

Regular Session, 2014

HOUSE BILL NO. 127

BY REPRESENTATIVE HARRISON

SCHOOLS/ST SUPERINTDT: Provides for election of the state superintendent of education

1 AN ACT

2 To amend and reenact R.S. 17:21(B)(2), (C), and (D) and R.S. 36:643(A) and 646 and to  
3 enact R.S. 17:23, relative to governance of public elementary and secondary  
4 education; to provide for the election of the state superintendent of education  
5 pursuant to the authority granted to the legislature by Article IV, Section 20 of the  
6 Constitution of Louisiana; to provide relative to qualifications and salary of the  
7 superintendent; to provide relative to the first assistant to the state superintendent of  
8 education and to provide that such first assistant shall be the deputy state  
9 superintendent of education; to provide for effectiveness of the Act; and to provide  
10 for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 17:21(B)(2), (C), and (D) are hereby amended and reenacted and  
13 R.S. 17:23 is hereby enacted to read as follows:

14 §21. Superintendent of education for public elementary and secondary education;  
15 general functions; ~~appointment~~ election; qualifications; vacancies; compensation

16 \* \* \*

17 B.

18 \* \* \*

19 (2)(a) The superintendent, at a minimum, shall possess ~~at the time of~~  
20 ~~appointment~~, such qualifications as are ~~adopted by rule by the board for the position~~

1 of superintendent of a city, parish, or other local public school board. Except by a  
2 favorable vote of at least two-thirds of the authorized board membership, the board  
3 shall have no authority to waive for the position of state superintendent any  
4 qualification established by the board for the position of superintendent of a city,  
5 parish, or other local public school board provided by Article IV, Section 2 of the  
6 Constitution of Louisiana for statewide elected officials.

7 (b) ~~The State Board of Elementary and Secondary Education, by rule, may~~  
8 ~~establish additional qualifications applicable to the state superintendent.~~

9 C. The superintendent shall be appointed by a two-thirds vote of the total  
10 membership of the State Board of Elementary and Secondary Education. The board  
11 shall enter into a contract with the appointed superintendent. The length of the  
12 contract shall be determined by the board but may not extend past the end of the term  
13 of office of the board members making the appointment, except that the contract may  
14 provide that the superintendent may serve until the succeeding board has made an  
15 appointment. Any vacancy in the office of the appointed superintendent which  
16 occurs prior to the expiration of the term of his contract shall be filled for the  
17 remainder of the unexpired term by the method of appointment as provided in this  
18 ~~Subsection.~~ electd by the electors of the state for a term of four years at the election  
19 for statewide elected officials and members of the legislature.

20 D. The salary of the superintendent shall be ~~set by the State Board of~~  
21 ~~Elementary and Secondary Education~~ subject to the approval of the Joint Legislative  
22 ~~Committee on the Budget~~ as provided by R.S. 36:10 for statewide elected officials.

23 \* \* \*

24 §23. First assistant state superintendent of education; appointment; filling vacancy  
25 in office of superintendent

26 The state superintendent of education shall appoint a first assistant as  
27 provided in Article IV, Section 13 of the Constitution of Louisiana. The first  
28 assistant shall serve at the pleasure of the state superintendent. The first assistant  
29 shall fill a vacancy in the office of superintendent as provided by Article IV, Section

1       16 of the Constitution of Louisiana. The first assistant shall serve as the deputy state  
2       superintendent of education.

3       Section 2. R.S. 36:643(A) and 646 are hereby amended and reenacted to read as  
4 follows:

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

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

14   \*       \*       \*

15       §646. Deputy state superintendent

16             There ~~may~~ shall be a deputy state superintendent of ~~the department~~ education,  
17 who shall be ~~appointed by the state superintendent with consent of the Senate~~ the  
18 first assistant to the state superintendent of education appointed by the state  
19 superintendent pursuant to Article IV, Section 13 of the Constitution of Louisiana.  
20 He shall serve at the pleasure of the state superintendent at a salary fixed by the state  
21 superintendent, which salary shall not exceed the amount approved for such position  
22 by the legislature while in session. The duties and functions of the deputy state  
23 superintendent shall be determined and assigned by the state superintendent. He  
24 shall serve as acting state superintendent in the absence of the state superintendent.  
25 ~~If no deputy state superintendent is appointed, the state superintendent shall~~  
26 ~~designate the deputy superintendent of management and finance or the deputy~~  
27 ~~superintendent of district support to serve in his absence.~~

1 Section 3. This Act is enacted pursuant to the authority granted to the legislature by  
2 Article IV, Section 20 of the Constitution of Louisiana to provide by law that the office of  
3 superintendent of education shall be an elective office.

4 Section 4.(A) The office of state superintendent of education shall continue to be an  
5 appointed office until January 11, 2016. Beginning with the election for statewide elected  
6 officials in 2015, the state superintendent of education shall be elected.

