

2020 Second Extraordinary Session

HOUSE BILL NO. 16

BY REPRESENTATIVE FRIEMAN

LIABILITY/PUBLIC: Provides relative to limitations of liability for public and non-public schools and postsecondary education during public health emergencies (Items #1, 2, 3, 28, and 42)

1 AN ACT
2 To amend and reenact R.S. 17:439.1 and 3392, relative to the applicability of certain
3 limitations of liability during public health emergencies; to provide for a limitation
4 of liability for causes of action related to COVID-19 and public health emergencies;
5 to provide relative to the liability of public, nonpublic, and charter schools, systems,
6 and governing boards under certain circumstances; to provide relative to the liability
7 of public and nonpublic postsecondary education systems and institutions; to provide
8 for an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 17:439.1 and 3392 are hereby amended and reenacted to read as
11 follows:

12 §439.1. Immunity from claims or causes of action related to ~~the~~ COVID-19 ~~public~~
13 ~~health emergency~~

14 A. Notwithstanding any other provision of law to the contrary, public and
15 nonpublic schools, public and nonpublic school systems, public and nonpublic
16 school governing authorities, and charter school governing authorities, and the
17 officers, employees, and agents thereof shall not be held liable for any civil damages
18 for injury or death resulting from or related to actual or alleged exposure to COVID-

1 19 or acts undertaken in the effort to respond or adapt to ~~the COVID-19 public health~~
2 ~~emergency~~.

3 B. There shall be no cause of action related to a person contracting COVID-
4 19 at a public or nonpublic school, other public or nonpublic school facility, on a
5 public or nonpublic school bus, or at a public or nonpublic school sponsored event,
6 which is based on the actions or failure to act by school officers, employees, or
7 agents in response to ~~the COVID-19 public health emergency~~.

8 C. This Section shall not affect the right of any person to receive benefits
9 provided under the Louisiana Workers' Compensation Law.

10 D. The provisions of this Section shall be limited to claims related to ~~the~~
11 ~~COVID-19 public health emergency~~.

12 E.~~(1)~~ Public and nonpublic schools, public and nonpublic school systems,
13 public or nonpublic school governing authorities, charter school governing
14 authorities, and the officers, employees, and agents thereof may not avail themselves
15 of the immunity provided by this Section if the action or failure to act was in
16 violation of a policy, rule, or regulation adopted by the public or nonpublic school,
17 public or nonpublic school system, public or nonpublic school governing authority,
18 or charter school governing authority or was in violation of any procedure mandated
19 by law or by rule or regulation adopted by a federal or state agency in accordance
20 with the Administrative Procedure Act, and such action or inaction is determined to
21 be grossly negligent or wanton or reckless misconduct.

22 ~~(2) A public school governing authority shall not adopt a policy, rule, or~~
23 ~~regulation that imposes a lesser standard than what is prescribed in a rule or~~
24 ~~regulation adopted by the State Board of Elementary and Secondary Education in~~
25 ~~accordance with the Administrative Procedure Act.~~

26 §3392. Immunity from claims or causes of action related to ~~the COVID-19 public~~
27 ~~health emergency~~

28 A. Notwithstanding any other provision of law to the contrary, public and
29 nonpublic postsecondary education systems, public and nonpublic postsecondary

1 education institutions, and public and nonpublic postsecondary education
2 management boards, and the officers, employees, and agents thereof shall not be held
3 liable for any civil damages for injury or death resulting from or related to actual or
4 alleged exposure to COVID-19 or acts undertaken in the effort to respond or adapt
5 to ~~the~~ COVID-19 ~~public health emergency~~.

6 B. There shall be no cause of action related to a person contracting COVID-
7 19 at a public or nonpublic postsecondary education institution, other public or
8 nonpublic postsecondary education facility, or at a public or nonpublic
9 postsecondary education institution sponsored event, which is based on the actions
10 or failure to act by the institution's officers, employees, or agents in response to ~~the~~
11 COVID-19 ~~public health emergency~~.

12 C. This Section shall not affect the right of any person to receive benefits
13 provided under the Louisiana Workers' Compensation Law.

14 D. The provisions of this Section shall be limited to claims related to ~~the~~
15 COVID-19 ~~public health emergency~~.

16 E. The public and nonpublic postsecondary education systems, public and
17 nonpublic postsecondary education institutions, and public and nonpublic
18 postsecondary education management boards, and the officers, employees, and
19 agents thereof may not avail themselves of the immunity provided for by this Section
20 if the action or failure to act was in violation of a policy, rule, or regulation adopted
21 by the public or nonpublic postsecondary education system, public or nonpublic
22 postsecondary education institution, or public or nonpublic postsecondary education
23 management board or was in violation of any procedure mandated by law or by rule
24 or regulation adopted by a federal or state agency in accordance with the
25 Administrative Procedure Act, and such action or inaction is determined to be
26 grossly negligent or wanton or reckless misconduct.

27 Section 2. Due to the impact of COVID-19, this Act shall be retroactive to March
28 11, 2020.

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

HB 16 Original

2020 Second Extraordinary Session

Frieman

Abstract: Provides for the applicability of limitations of liability for certain school systems during public health emergencies and removes requirements to comply with the State Board of Education and Secondary Education policies.

Present law provides for immunity for public, nonpublic, and charter schools and public and nonpublic postsecondary institutions from civil liability for damages resulting from exposure to COVID-19 or acts undertaken in an effort to respond to the COVID-19 public health emergency.

Proposed law amends present law to remove references restricting applicability of present law to COVID-19 public health emergencies.

Present law provides that schools and postsecondary institutions shall not be immune from civil liability for damages resulting from actions or inactions that (1) are in violation of a policy adopted by the school and (2) are determined to be grossly negligent or wanton or reckless misconduct.

Proposed law retains present law.

Present law prohibits a public school governing authority from adopting a policy, rule, or regulation that imposes a lesser standard than what is prescribed in a rule or regulation adopted by the State Board of Elementary and Secondary Education, in accordance with the Administrative Procedure Act.

Proposed law removes this requirement.

Present law provides that the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, University of Louisiana System, and Community and Technical Colleges adopt policies that are informed by the Centers for Disease Control and Prevention guidelines regarding COVID-19.

Proposed law retains present law.

Proposed law is retroactive to March 11, 2020.

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

(Amends R.S. 17:439.1 and 3392)