their service
21 as members.

22 §1945.2. Funding; inclusion in the minimum foundation program formula; other
23 appropriated state funds

24 A. The board of directors of the Special School District shall annually adopt
25 a recommended budget to adequately fund the district. The budget shall have as its
26 goal to provide state funding that shall not be less than the average funding, on a
27 per-student basis, at peer institutions in other states having similar programs and
28 enrollments and may provide for achieving its goal over a multi-year period. The
29 recommended budget shall be submitted to the division of administration as the total
30 budget request for the district.

1 B. The Special School District shall be considered a public school and, as
 2 such, shall be included by the State Board of Elementary and Secondary Education
 3 in the formula required by Article VIII, Section 13 of the Constitution of Louisiana
 4 used to determine the cost of a minimum foundation program of education in all
 5 public elementary and secondary schools. Funding shall be provided through
 6 appropriations made directly to the district from the state general fund and through
 7 funds appropriated for the minimum foundation program and allocated to the district
 8 by the Department of Education.

9 C. The Special School District may enter into purchase of service
 10 agreements or contracts with other public or nonpublic agencies to provide special
 11 education and related services.

12 §1946. Procedural safeguards

13 A. The Department of Education, the Special School District, and the local
 14 education agencies shall establish and maintain regulations and procedures in
 15 accordance with this Section and the Individuals with Disabilities Education
 16 Improvement Act of 2004 to ensure that students with exceptionalities and their
 17 parents are provided procedural safeguards with respect to the provision of free
 18 appropriate public education by such agencies.

19 * * *

20 Section 2. R.S. 36:642(C)(1), 643(A), and 648.1 are hereby amended and reenacted
 21 and R.S. 36:651(D)(11) is hereby enacted to read as follows:

22 §642. Department of Education; creation; domicile; composition; purposes and
 23 functions

24 * * *

25 C.(1) The Department of Education shall be composed of the executive
 26 office of the state superintendent, the office of management and finance, ~~the Special~~
 27 ~~School District~~, the office of district support, and such other offices as shall be
 28 created by law.

29 * * *

1 §643. Officers of the department; compensation for one office only

2 A. The officers of the department shall be the state superintendent of
3 education, the deputy state superintendent of education if a deputy state
4 superintendent of education is appointed, ~~the superintendent of the Special School~~
5 ~~District~~, the deputy superintendent of management and finance, and the deputy
6 superintendent of district support. With the exception of the state superintendent of
7 education, each of them shall be selected as provided in this Title. They shall
8 perform functions as provided in this Title.

9 * * *

10 §648.1. Special School District; administration

11 A. The Special School District shall be under the administration and
12 supervision of a superintendent ~~of the Special School District~~ who shall be appointed
13 by the ~~state superintendent of education~~, district's board of directors, subject to
14 confirmation by the Senate.

15 B. The salary of the superintendent ~~of the Special School District~~ shall be
16 fixed by the ~~state superintendent~~ district's board of directors and shall not exceed the
17 amount approved for such position by the legislature while in session.

18 C. The superintendent ~~of the Special School District~~ shall exercise his duties
19 and functions under the ~~direct supervision and control of the state superintendent of~~
20 ~~education~~. oversight of the district's board of directors.

21 * * *

22 §651. Transfer of boards, commissions, departments, and agencies to Department
23 of Education; boards, commissions, and agencies within Department of
24 Education

25 * * *

26 D. The following agencies, as defined by R.S. 36:3, are transferred to and
27 hereafter shall be within the Department of Education as provided in R.S. 36:801.1:

28 * * *

29 (11) The Special School District and its board of directors (R.S. 17:1945 and
30 1945.1).

31 * * *

1 Section 3.(A) The process of transferring the operation of the Special School District
2 from the state Department of Education to the independent operation of the district by its
3 board of directors shall begin on July 1, 2021.

4 (B) The governor shall appoint the initial members of the board of directors of the
5 Special School District not later than July 15, 2021.

6 (C) The board of directors shall assume responsibility for providing for the
7 education of students under its jurisdiction on August 1, 2021.

8 (D) The district superintendent serving on the effective date of this Act may continue
9 to serve unless removed by the board of directors. Any vacancy in this position occurring
10 prior to August 1, 2021, shall be filled as provided in R.S. 36:648.1 prior to amendment by
11 this Act. Any vacancy in this position on or after August 1, 2021, shall be filled as provided
12 in this Act.

13 (E) The State Board of Elementary and Secondary Education, the state Department
14 of Education, the state superintendent of education, and the Special School District shall
15 fully cooperate and take every action necessary to implement the provisions of this Act.

16 (F) The Special School District shall, to the extent possible, provide for employees
17 to continue to perform the duties they performed prior to the effective date of this Act
18 without loss of status, salary, and related benefits.

19 (G) All rules, regulations, and policies applicable to the Special School District prior
20 to the effective date of this Act shall continue in full force and effect unless amended or
21 repealed by the board of directors of the Special School District.

22 (H) Any assets, funds, facilities, property, equipment, books, documents, records,
23 obligations, programs, and functions relative to the Special School District shall be
24 transferred from the state Department of Education to the Special School District or retained
25 by the Special School District, as applicable.

26 (I) All administrative functions performed by the state Department of Education
27 relative to any component of the Special School District prior to the effective date of this Act
28 shall be transferred to the Special School District.

29 (J) Any legal proceeding, as defined in R.S. 36:924, relative to the Special School
30 District which is filed, initiated, or otherwise pending before any court on the effective date

1 of this Act and all documents involved in or affected by such legal proceeding shall retain
2 their effectiveness and continue in the names of those agencies or individuals named as
3 parties in the proceedings.

4 (K) Prior to August 1, 2021, neither the state Department of Education nor the
5 Special School District shall:

6 (1) Sell, transfer, or otherwise remove any asset or thing of value, movable or
7 immovable, corporeal or incorporeal, attributable to or owned by the Special School District
8 or its schools or programs.

9 (2) Incur, transfer, or assign any debt or other responsibility or obligation to the
10 district that is not properly attributable to the Special School District.

11 (3) Reduce or reallocate the level of funding, staffing, or support that would
12 otherwise be allocated to the Special School District.

13 (4) Impose any budget reductions or changes in funding without the prior approval
14 of the Joint Legislative Committee on the Budget.

15 (5) Take any personnel action with regard to any administrative, instructional, or
16 noninstructional employee without the approval of the superintendent of the Special School
17 District.

18 Section 4. This Act shall become effective on July 1, 2021.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____