

2021 Regular Session

HOUSE BILL NO. 253

BY REPRESENTATIVE MCKNIGHT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SCHOOLS: Provides relative to the governance and funding of the Special School District, which provides special education services through its schools and programs

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 36:648.1 and to enact R.S. 17:1945.1 and 1945.2 and R.S. 36:651(D)(11), relative
4 to the Special School District; to provide for governance of the district by a board of
5 directors; to provide relative to the board's membership, powers, and duties; to
6 provide relative to the enrollment of students in the district's schools; to provide
7 relative to the funding of the district; to provide for the district's transition from
8 operation by the state Department of Education to independent operation; to provide
9 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 read as follows:

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

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

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

6 * * *

7 §1945. Special schools and school districts

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

13 ~~(1)~~ (2) The ~~state superintendent of education shall be the~~ governing authority
14 for the Special School District shall be the board of directors as provided in R.S.
15 17:1945.1.

16 ~~(2)~~ (3) The Special School District includes:

17 (a) Louisiana special schools.

18 (b) Special School Programs.

19 ~~(3)~~ (4) The services of the Special School District shall be available to all
20 eligible students as described in this Section, regardless of their place of residence
21 within the state.

22 B.

23 * * *

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

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

* * *

13 §1945.1. Board of directors of the Special School District; creation; membership;
14 terms; powers, duties, and functions

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

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

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

22 (i) Demonstrates competency in American Sign Language.

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

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

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

28 (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 qualified persons, two of whom shall be nominated by each
19 of the 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 qualified persons, two of whom shall be nominated by each of the
25 following:

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

27 (b) The Louisiana Association for the Blind.

28 (c) The Lighthouse for the Blind.

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

4 B. The terms of the members of the board shall be concurrent with the term
5 of the person making the appointment, and they shall serve at the pleasure of the
6 appointing authority. Members shall serve until their successors have been
7 appointed and qualified. A vacancy on the board shall be filled in the manner of the
8 original appointment.

9 C. The board shall have the authority to do the following:

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

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

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

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

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

26 (6) Award certificates and issue diplomas for successful completion of
27 programs of study. All such certificates and diplomas shall be in addition to a
28 regular high school diploma which shall be issued by the State Board of Elementary
29 and Secondary Education in accordance with the provisions of R.S. 17:6(A)(11) to

1 any student who successfully completes the program of study adopted by the state
2 board.

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

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

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

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

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

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

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

24 (5) Select a superintendent who shall be the chief administrative officer of
25 the school and who shall administer the rules, regulations, and policies adopted by
26 the board. The board shall delegate to the superintendent such of its powers and
27 duties as it deems appropriate to aid the superintendent in the efficient administration
28 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 E. Members of the board shall not receive any compensation for their service
19 as members.

20 §1945.2. Funding; inclusion in the minimum foundation program formula; other
21 appropriated state funds

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

1 B. The Special School District shall be considered a public school for
2 purposes of receiving funding through the minimum foundation program of
3 education in the same manner as for other public schools as contained in the
4 minimum foundation program budget letter approved by the State Board of
5 Elementary and Secondary Education. The district shall also be eligible to receive
6 such other funding as may be specifically appropriated by the legislature.

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

10 §1946. Procedural safeguards

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

17 * * *

18 Section 2. R.S. 36:648.1 is hereby amended and reenacted and R.S. 36:651(D)(11)
19 is hereby enacted to read as follows:

20 §648.1. Special School District; administration

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

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

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

4 * * *

5 §651. Transfer of boards, commissions, departments, and agencies to Department
6 of Education; boards, commissions, and agencies within Department of
7 Education

8 * * *

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

11 * * *

12 (11) The Special School District and its board of directors (R.S. 17:1945.1
13 et seq.).

14 * * *

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

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

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

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

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

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

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

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

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

14 (J) Any legal proceeding, as defined in R.S. 36:924, relative to the Special School
15 District which is filed, initiated, or otherwise pending before any court on the effective date
16 of this Act and all documents involved in or affected by such legal proceeding shall retain
17 their effectiveness and continue in the names of those agencies or individuals named as
18 parties in the proceedings.

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

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

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

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

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

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

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

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)]

HB 253 Engrossed

2021 Regular Session

McKnight

Abstract: Provides with respect to the governance and funding of the La. Special School District, which provides special education services through its schools and programs.

Special School District, generally

Present law provides that the Special School District (SSD) includes the La. special schools (the La. School for the Deaf and the La. School for the Visually Impaired) and Special School Programs, which provide services to students in state-operated facilities. Proposed law retains present law.

Governance

Present law provides that the SSD is an educational service agency administered by the Dept. of Education and governed by the state superintendent of education. Proposed law instead provides for the district to be an independent agency governed by a newly created board of directors with 11 members (one member of the State Board of Elementary and Secondary Education appointed by the state board president and 10 members appointed by the governor). Provides for the board's powers and duties with respect to district governance.

Administration

Present law provides for the SSD to be under the administration of a district superintendent appointed by the state superintendent of education (subject to confirmation by the Senate), who shall set his salary and oversee his duties and functions. Proposed law transfers such authorities from the state superintendent to the board of directors.

Funding

Proposed law requires the board to adopt an annual budget to adequately fund the district and that the district shall be considered a public school for purposes of receiving funding through the minimum foundation program (MFP). Provides that the district is also eligible to receive such other funding as may be appropriated by the legislature.

Enrollment

Present law requires the special schools to establish an annual enrollment deadline for admission. Provides that after a school's deadline, any other children with hearing, visual, or orthopedic impairments may enroll if the school determines it has sufficient resources. Proposed law revises enrollment procedures by requiring these schools, upon parental

request, to enroll students with low incidence disabilities and students eligible under the Individuals with Disabilities Education Act requiring special education services upon their admission into state facilities in which the SSD provides special education services.

Transition

Proposed law provides for the transition to begin on July 1, 2021, for the governor to appoint the board members by July 15, 2021, and for the board to resume responsibility for providing for the education of students on Aug. 1, 2021.

Proposed law provides that the district superintendent serving upon the effective date of proposed law may continue to serve unless removed by the board.

Effective July 1, 2021.

(Amends R.S. 17:43(A) and (B)(1), 1945(A) and (B)(2), and 1946(A) and R.S. 36:648.1;
Adds R.S. 17:1945.1 and 1945.2 and R.S. 36:651(D)(11))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Increase board membership from 9 to 11 by adding a member of BESE appointed by the BESE president and an additional member appointed by the governor.