

Regular Session, 2014

HOUSE BILL NO. 1231

BY REPRESENTATIVE NANCY LANDRY

BESE: Provides relative to BESE enforcing compliance of certain laws applicable to local school boards

1 AN ACT

2 To enact R.S. 17:81.1, relative to enforcement of laws imposing certain responsibilities and
3 duties upon local school boards and superintendents of schools; to provide for notice
4 by the legislative auditor of audit reports of certain violations of law by school
5 boards; to require and authorize BESE to ensure compliance with such laws by local
6 school boards; to provide for enforcement actions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:81.1 is hereby enacted to read as follows:

9 §81.1. Enforcement of provisions relative to responsibilities of school boards;
10 mandamus; responsibilities of state board

11 A. For purposes of this Section:

12 (1) "Local school board" means a city, parish, or other local public school
13 board.

14 (2) "Local schools" means all schools under the jurisdiction of a local school
15 board.

16 (3) "Noncompliance", "not in compliance", or "noncompliant" means a local
17 school board is in violation of any provision of R.S. 17:54, 81, 81.4, 229, 414.1, or
18 418. "Compliance" or "compliant" means that a local school board is not in violation
19 of such provisions.

1 (4) "State board" means the State Board of Elementary and Secondary
2 Education.

3 B.(1) The state board shall ensure compliance with the provisions of R.S.
4 17:54, 81, 81.4, 229, 414.1, and 418 throughout the state as provided in this Section.

5 (2)(a) If the legislative auditor receives a report of an audit of a local school
6 board that states that the local school board is noncompliant or if the legislative
7 auditor conducts an audit of a local school board and the audit report identifies areas
8 of noncompliance, he shall notify the local school board that he is in receipt of such
9 audit report or has completed such an audit report, as the case may be, and that,
10 unless he receives affidavits of compliance signed by the local school board's auditor
11 within thirty days of such notification, he is required to notify the state board.

12 (b) Upon expiration of the thirty days, if the local school board remains
13 noncompliant, the legislative auditor shall provide a copy of the audit report to the
14 state board.

15 (3)(a) Upon receipt by the state board of an initial report of noncompliance
16 from the legislative auditor, the state board may institute legal action to remedy the
17 local school board's noncompliance.

18 (b) Upon receipt by the state board of a subsequent report of noncompliance
19 from the legislative auditor, one year or more after receipt of the initial notice on
20 noncompliance, or if, upon its own initiative, the state board determines the local
21 school board to be subsequently noncompliant, the state board shall institute legal
22 action to remedy the local school board's noncompliance.

23 (4)(a) In pursuing legal action, the state board can either institute an action
24 in mandamus or otherwise petition the court for appropriate remedy to enforce
25 compliance.

26 (b) The action is hereby authorized to be and shall be brought in the
27 Nineteenth Judicial District Court.

28 (c) If the local school board fails to comply with a judgment making any writ
29 of mandamus peremptory or a judgment otherwise directing the local school board

1 to act or cease to act in a particular manner, the members of the local school board
2 may be punished for contempt.

3 Section 2. This Act shall become effective upon signature by the governor
4 or, if not signed by the governor, upon expiration of the time for bills to become law
5 without signature by the governor, as provided by Article III, Section 18 of the
6 Constitution of Louisiana. If vetoed by the governor and subsequently approved by
7 the legislature, this Act shall become 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)]

Nancy Landry

HB No. 1231

Abstract: Provides for enforcement of laws concerning certain responsibilities of local school boards and superintendents of schools contained in Act 1 of the 2012 RS, provides for the legislative auditor to send BESE any audit reports that cites certain violations of such laws by school boards. Provides for certain enforcement actions by BESE.

Present law (R.S. 17:54, 81, 81.4, 229, 414.1, and 418, as amended by Acts 2012, No. 1) provides relative to the powers and duties of school boards and local superintendents of schools. Requires local school boards to delegate authority for personnel decisions to the local superintendent, including policies related to reductions in force. Provides for appointments of principals by the local superintendent. Requires the superintendent to delegate hiring and placement decisions to school principals, subject to his approval. 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. Relative to reduction in force policies, provides that policies for teachers and administrators be based solely on demand, performance, and effectiveness; that policies for noncertified school personnel be based on performance and effectiveness as determined by local board policy; and that seniority or tenure cannot be the primary criterion for reduction in force.

Present law further requires local school boards to include specified performance targets in employment contracts with the local superintendent and to submit copies of such contracts to the state superintendent of education. Provides that any employment contract executed, negotiated, or renegotiated after July 1, 2012, between a board and superintendent that does not meet requirements of law is null and void. Requires that a local superintendent 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.

Present law also requires all public school governing authorities (public schools, state special schools, and schools and programs of the special school district) to establish salary schedules and specifies certain factors schedules shall be based upon. Provides that salaries shall be considered as full compensation for all work required. Prohibits any teacher or administrator rated as "ineffective" by a performance evaluation from receiving a higher salary in the year following the evaluation than he received in the year of the evaluation. Prohibits salary

reductions, with certain exceptions. Provides for vocational agricultural teachers to teach and be paid on a 12-month basis.

Proposed law retains present law and provides for enforcement of present law by BESE. Requires, if the legislative auditor receives an audit report of a local school board that states that the local school board is in violation of present law, or if the legislative auditor conducts an audit and the audit report identifies areas of noncompliance, that he notify the school board that he has received or completed such a report and, unless he receives affidavits of compliance signed by the board's auditor within 30 days, he is required to notify BESE of noncompliance.

Proposed law, upon notice of an initial violation, authorizes BESE to institute an action in mandamus or otherwise petition the court for an appropriate remedy to enforce compliance by the local school board. Upon any subsequent violation, requires BESE to institute such legal action. Requires bringing the action in the 19th JDC. Authorizes punishment of the members of the local school board for contempt if the school board fails to comply with a judgment making the writ of mandamus peremptory or a judgment otherwise directing the school board to act.

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

(Adds R.S. 17:81.1)