

Regular Session, 2004

ACT No. 193

HOUSE BILL NO. 1659

BY REPRESENTATIVES K. CARTER AND SCALISE AND SENATOR SCHEDLER

1 AN ACT

2 To enact R.S. 17:10.6, relative to school and district accountability; to provide for the status
3 of a city, parish, or other local public school system which is academically in crisis;
4 to provide for notice of the status; to provide for the powers of the school board of
5 such a system; to provide for the powers of the school superintendent of such a
6 system; to provide for definitions and audit and accounting requirements; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 17:10.6 is hereby enacted to read as follows:

10 §10.6. School and district accountability; school systems academically in crisis;
11 definitions; audit and accounting requirements

12 A.(1) Any local system which is academically in crisis shall be subject to the
13 provisions of this Section.

14 (2) When a local system is academically in crisis, the state superintendent of
15 education shall notify the state board, the president of the local board and the
16 superintendent of the local system in writing of the status of the system and of the
17 resulting applicability of this Section.

18 B. For the purposes of this Section:

19 (1) "Academically in crisis" means any local system in which more than
20 thirty schools are academically unacceptable or more than fifty percent of its students
21 attend schools that are academically unacceptable.

22 (2)(a) "Academically unacceptable" means that a school is academically
23 unacceptable pursuant to a uniform statewide program of school and district
24 accountability established pursuant to rules adopted by the State Board of Elementary

1 and Secondary Education, hereinafter referred to as the "state board", under authority
2 of law.

3 (b) The state board may limit the applicability of this Section by further
4 restricting the definition of "academically in crisis" by rule as necessary to be
5 consistent and compliant with the program of school and district accountability. In
6 such case the state board shall provide specific notice to the presiding officers of each
7 house of the legislature and the chairs of the Senate Committee on Education and the
8 House Committee on Education.

9 (3) "Local board or local system" means the city, parish, or other local public
10 school board or school system.

11 (4) "State board" means the State Board of Elementary and Secondary
12 Education.

13 C.(1) Upon the notice required in Paragraph (2) of Subsection A of this
14 Section and notwithstanding any law to the contrary except as provided in this
15 Section, the authority of the local board to act shall be limited to the power to do the
16 following:

17 (a) Incur debt, issue bonds, pay debt, and meet other financial obligations as
18 required by a contract entered into prior to the date on which this Section has effect
19 on the local system, or by approval of a proposition by the electorate.

20 (b) Sue or be sued and provide for the interests of the system in response to
21 any litigation.

22 (c) Respond to the recommendations of the superintendent for employee
23 discipline or termination as to employees who are entitled to a hearing before the
24 board under the law.

25 (d) Approve or disapprove with recommendations the annual budget, or any
26 amendment thereto, for the expenses of and operation of the local system as
27 submitted by the superintendent. The board may not amend such budget, but may
28 reject it with recommendations.

1 (e) Acquire property on behalf of the local system, by donation or otherwise
2 and take action necessary to preserve such property.

3 (f) Dispose of or contract with regard to immovable property owned or leased
4 by the local system.

5 (g) Enter into a collectively bargained contract with employees. In any
6 negotiation, the local superintendent, or his designee, shall be chief negotiator for the
7 board.

8 (h) Reapportion themselves as provided by law.

9 (i) Perform any duty mandated by this Section.

10 (2)(a) In such case, the local superintendent shall have and may exercise sole
11 and exclusive authority as to all other matters regarding the policy for and operation
12 and management of the local system, including but not limited to the following:

13 (i) Assignment and reassignment of employees, employment, termination,
14 and promotion decisions that do not require action by the local board as a matter of
15 law or contract or laws governing continued employment of permanent employees.

16 (ii) Revision of local board or school system policy as is necessary for the
17 local system to be compliant with the requirements of state law or federal or state
18 rule.

19 (iii) Performance of all duties required by this Section.

20 (b) The superintendent may not enter into a contract on behalf of the local
21 system for a period that exceeds five years in duration. Upon favorable evaluation,
22 contracts may be renewed for up to five years, without limitation, in accordance with
23 applicable laws and procedures.

24 (c) The superintendent shall submit a monthly report to the local board on the
25 status of all newly executed or renewed contracts including professional services,
26 leases, memorandums of understanding, cooperative endeavors, and social services
27 contracts.

