

2016 Regular Session

HOUSE BILL NO. 473

BY REPRESENTATIVES HENSGENS AND DWIGHT

ETHICS: Provides relative to certain prohibited conflicts for members of the State Board of Elementary and Secondary Education and the state superintendent of education

1 AN ACT

2 To enact R.S. 42:1111.1, relative to the Code of Governmental Ethics; to provide for  
3 additional ethical standards for members and former members of the State Board of  
4 Elementary and Secondary Education, the state superintendent of education and the  
5 former state superintendent of education, and related persons; to provide for  
6 penalties; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 42:1111.1 is hereby enacted to read as follows:

9 §1111.1. Additional ethical standards; State Board of Elementary and Secondary  
10 Education; state superintendent of education; related persons

11 A. If any provision of this Section conflicts with any other provision of this  
12 Part, the more restrictive provision shall govern.

13 B.(1) No member of the State Board of Elementary and Secondary  
14 Education, member of his immediate family, or legal entity in which such a person  
15 has a substantial economic interest, excluding an ownership interest of less than five  
16 percent in a publicly traded corporation, shall bid on or enter into or be in any way  
17 interested in any contract, subcontract, or other transaction that is under the  
18 supervision or jurisdiction of the State Board of Elementary and Secondary  
19 Education or the Department of Education.

1           (2) No state superintendent of education, member of his immediate family,  
 2           or legal entity in which such a person has a substantial economic interest, excluding  
 3           an ownership interest of less than five percent in a publicly traded corporation, shall  
 4           bid on, enter into, or be in any way interested in any contract, subcontract, or other  
 5           transaction that is under the supervision or jurisdiction of the State Board of  
 6           Elementary and Secondary Education or the Department of Education.

7           C.(1) No member of the State Board of Elementary and Secondary Education  
 8           nor the state superintendent of education and no legal entity of which such person is  
 9           an officer, director, trustee, partner, or employee, or in which such a person has a  
 10           substantial economic interest, excluding an ownership interest of less than five  
 11           percent in a publicly traded corporation, shall receive or agree to receive any thing  
 12           of economic value from any person who has or is seeking to obtain contractual or  
 13           other business or financial relationships with the State Board of Elementary and  
 14           Secondary Education or the Department of Education.

15           (2) No member of the State Board of Elementary and Secondary Education  
 16           nor the state superintendent of education and no legal entity of which such person is  
 17           an officer, director, trustee, partner, or employee, or in which such a person has a  
 18           substantial economic interest, excluding an ownership interest of less than five  
 19           percent in a publicly traded corporation, shall receive or agree to receive any thing  
 20           of economic value for assisting a person in a transaction, or in an appearance in  
 21           connection with a transaction, with the State Board of Elementary and Secondary  
 22           Education or the Department of Education.

23           (3) No immediate family member of the state superintendent of education  
 24           or of a member of the State Board of Elementary and Secondary Education and no  
 25           legal entity of which such an immediate family member is an officer, director,  
 26           trustee, partner, or employee, or in which an immediate family member has a  
 27           substantial economic interest, excluding an ownership interest of less than five  
 28           percent in a publicly traded corporation, shall receive or agree to receive any thing  
 29           of economic value for assisting a person in a transaction, or in an appearance in

1 connection with a transaction, with the State Board of Elementary and Secondary  
2 Education or the Department of Education.

3 D.(1) No member of the State Board of Elementary and Secondary  
4 Education nor the state superintendent of education shall participate in a transaction  
5 in which he has a personal substantial economic interest involving the State Board  
6 of Elementary and Secondary Education or the Department of Education.

7 (2) No member of the State Board of Elementary and Secondary Education  
8 nor the state superintendent of education shall participate in a transaction involving  
9 the State Board of Elementary and Secondary Education or the Department of  
10 Education in which any of the following persons has a substantial economic interest:

11 (a) Any member of his immediate family.

