

Regular Session, 2014

HOUSE BILL NO. 191

BY REPRESENTATIVE PEARSON

SCHOOLS/BOARDS: Provides relative to powers, duties, and responsibilities of local school boards and superintendents

1 AN ACT

2 To amend and reenact R.S. 17:54(B)(1)(b)(i) and (iii), 81(A) and (P)(1), 81.4, 229, and  
3 414.1, relative to administration and management of elementary and secondary  
4 education; to provide with respect to local school superintendents, their employment,  
5 and their duties and responsibilities; to provide relative to local school boards and  
6 their functions and powers; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:54(B)(1)(b)(i) and (iii), 81(A) and (P)(1), 81.4, 229, and 414.1  
9 are hereby amended and reenacted to read as follows:

10 §54. Officers of boards, election; superintendents, qualifications, appointment and  
11 removal

12 \* \* \*

13 B.(1)

14 \* \* \*

15 (b)(i)(aa) The superintendent of schools shall be employed by a city, parish,  
16 or other local public school board pursuant to a written contract. Such contract shall  
17 contain but need not be limited to specific performance objectives. However, for the  
18 board of a local public school system that received any variation of a school  
19 performance letter grade of "C", "D", or "F", such contract shall establish  
20 performance targets at the school and district level as follows: (1) student

1 achievement; (2) student achievement for schools that have received any variation  
 2 of a school performance letter grade designation of "C", "D", or "F"; (3) graduation  
 3 rates; (4) graduation rates for schools that have received any variation of a school  
 4 performance letter grade designation of "C", "D", or "F"; and (5) the percentage of  
 5 teachers with an "effective" or "highly effective" performance rating. Not less than  
 6 ninety thirty days prior to the termination of such a contract, the school board shall  
 7 notify the superintendent of termination of employment under such contract, or in  
 8 lieu thereof the board and the superintendent may negotiate and enter into a contract  
 9 for subsequent employment.

10 (bb) Each local public school board shall submit a copy of its current  
 11 employment contract with the superintendent of schools to the state superintendent  
 12 of education.

13 (cc) A local public school board shall notify the state superintendent of  
 14 education any time it terminates or fails to renew its employment contract with the  
 15 local school superintendent along with the reasons therefor.

16 (dd) Any employment contract executed, negotiated, or renegotiated after  
 17 July 1, 2014, between a local school board and a superintendent that does not meet  
 18 the requirements established in this Subsection shall be null and void.

19 \* \* \*

20 (iii) The superintendent shall be retained during the term of a contract;  
 21 however, if the superintendent is found incompetent, unworthy, or inefficient or is  
 22 found to have failed to fulfill the terms and performance objectives of his contract  
 23 or to comply with school board policy, then the superintendent ~~may~~ shall be removed  
 24 from office as provided by Subsection C of this Section. Before the superintendent  
 25 can be removed during the contract period, he shall have the right to written charges  
 26 and a fair hearing before the board after reasonable written notice.

27 \* \* \*

1 §81. General powers of ~~city, parish, and other~~ local public school boards

2 A.(1) Each local public school board shall serve in a policymaking capacity  
3 that is in the best interests of all students enrolled in schools under the board's  
4 jurisdiction. When establishing board policies, each board shall prioritize student  
5 achievement, financial efficiency, and workforce development on a local, regional,  
6 and statewide basis. When choosing a local superintendent of schools, each board  
7 shall select a leader who shall prioritize student achievement and act in the best  
8 interests of all students enrolled in schools under the board's jurisdiction.

9 (2) ~~Each city and parish~~ local public school board shall determine the  
10 number of schools to be opened, the location of school houses, and the number of  
11 teachers and other school personnel to be employed, ~~and select teachers and all other~~  
12 ~~certified personnel from recommendations made by the city or parish superintendent~~  
13 ~~as required by this Subsection.~~ The ~~boards~~ local school superintendent shall have  
14 authority to employ teachers by the month or by the year, and to fix their salaries;  
15 provided that there shall be no discrimination as to sex in the fixing thereof and  
16 provided further, that it is not the purpose of this Section to require or direct the  
17 reduction of any salary, or salary schedule, presently in force. The ~~boards~~ local  
18 school superintendent shall see that the provisions of the state school law are  
19 complied with.