28 (d) As soon as practicable, but no later than one hundred eighty days after
29 receipt of notification that the local system is academically in crisis, the

1 superintendent shall submit a report to the local board, the state board, and the
2 legislative auditor containing a reasoned and considered evaluation of the benefits of
3 outsourcing all or portions of the system's fiscal processes and duties, including but
4 not limited to procurement, payroll, accounts payable, accounts receivable,
5 short-term investment, inventory control, accounting, budget compliance, and
6 financial reporting to private firms or other state or local governmental agencies. This
7 report shall also include an examination as to whether such outsourcing of fiscal
8 matters would produce a more effective focus and concentration of the
9 superintendent and the school system's top administrators on the academic needs and
10 performance of the school system's students.

11 (e)(i)(aa) The superintendent shall develop a structured system improvement
12 plan which contains timetables, measurable goals, and priorities and shall provide for
13 instructional changes, organizational changes, and budgetary changes deemed
14 necessary for the local school system to cease to be academically in crisis. Such plan
15 shall be submitted within one hundred twenty days of receipt of notice of the
16 effectiveness of this Section to the state board for the approval of the state board. If
17 the state board does not approve the plan, the president of the state board shall submit
18 the plan to an independent national organization with the expertise to make an
19 evaluation of the plan which agrees to provide such evaluation to the state board and
20 the superintendent within thirty days of its submission to them which is selected by
21 the committee provided in Subitem (bb) of this Item. Any costs incurred and any
22 payment required by the organization making the evaluation shall be borne by the
23 local board. The plan shall provide for meaningful consultation with parents of
24 children enrolled in the school system, an effective and comprehensive program of
25 parental involvement strategies and activities to build the schools' and parents'
26 capacity for strong parental involvement. The plan shall be revised by the
27 superintendent as determined necessary for approval by the independent evaluator.

1 (bb) The independent national organization shall be selected by a majority
2 vote of a committee composed of a member of the State Board of Elementary of
3 Secondary Education appointed by the president of the state board, an educator
4 appointed by the governor, and a member of the local school board chosen by its
5 president.

6 (ii) Once the plan is approved whether by the state board or by the
7 independent national organization, the superintendent shall implement the approved
8 plan and shall report quarterly to the local board and the state board on the progress
9 being made in implementing the approved plan.

10 (f)(i) The superintendent shall seek and consider advice and input from the
11 local board.

12 (ii) The superintendent shall have the authority to enter into and obligate the
13 school system to any contracts not otherwise reserved to the local board in Paragraph
14 (1) of Subsection C of this Section, subject to the requirements of this Paragraph.

15 (aa) The superintendent shall at the same time any request for proposals or
16 request for quotations is solicited have delivered by facsimile transmission with a
17 receipt or by United States postal service with return receipt requested to each local
18 school board member at such member's home address and shall post at a location of
19 public access reserved for such purpose in the offices of the local school board a copy
20 of such request for any of the following type of contracts: a professional service
21 contract, as defined in R.S. 39:1484(A)(18); a social service contract, as defined in
22 R.S. 39:1484(A)(22); a personal contract, as defined in R.S. 39:1484(A)(16); a
23 consulting service contract, as defined in R.S. 39:1484(A)(4); any contract for
24 employee benefits; or, any other contract which is not subject to a state law requiring
25 public bidding and which provides for more than two hundred fifty thousand dollars
26 in total expenditure.

27 (bb) The superintendent shall, not less than thirty days prior to entering into
28 any contract of the following type, have delivered by facsimile transmission with a
29 receipt or by United States postal service with return receipt requested to each local

1 school board member at such member's home address and shall post at a location of
2 public access reserved for such purpose in the offices of the local school board a
3 summary of each such contract which summary contains, at a minimum, a description
4 of the service or item being provided pursuant to the contract, the identity of the
5 contractor, the duration of the contract, and the dollar amount in total expenditure
6 provided for by such contract: a professional service contract, as defined in R.S.
7 39:1484(A)(18); a social service contract, as defined in R.S. 39:1484(A)(22); a
8 personal contract, as defined in R.S. 39:1484(A)(16); a consulting service contract,
9 as defined in R.S. 39:1484(A)(4); any contract for employee benefits; or any other
10 contract which is not subject to a state law requiring public bidding and which
11 provides for more than two hundred fifty thousand dollars in total expenditure.