12 (b) Any person in which he has a substantial economic interest.

13 (c) Any person of which he is a member or an officer, director, trustee,  
14 partner, or employee.

15 (d) Any person of which his immediate family member is a member or an  
16 officer, director, trustee, partner, or employee.

17 (e) Any person with whom he is negotiating or has an arrangement  
18 concerning prospective employment.

19 (f) Any person who is a party to an existing contract with such public servant  
20 or his immediate family member or with any legal entity in which the public servant  
21 or his immediate family member owns an interest, excluding an ownership interest  
22 of less than five percent in a publicly traded corporation.

23 E. No former member of the State Board of Elementary and Secondary  
24 Education nor former state superintendent of education shall, for a period of two  
25 years following the termination of his public service in such position, engage in a  
26 transaction, assist another person in a transaction, or make an appearance in  
27 connection with a transaction involving the State Board of Elementary and  
28 Secondary Education or the Department of Education for compensation or render

1        any service on a contractual basis to or for the State Board of Elementary and  
2        Secondary Education or the Department of Education.

3                F. No legal entity in which a former member of the State Board of  
4        Elementary and Secondary Education or former state superintendent of education is  
5        an officer, director, trustee, partner, or employee shall, for a period of two years  
6        following the termination of his public service in such position, engage in a  
7        transaction, assist another person with a transaction, or make an appearance in  
8        connection with a transaction involving the State Board of Elementary and  
9        Secondary Education or the Department of Education for compensation.

10               G. No member of the State Board of Elementary and Secondary Education,  
11        state superintendent of education, former member of the State Board of Elementary  
12        and Secondary Education, or former state superintendent of education shall share in  
13        any thing of economic value received by another person for any activity, action, or  
14        assistance which such public servant or former public servant is prohibited from  
15        performing by this Part.

16        Section 2. The provisions of R.S. 42:1111.1(E), (F), and (G) as enacted by the  
17        provisions of Section 1 of this Act shall not apply to any former member of the State Board  
18        of Elementary and Secondary Education whose term of office ended on or before January  
19        11, 2016, nor to any legal entity in which such a former member of the State Board of  
20        Elementary and Secondary Education is an officer, director, trustee, partner, or employee.

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#### 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)]

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HB 473 Engrossed

2016 Regular Session

Hensgens

**Abstract:** Provides for additional ethical standards for members and former members of the State Bd. of Elementary and Secondary Education, the state superintendent of education and the former state superintendent of education, and immediate family members of such persons and specified related legal entities.

Present law (Code of Governmental Ethics) provides for ethical standards for elected officials, public employees, and certain other persons including prohibited conflicts of interest involving payments from nonpublic sources, prohibited participation in transactions,

prohibited contractual arrangements, prohibited gifts, abuse of office, nepotism, financial disclosure, and post public service restrictions. Provides definitions and exceptions.

Proposed law retains present law, and proposed law further provides for additional ethical standards applicable to members and former members of the State Bd. of Elementary and Secondary Education (BESE), the state superintendent of education and the former state superintendent of education, and immediate family members and specified legal entities as follows:

