

Regular Session, 2010

HOUSE BILL NO. 1368

BY REPRESENTATIVES JANE SMITH, BOBBY BADON, HENRY BURNS, TIM BURNS, CARMODY, CARTER, CHAMPAGNE, CONNICK, DOVE, GISCLAIR, HARDY, HOFFMANN, KATZ, LABRUZZO, LIGI, NOWLIN, ROBIDEAUX, SIMON, SMILEY, WILLIAMS, AND WOOTON AND SENATORS APPEL, BROOME, DONAHUE, DUPLESSIS, MARTINY, AND QUINN

EDUCATION: Authorizes BESE to exempt a school district from certain laws, rules, and regulations pursuant to a request and proposal for increasing quality of instruction and academic achievement from the school district

1 AN ACT

2 To enact Chapter 44 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised  
3 of R.S. 17:4031 through 4040, relative to public elementary and secondary  
4 education; to authorize the State Board of Elementary and Secondary Education to  
5 exempt school districts from various laws and regulations pertaining to education;  
6 to provide procedures regarding request for and approval of such waivers; to provide  
7 for terms and conditions on such waivers; to provide with respect to schools within  
8 the jurisdiction of the Recovery School District and schools which may be  
9 transferred to that jurisdiction; to provide for reports; and to provide for related  
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Chapter 44 of Title 17 of the Louisiana Revised Statutes of 1950,  
13 comprised of R.S. 17:4031 through 4040, is hereby enacted to read as follows:

14 CHAPTER 44. RED TAPE REDUCTION AND LOCAL

15 EMPOWERMENT WAIVER PROGRAM

16 §4031. Definitions

17 As used in this Chapter, unless otherwise clearly indicated, the following  
18 terms mean:

19 (1) "Board" means the State Board of Elementary and Secondary Education.

1           (2) "Department" means the state Department of Education.

2           (3) "District" means any city, parish, or other local public school district, the  
3           Recovery School District, and the Special School District.

4           (4) "Governing authority" means the governing authority of any public  
5           elementary or secondary school.

6           (5) "Low-performing school" means an academically unacceptable school  
7           as determined by the board.

8           (6) "Superintendent" means the superintendent of any city, parish, or other  
9           local public school district, the director of the Special School District, and the  
10           superintendent of the Recovery School District.

11           (7) "Waiver" means a waiver granted pursuant to and in accordance with this  
12           Chapter which exempts the recipient district from any provision of this Title or from  
13           any rule, regulation, or policy of the board that is applicable to public schools and  
14           to public school officers and employees. A waiver may be granted for any  
15           combination of such laws, rules, regulations, or policies, including but not limited  
16           to those related to instructional time, curriculum, funding, personnel, student-to-  
17           personnel ratios, and student support; however, Subpart B of Part III of Chapter 1 of  
18           Title 17 of the Louisiana Revised Statutes of 1950, R.S. 17:158, 416.2, 3902 and  
19           laws, rules, and regulations identified in R.S. 17:3996(B)(1) through (23) and those  
20           related to matters identified in R.S. 17:3996(A)(1) through (17) shall not be waived.  
21           Also, any limitation or restriction on outsourcing of food, clerical, custodial, or  
22           paraprofessional services shall not be waived.

23           §4032. Authority of the board to grant waivers

24           Notwithstanding any provision of law to the contrary, the board may, upon  
25           receipt of a waiver application from a superintendent as set forth in this Chapter and  
26           with the goal of improving quality of instruction and student academic achievement,  
27           issue a waiver to any district.

1        §4033. Requests for waivers

2                A. A superintendent under the direction of the governing authority may  
3        request a waiver for any school, any combination of schools, or all schools under his  
4        district's jurisdiction.

5                B. A superintendent requesting a waiver shall submit to the board a written  
6        waiver request that does all of the following:

7                    (1) Identifies the specific laws, rules, regulations, and policies from which  
8        waiver is sought.

9                    (2) Identifies the school or schools that will be covered by the waiver.

10                  (3) Describes the policies and procedures that will be instituted as a  
11        substitute for the waived provisions.

12                  (4) Describes how the proposed waiver will accomplish all of the following:

13                    (a) Increase the quality of instruction for students.

14                    (b) Improve the academic achievement of students.

15                    (c) Improve teaching effectiveness within schools.

16                  (5) Describes, for each school year, specific, measurable educational goals  
17        and the methods to be used annually to measure progress in meeting such goals.

18        §4034. Terms and conditions of waivers for low-performing schools

19                A. The board shall require any low-performing school covered by a waiver  
20        to meet certain terms and conditions aimed at improving teacher effectiveness,  
21        quality of instruction, and student academic achievement. The superintendent of  
22        such school shall:

23                  (1) Ensure the effectiveness of the school's teachers, as defined by the board,  
24        by agreeing to do all of the following:

25                    (a) Propose and implement a plan to reward highly effective educators.

26                    (b) Identify ineffective educators and provide them with high-quality  
27        professional development.

28                    (c) Identify and dismiss persistently ineffective teachers.