12 (iii) Prior to the conclusion of the thirtieth day after the delivery and posting
13 of the contract summary as required in Item (ii) of this Subparagraph, the local school
14 board may prohibit the superintendent from initiating or renewing such contract by
15 a vote of two-thirds of the elected members of the board.

16 (iv) The provisions of Items (ii) and (iii) of this Subparagraph shall not apply
17 to any contract which provides for a total expenditure of twenty-five thousand dollars
18 or less.

19 (v) Notwithstanding any requirements of this Subparagraph, whenever an
20 exigent circumstance exists that requires a contract be entered into on an expedited
21 basis, the superintendent may enter into any contract without compliance with the
22 requirements of this Paragraph upon a favorable vote of the majority of the elected
23 members of the local board.

24 D.(1) At any time the provisions of this Section are applicable to a local
25 system, the board shall have no authority to contract or employ a superintendent or
26 to terminate the contract or employment of the incumbent superintendent except
27 upon the affirmative vote of not less than two-thirds of the elected members of the
28 board.

1 (2) At any time the provisions of this Section are applicable to a local system,
2 the superintendent shall receive no decrease in his salary.

3 (3) Should the termination of a superintendent occur under the circumstances
4 provided in Paragraph (1) of this Subsection or should a vacancy in the
5 superintendency otherwise occur, the local board shall have ten working days from
6 the first day of the vacancy in which to name an acting local superintendent until
7 such time as a new superintendent has been chosen by the local board as provided by
8 law. If no person is named acting superintendent by the end of the tenth day after the
9 first day of the vacancy, the state superintendent of education shall appoint an acting
10 superintendent for the local system. The acting superintendent and the new
11 superintendent shall continue to have exclusive authority and responsibility during
12 the period that the system is academically in crisis as provided in this Section and
13 shall be subject to termination only as provided in this Section.

14 E.(1)(a) At any time the provisions of this Section are applicable to a local
15 system, the local board shall select and contract with an independent licensed
16 certified public accountant from a list of not less than three such accountants
17 submitted to the board by the superintendent to conduct an audit of the finances and
18 financial practices of the local system. The local board shall make their selection
19 within ten working days of receipt of the local superintendent's list. If the selection
20 is not made by the tenth day, the matter shall be referred, by the local superintendent,
21 to the legislative auditor who shall select the independent licensed certified public
22 accountant to do the required audit. The audit shall be performed in accordance with
23 generally accepted governmental auditing standards and the Louisiana Governmental
24 Audit Guide. The engagement agreement describing the scope of the audit shall be
25 submitted to the legislative auditor for his review and comment to the local board
26 prior to the execution of the agreement.

27 (b) The audit report shall be submitted to the local board, the local
28 superintendent, and the legislative auditor.

1 (2)(a) If the audit completed pursuant to Paragraph (1) of this Subsection
2 results in any audit findings, the superintendent shall address each audit finding and
3 shall report on the correction made to the legislative auditor.

4 (b) As provided in this Section as well as under his authority as provided in
5 R.S. 24:513(A)(4) and pursuant to any of the circumstances outlined therein, the
6 legislative auditor may take any of the following steps:

7 (i) Conduct an independent audit of the finances and financial practices of
8 the local board.

9 (ii) Investigate the response of the superintendent to the audit conducted by
10 the independent licensed certified public accountant.

11 (iii) Require that the local board contract with a licensed certified public
12 accountant, other than the one who did the audit, from a list of not less than three
13 such accountants submitted to the board by the superintendent to direct the changes
14 in the local system financial practices necessary to address each audit finding.

15 (3) Expenses incurred by the legislative auditor shall be reimbursed by the
16 local system.

17 (4) If the audit reveals irregularities including conduct which may be criminal
18 in nature, such irregularities shall be reported to the district attorney with jurisdiction
19 in the parish in which the school district is located or the appropriate United States
20 attorney when irregularities are revealed which may be a violation of federal law.

21 F. At any time the provisions of this Section are applicable to a local system,
22 the state superintendent of education shall provide a team of distinguished educators
23 to provide expertise, direction, and support to the local system.

24 G. If found to be academically in crisis, a local system shall remain so until
25 the academic performance of the students in the system has improved sufficiently to
26 improve the school performance sufficiently that the system is no longer defined as
27 academically in crisis and all audit findings are corrected.

1 Section 2. This Act shall become effective upon the signature by the governor or, if
2 not signed by the governor, upon expiration of time for bills to become law without signature
3 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____