- (1) Prohibits a member of BESE or member of his immediate family, the state superintendent of education or member of his immediate family, or legal entity in which such a person has a substantial economic interest, excluding an ownership interest of less than 5% in a publicly traded corporation, from bidding on, entering into, or being in any way interested in any contract, subcontract, or other transaction which is under the supervision or jurisdiction of BESE or the Dept. of Education.
- (2) Prohibits a member of BESE, the state superintendent of education, or a legal entity of which any such person is an officer, director, trustee, partner, or employee, or in which such a person has a substantial economic interest, excluding an ownership interest of less than 5% in a publicly traded corporation, from receiving or agreeing to receive any thing of economic value from any person who has or is seeking to obtain contractual or other business or financial relationships with BESE or the Dept. of Education.
- (3) Prohibits a member of BESE, the state superintendent of education, or a legal entity of which any such person is an officer, director, trustee, partner, or employee, or in which such a person has a substantial economic interest, excluding an ownership interest of less than 5% in a publicly traded corporation, from receiving or agreeing to receive any thing of economic value for assisting a person in a transaction, or in an appearance in connection with a transaction, with BESE or the Dept. of Education.
- (4) Prohibits an immediate family member of the state superintendent of education or of a BESE member and any legal entity of which such an immediate family member is an officer, director, trustee, partner, or employee, or in which an immediate family member has a substantial economic interest, excluding an ownership interest of less than 5% in a publicly traded corporation, from receiving or agreeing to receive any thing of economic value for assisting a person in a transaction, or in an appearance in connection with a transaction, with BESE or the Dept. of Education.
- (5) Prohibits a member of BESE and the state superintendent of education from participating in a transaction in which he has a personal substantial economic interest involving BESE or the Dept. of Education.
- (6) Prohibits a member of BESE and the state superintendent of education from participating in a transaction involving BESE or the Dept. of Education in which any of the following persons has a substantial economic interest: (a) any member of his immediate family; (b) any person in which he has a substantial economic interest; (c) any person of which he is a member or an officer, director, trustee, partner, or employee; (d) any person of which his immediate family member is a member or an officer, director, trustee, partner, or employee; (e) any person with whom he is negotiating or has an arrangement concerning prospective employment; and (f) any person who is a party to an existing contract with such public servant or his immediate family member or with any legal entity in which the public servant or his immediate family member owns an interest, excluding an ownership interest of less than 5% in a publicly traded corporation.

- (7) Prohibits a former member of BESE or former state superintendent of education, for a period of two years following the termination of his public service in such position, from engaging in a transaction, assisting another person in a transaction, or making an appearance in connection with a transaction involving BESE or the Dept. of Education for compensation or from rendering any service on a contractual basis to or for BESE or the Dept. of Education.
- (8) Prohibits a legal entity in which a former member of BESE or former state superintendent of education is an officer, director, trustee, partner, or employee, for a period of two years following the termination of the member's or superintendent's public service in such position, from engaging in a transaction, assisting another person with a transaction, or making an appearance in connection with a transaction involving the BESE or the Dept. of Education for compensation.
- (9) Prohibits a BESE member, former BESE member, state superintendent, and former state superintendent of education from sharing in any thing of economic value received by another person for any activity, action, or assistance which such public servant or former public servant is prohibited from performing by present law and proposed law (Code of Governmental Ethics).

Proposed law provides that if any provision of proposed law conflicts with any other provision of present law (Code of Governmental Ethics), the more restrictive provision shall govern.

Specifies that the proposed law prohibitions on former members of BESE shall not apply to any former member of BESE whose term of office ended on or before Jan. 11, 2016, nor to any legal entity in which such a former member of BESE is an officer, director, trustee, partner, or employee.

Violations of proposed law would be subject to the penalties in present law for violation of the ethics code and certain other laws within the ethics board's jurisdiction. For public servants and other persons those penalties include censure and/or a fine of up to \$10,000 per violation and for public employees and other persons including removal, suspension, reduction in pay, or demotion and/or a fine of up to \$10,000 per violation.

(Adds R.S. 42:1111.1)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Remove proposed prohibition on a member of BESE and the state superintendent of education from being a member of or serving in any capacity in a nongovernmental organization if such service or membership requires adherence to or adoption of educational standards, conditions, or policies unless those educational standards, conditions, or policies have been approved by the legislature in the manner provided by law.
2. Provide that the proposed post-service restrictions on former BESE members and former state superintendents regarding transactions and assistance involving BESE and the Dept. of Education apply only if the transaction or assistance is for compensation.
3. Specify that the proposed post-service restrictions do not apply to any former BESE member whose term ended on or before Jan. 11, 2016, or to any related legal entity of such former BESE member.