20 (2) (3) ~~Each city and parish~~ local public school board shall ~~select teachers~~  
21 ~~and all other certified personnel from recommendations made by the city or parish~~  
22 ~~superintendent regarding~~ delegate authority for the hiring and placement of all school  
23 personnel, including those for which state certification is required, to the local school  
24 superintendent. It shall be the responsibility of the superintendent to ensure that all  
25 persons ~~recommended~~ have proper certification, as applicable, and are qualified for  
26 the position. ~~Nothing shall prevent a school board from rejecting the~~  
27 ~~recommendations made by the superintendent and requiring the superintendent to~~  
28 ~~submit additional recommendations.~~



1 P.(1) No board member shall act in an individual capacity to use the  
 2 authority of his office or position as a member of the school board in a manner  
 3 intended to interfere with, compel, or coerce any personnel decision made by the  
 4 superintendent or a school principal, including the hiring, promotion, discipline,  
 5 demotion, transfer, discharge, or assignment of work to any school employee. The  
 6 superintendent, as the instructional leader of the district and its chief executive  
 7 officer, shall have primary responsibility for personnel actions in the district. Each  
 8 ~~school board shall approve or disapprove employment of teachers and all other~~  
 9 ~~certified personnel from recommendations made by the superintendent regarding the~~  
 10 ~~hiring and placement of all personnel for which state certification is required. The~~  
 11 ~~superintendent shall make recommendations to the board in open public session at~~  
 12 ~~a meeting which has been properly noticed. Prior to the board voting in open session~~  
 13 ~~on the superintendent's recommendations, the board shall provide opportunity for~~  
 14 ~~public comment.~~

15 \* \* \*

16 §81.4. Reductions in force; dismissal of teachers and other school employees  
 17 A. Not later than ~~January 1st, 1984~~ September 1, 2014, each city and parish  
 18 local public school board shall develop and adopt rules and policies that delegate  
 19 reduction in force decisions to the superintendent which ~~it~~ he shall use in dismissing  
 20 teachers and other employees at any time a reduction in force is instituted ~~by such~~  
 21 ~~school board~~. Such rules and policies shall be made available for inspection by  
 22 teachers, other school employees, and the general public within ten days after final  
 23 adoption.

24 ~~B. Not later than January 1st, 1986, each city and parish school board shall~~  
 25 ~~develop and adopt rules and policies which it shall use in dismissing any full-time~~  
 26 ~~secretary, teacher's aide, school clerk, or custodian at any time a reduction in force~~  
 27 ~~is instituted by that school board. These rules and policies shall be made available~~  
 28 ~~for inspection, by any full-time secretary, teacher's aide, school clerk, or custodian,~~  
 29 ~~and the general public within ten days after their final adoption.~~

1           ~~C. Not later than January 1, 1987, each city and parish school board shall~~  
2           ~~develop and adopt rules and policies which it shall use in dismissing school~~  
3           ~~employees other than those for which provision is made in Subsections (A) and (B);~~  
4           ~~at any time a reduction in force is instituted by the school board. Such rules and~~  
5           ~~policies shall be made available for inspection by any such school employee and the~~  
6           ~~general public within ten days after their final adoption.~~

7           B. All reduction in force policies adopted for use in dismissing teachers and  
8           administrators shall be based solely upon demand, performance, and effectiveness,  
9           as determined by the performance evaluation program as provided in R.S. 17:3881  
10          through 3905. Any reduction in force by a superintendent shall be instituted by  
11          dismissing the least effective teacher within each targeted subject area or area of  
12          certification first, and then proceeding by effectiveness rating until the reduction in  
13          force has been accomplished.

14          C. All reduction in force policies adopted by a local school board for use by  
15          the superintendent in dismissing school employees who are not evaluated pursuant  
16          to R.S. 17:3881 through 3905 shall be based upon the following criteria:

17                 (1) Performance and effectiveness as determined by school board policy.

18                 (2) Certification or academic preparation, if applicable.

19          ~~D. Not later than January 1, 1996, all~~ All ~~reduction in force policies of the~~  
20          ~~city and parish~~ local public ~~school boards and special schools as provided in this~~  
21          ~~Section shall include but not be limited to the following minimum standards:~~

22                 ~~(1) Certification, if applicable.~~

23                 ~~(2) Seniority in the system.~~

24                 ~~(3) Tenure of employees.~~

25                 ~~(4) Academic preparation, if applicable, within the employee's field.~~

26                 ~~(5)~~ (a) (1) ~~The right of an employee notified of an action which results from~~  
27          ~~implementation of a reduction in force policy to request in writing a review of such~~  
28          ~~action and to receive notice of the results of such review.~~

1           ~~(b)~~ (2) The right of an employee to pursue the matter through the school  
2           board's adopted grievance procedure.

3           E. No reduction in force policy adopted by a local public school board shall  
4           include seniority or tenure as the primary criterion to be considered when instituting  
5           a reduction in force.

