

Regular Session, 2010

# ACT No. 749

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

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 4039, 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 4039, 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.

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

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

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

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

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

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

20                  §4032. Authority of the board to grant waivers

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

25                  §4033. Requests for waivers

26                  A. A governing authority may request a waiver for any school, any  
27                  combination of schools, or all schools under his district's jurisdiction. However, a  
28                  governing authority shall not request a waiver for any school unless a majority of the  
29                  classroom teachers employed in the school, voting by secret ballot, vote in favor of  
30                  inclusion of such school in the waiver request.

1           B. A governing authority requesting a waiver shall submit to the board a  
2           written waiver request that does all of the following:

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

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

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

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

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

10                          (b) Improve the academic achievement of students.

11                          (c) Improve teaching effectiveness within schools.

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

14           §4034. Terms and conditions of waivers for low-performing schools

15                   A. The board shall require any low-performing school covered by a waiver  
16           to meet certain terms and conditions aimed at improving teacher effectiveness,  
17           quality of instruction, and student academic achievement. The governing authority  
18           of such school shall:

19                          (1) Ensure the effectiveness of the school's teachers pursuant to Part II of  
20           Chapter 39 of Title 17 of the Louisiana Revised Statutes of 1950.

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

24                           (a) Turnaround: Put in place new leadership and a majority of new staff,  
25           new governance, and improved instructional programs, and provide the school with  
26           sufficient operational flexibility such as the ability to select staff, control its budget  
27           as approved by the school's governing authority, and increase learning time.

28                           (b) Restart: Convert the school to a charter school. However, every teacher  
29           employed in such school prior to its conversion to a charter school, who has been  
30           determined to be effective in accordance with the provisions of Part II of Chapter 39

1           of Title 17 of the Louisiana Revised Statutes of 1950, shall be given the option to  
2           remain at the school or to be reassigned by the governing authority to another school  
3           under its jurisdiction.

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

6           (d) Transformation: Hire a new principal and implement a suite of best  
7           practices including comprehensive instructional management reform and measures  
8           of effective teaching. The board shall not grant a waiver to a district that proposes  
9           to use this option for more than fifty percent of the low-performing schools covered  
10          by the waiver.

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

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

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

20               B. A school implementing any of the intervention options prescribed in  
21               Paragraph (A)(2) of this Section shall not be subject to transfer to the Recovery  
22               School District for the duration of the waiver period. Upon termination of the waiver,  
23               a school that has not met its growth targets as established by the school and district  
24               accountability system shall be transferred to the jurisdiction of the Recovery School  
25               District or the governing authority of such school shall enter into a memorandum of  
26               understanding with the Recovery School District which shall govern the operation  
27               of the school.

28               C. A school that entered into a memorandum of understanding with the  
29               Recovery School District prior to receipt of a waiver, and which upon expiration of  
30               the memorandum of understanding or termination of the waiver has not met its

1 growth targets as established by the school and district accountability system, shall  
2 be transferred to the jurisdiction of the Recovery School District.

3 D. A school under the jurisdiction of the Recovery School District which has  
4 been granted a waiver, and upon termination of the waiver has not met its growth  
5 targets as established by the school and district accountability system, shall be  
6 subject to one of the following actions as determined by the board:

7 (1) A school that is directly operated by the Recovery School District shall  
8 be converted to a charter school. If the school is a charter school, the Recovery  
9 School District shall terminate the school's charter and enter into a contract with a  
10 new chartering group for the operation of the school. Such schools shall remain  
11 under the jurisdiction of the Recovery School District.

12 (2) The school shall be closed and its students transferred to a higher  
13 performing school within the Recovery School District.

14 §4035. Grant, denial, or extension of waivers

15 A. If the requirements provided in this Chapter are met, the board may grant  
16 a waiver as requested or grant a waiver subject to specified modifications. The  
17 waiver shall be effective for a specified period of up to four years unless terminated  
18 sooner by the board.

19 B. The terms and conditions of any waiver granted pursuant to this Chapter  
20 shall be reduced to writing by and approved by the board and agreed to and signed  
21 by the superintendent, subject to the approval of the governing authority, in the  
22 manner prescribed by the board. The written document containing the terms and  
23 conditions of the waiver shall not constitute a contract between the board and the  
24 governing authority.

25 C. The board may, upon request from the governing authority and a  
26 recommendation from the department, extend the waiver period if it determines that  
27 the waiver has been effective in enabling the school to carry out the activities for  
28 which the waiver was requested and the waiver has contributed to improved quality  
29 of instruction and student academic achievement. Any such extension shall not

1 prevent a school otherwise eligible from being subject to transfer to the Recovery  
2 School District.

3 §4036. Reporting requirements

4 A. The governing authority of any school that receives a waiver pursuant to  
5 this Chapter shall provide periodic reports on progress in achieving specific  
6 benchmarks set forth by the board and shall provide, upon the request of the board,  
7 periodic reports on the uses and effectiveness of the waiver.

8 B. Not later than March first of each year, the board shall submit a report to  
9 the Senate Committee on Education and the House Committee on Education:

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

11 (2) Describing whether such waivers:

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

13 (b) Improved the academic achievement of students.

14 (3) Recommending any proposed legislative changes, if district success in  
15 improving quality of instruction and academic achievement under a waiver indicates  
16 that changes in an existing provision of law would be appropriate for all districts.

17 §4037. Termination of waivers

18 A. The board shall terminate a waiver, either completely or with respect to  
19 individual schools, if the board determines that the performance of the schools has  
20 been inadequate to justify a continuation of the waiver or if the waiver is no longer  
21 necessary to achieve its original purposes.

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

28 §4038. Rules

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

1           §4039. Other waiver provisions

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

4           Section 2. Beginning with the effective date of this Act, no city, parish, or other local  
5 public school board shall be required to comply with any unfunded mandate imposed by  
6 state law or any rule, regulation, or policy promulgated by the State Board of Elementary  
7 and Secondary Education.

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_