1           (d) By the end of the second year of the waiver period, ensure that every  
2           teacher in core, tested subjects, as such subjects are identified by the board, is  
3           effective.

4           (2) Ensure the improvement of quality of instruction and student academic  
5           achievement by implementing one of the following four intervention options at each  
6           low-performing school covered by the waiver:

7           (a) Turnaround: Put in place new leadership and a majority of new staff,  
8           new governance, and improved instructional programs, and provide the school with  
9           sufficient operational flexibility such as the ability to select staff, control its budget,  
10          and increase learning time.

11          (b) Restart: Convert a school to or close and reopen it under a charter or  
12          education management organization.

13          (c) School Closure: Close the school and place its students in a high-  
14          performing school within the district.

15          (d) Transformation: Hire a new principal and implement a suite of best  
16          practices including comprehensive instructional management reform and measures  
17          of effective teaching. The board shall not grant a waiver to a district that proposes  
18          this option, and no superintendent shall use this option for more than fifty percent of  
19          the low-performing schools covered by the waiver.

20          (3) A district that has implemented one or more of the interventions  
21          described in Paragraph (2) of this Subsection for its low-performing schools in the  
22          two academic years immediately preceding the waiver application is not eligible to  
23          receive a waiver for such schools unless both of the following apply:

24          (a) The school has met its statewide accountability growth target or  
25          surpassed the statewide growth average during such two-year period of  
26          implementation.

27          (b) The district agrees to implement any remaining conditions of school  
28          intervention as required by the board.

1           B. All schools participating in the intervention options described in  
2           Paragraph (A)(2) of this Section shall receive a suspension of the effects of  
3           accountability for as long as a waiver remains in effect. Upon termination of the  
4           waiver, if the school has not met its statewide accountability growth targets, the  
5           school shall be transferred to the jurisdiction of the Recovery School District  
6           established in R.S. 17:1990 or shall enter into a memorandum of understanding with  
7           the Recovery School District.

8           C. The superintendent of a district that enters into a memorandum of  
9           understanding with the Recovery School District in lieu of having certain schools  
10          taken into the Recovery School District may request a waiver for such schools. The  
11          effects and requirements of the memorandum of understanding shall be suspended  
12          for the duration of the waiver. If at the termination of the waiver the school has not  
13          met its statewide accountability growth targets, the school shall be transferred to the  
14          jurisdiction of the Recovery School District established in R.S. 17:1990.

15          D. If at the termination of a waiver any participating school under the  
16          jurisdiction of the Recovery School District has not met its statewide accountability  
17          growth targets, the board shall take any one of the following actions:

18               (1) Transfer management of the school to a charter management organization  
19               or, if the school is managed by a charter management organization at the time of  
20               termination, to a new charter management organization, allowing the school to  
21               remain under the jurisdiction of the Recovery School District.

22               (2) Close the school and place its students in a higher performing school  
23               within the Recovery School District.

24          E. The provisions of this Section do not apply to any school that is not a low-  
25          performing school.

26          §4035. Grant, denial, or extension of waivers

27               A. If the requirements provided in this Chapter are met, the board may grant  
28               a waiver as requested or grant a waiver subject to specified modifications. The

1 waiver shall be effective for a specified period of up to four years unless terminated  
2 sooner by the board.

3 B. The terms and conditions of any waiver granted pursuant to this Chapter  
4 shall be reduced to writing by and approved by the board and agreed to and signed  
5 by the superintendent in the manner prescribed by the board. The written document  
6 containing the terms and conditions of the waiver shall not constitute a contract  
7 between the board and the superintendent or any governing authority.

8 C. The board may, upon request from the superintendent and a  
9 recommendation from the department, extend the waiver period if it determines that  
10 the waiver has been effective in enabling the school to carry out the activities for  
11 which the waiver was requested and the waiver has contributed to improved quality  
12 of instruction and student academic achievement. Any such extension shall not  
13 suspend the effects of accountability.

14 §4036. Reporting requirements

15 A. The superintendent of any school that receives a waiver pursuant to this  
16 Chapter shall provide periodic reports on progress in achieving specific benchmarks  
17 set forth by the board and shall provide, upon the request of the board, periodic  
18 reports on the uses and effectiveness of the waiver.

19 B. By March first of each year, the board shall submit a report to the  
20 legislature:

21 (1) Summarizing the uses of waivers granted pursuant to this Chapter.

22 (2) Describing whether such waivers:

23 (a) Increased the quality of instruction to students.

24 (b) Improved the academic achievement of students.

25 (3) Recommending any legislative changes if district success in improving  
26 quality of instruction and academic achievement under a waiver indicates that  
27 changes in a waived provision of law would be appropriate for all districts.

1        §4037. Termination of waivers

2            A. Upon a recommendation by the department, the board shall terminate a  
3        waiver, either completely or with respect to individual schools, if the board  
4        determines that the performance of the schools has been inadequate to justify a  
5        continuation of the waiver or if the waiver is no longer necessary to achieve its  
6        original purposes.