6   \*           \*           \*

7           §229. Appointment of visiting teachers, or supervisors of child welfare and  
8           attendance

9           The ~~appointment of parish and city~~ local school superintendent shall appoint  
10          visiting teachers, ~~or and~~ supervisors of child welfare and attendance, ~~shall be made~~  
11          by the ~~parish or city school board upon the recommendation of the parish or city~~  
12          ~~superintendent of education~~; but no person shall be so recommended or so appointed  
13          unless certified by the ~~state board of education~~ State Board of Elementary and  
14          Secondary Education. ~~It shall be the duty of the parish or city superintendent of~~  
15          ~~education to nominate for the consideration of the school board the person or persons~~  
16          ~~whom he judges to be properly certified and the best qualified and most competent.~~

17          ~~Visiting teachers, or supervisors of child welfare and attendance, need not be~~  
18          ~~qualified electors or residents of the parish or city in which they are appointed to~~  
19          ~~serve.~~

20   \*           \*           \*

21          §414.1. Public elementary and secondary school principals; duties

22          The principal ~~appointed by the parish or city school board~~ for each public  
23          elementary and secondary school shall ~~serve~~, be appointed by and serve under the  
24          ~~overall~~ direction of the ~~parish or city~~ local superintendent of schools; as the  
25          administrative officer of the school to which he is assigned. Consistent with the  
26          requirements of law and the rules and regulations of the State Board of Elementary  
27          and Secondary Education and the ~~parish or city~~ local public school board by which  
28          he is employed, he shall have administrative responsibility for the direction and

1 supervision of the personnel and activities and the administration of the affairs of  
2 that school.

3 Section 2. This Act shall become effective on July 1, 2014; if vetoed by the governor  
4 and subsequently approved by the legislature, this Act shall become effective on July 1,  
5 2014, or on the day following such approval by the legislature, whichever is later.

#### 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)]

Pearson

HB No. 191

**Abstract:** Reenacts those provisions of Acts 2012, No. 1 relative to local school boards and superintendents.

Proposed law reenacts those provisions of Acts 2012, No. 1 relative to local school boards and superintendents, except changes effective date from July 1, 2012 to July 1, 2014. (Note: Acts 2012, No. 1 has been declared unconstitutional by the 19<sup>th</sup> JDC as violative of the single object requirements of the constitution. Media reports indicate that the decision will be appealed to the supreme court. In general, changes made by an unconstitutional Act of the legislature are ineffective and, therefore, the law prior to the unconstitutional Act remains effective. Coding in bill shows changes in the law as it existed prior to Acts 2012, No. 1. This digest treats the law prior to Acts 2012, No. 1 as present law and the reenacted changes of this Act as proposed law.)

Present law grants local school boards certain authority with respect to personnel decisions. Proposed law instead requires local school boards to delegate authority for personnel decisions to the local superintendent, including policies related to reductions in force.

Present law requires the local superintendent to consult with principals relative to hiring and placement decisions and provides that recommendations made by the principal are not binding upon the superintendent. Proposed law instead requires the superintendent to delegate such decisions to the principals, subject to the superintendent's approval.

Present law requires a school board to approve or disapprove employment of teachers and certified personnel from recommendations made by the superintendent. Requires the superintendent to make recommendations to the board in open public session. Requires the board to provide opportunity for public comment. Proposed law deletes present law.

Proposed law requires that all school personnel employment decisions be based upon performance, effectiveness, and qualifications. Provides for effectiveness as the primary criterion when making personnel decisions and prohibits the use of seniority or tenure as such.

Present law requires school boards to have rules and policies for the dismissal of school employees when there is a reduction in force. Requires reduction in force policies to include the following minimum standards: certification, if applicable; seniority in the system; tenure of employees; and academic preparation, if applicable, within the employee's field.



Proposed law deletes present law and instead provides the following relative to reduction in force policies:

- (1) Policies for teachers and administrators shall be based solely on demand, performance, and effectiveness. The least effective teachers within each targeted subject area or area of certification shall be dismissed first according to effectiveness ratings.
- (2) Policies for noncertified school personnel shall be based on performance and effectiveness as determined by local board policy and certification or academic preparation if applicable.
- (3) No reduction in force policy shall include seniority or tenure as the primary criterion.

Present law provides for appointment of principals by the local school board. Proposed law instead provides for principals' appointments by the local superintendent.

Present law requires local school boards to include specified performance objectives in employment contracts with the local superintendent. Proposed law specifies performance targets that must be included in the contract if the school system has been rated "C", "D", or "F". Requires all school boards to submit copies of such contracts to the state superintendent of education. Provides that any employment contract executed, negotiated, or renegotiated after July 1, 2014, between a board and superintendent that does not meet requirements of present law and proposed law is null and void.

Present law requires a local school board to notify a local superintendent not less than 90 days prior to termination of a contract. Proposed law changes this to not less than 30 days prior to termination. Also requires the board to notify the state superintendent when it terminates or fails to renew its employment contract with the local superintendent giving reasons therefor.

Present law provides that a local superintendent may be removed from office upon being found incompetent, unworthy, or inefficient or to have failed to fulfill the terms and performance objectives of his contract or to comply with school board policy. Proposed law provides instead that he shall be removed from office under these circumstances.

Effective July 1, 2014.

(Amends R.S. 17:54(B)(1)(b)(i) and (iii), 81(A) and (P)(1), 81.4, 229, and 414.1)