7 (B) The provisions of Sections 1 and 2 of this Act shall become effective when the  
8 qualifying period opens for candidates for statewide elective office in 2015 solely for the  
9 purposes of qualification of candidates for and election of a superintendent of education at  
10 the election for statewide elected officials in 2015. For all other purposes and for subsequent  
11 elections, the provisions of Sections 1 and 2 of this Act shall become effective at noon on  
12 January 11, 2016.

13 (C) The provisions of this Section and Section 3 of this Act shall become effective  
14 on August 1, 2014.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Harrison

HB No. 127

**Abstract:** Makes the office of state superintendent of education an elective rather than an appointed office. Provides for election of the superintendent beginning with the 2015 election of statewide elected officials. Requires that the superintendent have the qualifications and salary of statewide elected officials.

Present constitution (Const. Art. VIII, §2) provides for a superintendent of education for public elementary and secondary education who, subject to provisions for appointment in lieu of election in Const. Art. IV, §20, shall be elected for a term of four years. Provides that if the office is made appointive, the State Board of Elementary and Secondary Education (BESE) shall make the appointment. Provides that the superintendent is the administrative head of the Dept. of Education and shall implement BESE policies and the laws affecting schools under its jurisdiction. Provides that the qualifications and other powers, functions, duties, and responsibilities of the superintendent shall be provided by law. Present constitution (Const. Art. IV, §20) authorizes the legislature to provide, by law enacted by 2/3rds of the elected members of each house, for appointment, in lieu of election, of the superintendent of education. Authorizes the legislature, by law enacted by two-thirds of the elected members of each house, to reestablish such office as elective and, in that event, requires the legislature to prescribe qualifications. (Note: Act No. 444 of 1985 provided for the appointment of the superintendent of education.)

Present law (R.S. 17:21) provides for the superintendent of education for public elementary and secondary education and provides that he shall execute and implement BESE policies and programs and serve as the administrative head of the Dept. of Education. Provides that he shall have other powers, functions, duties, and responsibilities as provided by law and possess qualifications adopted by BESE rule.

Proposed law removes the provision that the superintendent possess qualifications adopted by BESE rule. Requires instead that he have the qualifications required by Const. Art. IV, §2 for statewide elected officials. (Const. Art. IV, §2 provides that such an official, by the date of his qualification as a candidate, shall be age 25, be an elector, and have been a La. and U.S. citizen for at least the preceding five years. Prohibits a statewide elected official from holding other public office except by virtue of his elected office.)

Present law requires that the superintendent be appointed by a 2/3 vote of the total BESE membership. Requires BESE to enter into a contract with the appointed superintendent with the contract length to be determined by BESE, not to extend past the end of the term of office of the BESE members making the appointment, except permits the contract to provide that the superintendent may serve until the succeeding board has made an appointment. Provides that a vacancy in the office of superintendent occurring before expiration of the term of his contract be filled for the remainder of the unexpired term by appointment.

Proposed law provides instead that the superintendent shall be elected by the state's electors for a four-year term at the election for statewide elected officials and legislators.

Present law provides that the superintendent's salary be set by BESE subject to approval of the Joint Legislative Committee on the Budget. Present law (R.S. 36:10) provides for a \$115,000 salary for statewide elected officials, except the governor.

Proposed law makes the salary of statewide elected officials applicable to the superintendent.

Proposed law requires the state superintendent to appoint a first assistant as provided in Const. Art. IV, §13, to serve at the pleasure of the state superintendent. Provides that the first assistant fill a vacancy in the office of state superintendent as provided by Const. Art. IV, §16. Requires the first assistant to serve as deputy state superintendent of education.

Proposed law (R.S. 36:643(A) and 646, Executive Reorganization Act) makes the office of deputy state superintendent of education mandatory rather than permissive and provides that the first assistant to the state superintendent appointed pursuant to Const. Art. IV, §13 shall be the deputy state superintendent of education. Removes provisions of present law that require the state superintendent to designate the deputy superintendent of management and finance or the deputy superintendent of district support to serve in his absence if a deputy state superintendent of education is not appointed.

Proposed law specifies that proposed law is enacted pursuant to authority of the legislature in Const. Art. IV, §20 to provide by law enacted by 2/3rds of the elected members of each house that the office of superintendent of education shall be an elective office.

Proposed law retains present law that provides that, if the office of state superintendent of education is made appointive pursuant to Const. Art. IV, §20, the appointment shall be subject to Senate confirmation.

Provisions for qualifications and election of the superintendent are effective when qualifying opens for election to statewide elective office in 2015 solely for purposes of qualification of candidates and election of a superintendent at the 2015 election. Provisions are effective for all other purposes and for subsequent elections at noon on January 11, 2016. Implementing provisions are effective Aug. 1, 2014.

(Amends R.S. 17:21(B)(2), (C), and (D) and R.S. 36:643(A) and 646; Adds R.S. 17:23)