7            B. The board shall terminate a waiver as applied to a low-performing school  
8        if the school has failed to implement the requirements set forth in R.S. 17:4034  
9        within two years of the granting of the waiver and may terminate a waiver as applied  
10       to a low-performing school that has not met its statewide accountability growth  
11       targets for three consecutive years while under the waiver or has not met any other  
12       required condition or benchmark.

13       §4038. Rules

14           The board shall adopt and promulgate rules and regulations in accordance  
15       with the Administrative Procedure Act to implement the provisions of this Chapter.

16       §4039. Other waiver provisions

17           The provisions of this Chapter shall not be applicable to any waiver otherwise  
18       provided for by law or rule.

19       §4040. Waived or reduced reporting requirements

20           The department shall review and, upon the request of the board, the  
21       governor's office, or the legislature, shall report any specific requirement of federal  
22       regulation or this Title, or any board rule, regulation, or policy the waiver,  
23       amendment, or repeal of which may give public and nonpublic schools and  
24       governing authorities greater flexibility to improve quality of instruction and student  
25       academic achievement.

26       Section 2. The initial report pursuant to R.S. 17:4036(B) as enacted by this Act shall  
27       be submitted to the legislature by March 1, 2012.

28       Section 3. This Act shall become effective upon signature by the governor or, if not  
29       signed by the governor, upon expiration of the time for bills to become law without signature

- 1 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If
- 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
- 3 effective on the day following such approval.

### 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)]

Jane Smith

HB No. 1368

**Abstract:** Provides a waiver program under which BESE may exempt any school, any combination of schools, or all schools under a school district's jurisdiction (including the RSD and the Special School District) from various laws, rules, and regulations if the school district demonstrates how such a waiver will increase the quality of instruction and improve student academic achievement.

Proposed law authorizes the State Board of Elementary and Secondary Education (BESE) to exempt school districts from certain laws, rules, regulations, and policies applicable to public schools and to public school officers and employees. Such exemptions are granted through issuance of a waiver, which is granted to a school district for any school, any combination of schools, or all schools in the district. Proposed law specifies laws, rules, regulations, and policies which may not be waived, including those relative to nutrition, transportation, evaluations, alternative education, accountability, and graduation requirements. Further prohibits waiving of limitations on outsourcing specified services.

Proposed law provides that the local superintendent under the direction of the school board or other governing authority requests the waiver. Specifies the elements which the waiver request must contain, including: identification of provisions he wishes to be waived, description of alternative policies and procedures to the waived provisions, description of how the waiver will increase the quality of instruction and improve academic achievement, and description of measurable educational goals and the methods of measurement.

In order for a superintendent to receive a waiver for schools that are academically unacceptable as determined by BESE, proposed law requires him to:

- (1) Ensure the effectiveness of the school's teachers, as defined by the board, by agreeing to specified steps to reward highly effective educators and to identify and train or dismiss ineffective teachers.
- (2) Implement one of the following intervention options:
  - (a) Put in place new leadership and staff, new governance, and improved instructional programs and provide the school with sufficient operational flexibility.
  - (b) Convert or close and reopen a school under a charter or education management organization.
  - (c) Close the school and place its students in a high-performing school within the district.
  - (d) Hire a new principal and implement a suite of best practices including comprehensive instructional management reform and measures of effective



teaching. Proposed law provides that his option may not be proposed for more than half of the low-performing schools under the waiver.

Provides further with respect to schools where such interventions had begun prior to application for the waiver; provides special conditions on a waiver for such a school.

Provides for suspension (while the waiver is in effect) of take over by the Recovery School District for schools implementing the above intervention options; however requires BESE to terminate a waiver as applied to an academically unacceptable school if the school fails to implement proposed law within two years, and authorizes BESE to terminate a waiver if such a school fails to meet statewide accountability growth targets for three consecutive years while under the waiver or to meet other conditions or benchmarks.

Provides that a school in the Recovery School District that has failed to meet accountability growth targets at the end of the period of a waiver shall be transferred to a charter management organization or to a new charter management organization or closed.

Authorizes BESE to issue a waiver as requested or subject to specified modifications in the waiver request. A waiver is effective for a specified period of up to four years. Authorizes BESE to terminate waivers, completely or with respect to particular schools, prior to the end of the waiver period. Provides for extensions of a waiver. Provides that a waiver extension does not suspend accountability effects.

Provides for reports from school districts with waivers to BESE and reports from BESE to the legislature.

Requires BESE rules to implement proposed law.

Requires the Dept. of Education to review and upon the request of BESE, the governor's office, or the legislature, to report specific requirements of federal regulation, state law, and board rules, regulations, and policies of the waiver, amendment, or repeal of which may give schools greater flexibility to increase student achievement.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 17:4031-4040)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Added the following to list of laws and regulations which may not be waived:
  - a. Nutrition laws.
  - b. Limitations on outsourcing specified services.
2. Added requirement that the superintendent's application for a waiver is subject to direction of the school board or other governing authority.