

Regular Session, 2014

HOUSE BILL NO. 1022

BY REPRESENTATIVE NANCY LANDRY

SCHOOLS/BOARDS: Provides relative to powers of local public school boards and superintendents

1 AN ACT

2 To amend and reenact R.S. 17:54(C) and 81(A), relative to the authority of local public
3 school boards with respect to personnel decisions; to prohibit certain actions by a
4 school board intended to interfere with personnel decisions; to restrict a school
5 board's authority to remove a local superintendent of schools under certain
6 circumstances and to provide for appeals of the removal of a local superintendent
7 under certain circumstances; to provide for reporting of prohibited actions by a
8 school board or school board member; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 17:54(C) and 81(A) are hereby amended and reenacted to read as
11 follows:

12 §54. Officers of boards, election; superintendents, qualifications, appointment and
13 removal

14 * * *

15 C.(1) ~~A~~ Except as provided in Paragraph (2) of this Subsection, a city,
16 parish, or other local public school system superintendent may be removed from
17 office for cause prior to the expiration of his contract by the concurring vote of at
18 least two-thirds of the membership of the entire school board at any regular meeting
19 or at any special meeting after due notice.

1 (2)(a) No local public school board may remove a superintendent from office
2 if, while the superintendent was in office, the school board interfered with,
3 compelled, or coerced or attempted to interfere with, compel, or coerce any
4 personnel decision by the superintendent or a school principal in violation of the
5 provisions of R.S. 17:81(A)(5) or a member of the school board interfered with,
6 compelled, or coerced or attempted to interfere with, compel, or coerce any
7 personnel decision by the superintendent or a school principal in violation of the
8 provisions of R.S. 17:81(P)(1).

9 (b) If the superintendent believes that a school board or member of the
10 school board has taken any action that would make Subparagraph (a) of this
11 Paragraph applicable to the school board, the superintendent shall report such an
12 action to the State Board of Elementary and Secondary Education. Such a report
13 shall be made in writing, shall include specifics regarding the action taken by the
14 board or member, and shall include any documentation or other evidence of the
15 action. The state board shall retain such reports and submit them to the division of
16 administrative law when they are requested by the division.

17 (c) If a school board removes a superintendent and the superintendent
18 believes that Subparagraph (a) of this Paragraph is applicable to the school board, the
19 superintendent may appeal the removal to the division of administrative law. All
20 appeals pursuant to this Subparagraph shall be heard by the division of
21 administrative law pursuant to Chapter 13-B of Title 49 of the Louisiana Revised
22 Statutes of 1950. In making its determination, the division shall request and consider
23 all reports submitted by the superintendent in accordance with Subparagraph (b) of
24 this Paragraph. The division shall furnish to the school board and to the
25 superintendent a copy of its decision, together with notice of the manner for
26 requesting judicial review. If the division determines that the school board or a
27 member of the school board has taken any action that makes Subparagraph (a) of this

Paragraph applicable to the school board, the removal of the superintendent shall be void and of no effect.

* * *

§81. General powers of local public school boards

A.(1) Each local public school board shall serve in a policymaking capacity that is in the best interests of all students enrolled in schools under the board's jurisdiction. When establishing board policies, each board shall prioritize student achievement, financial efficiency, and workforce development on a local, regional, and statewide basis. When choosing a local superintendent of schools, each board shall select a leader who shall prioritize student achievement and act in the best interests of all students enrolled in schools under the board's jurisdiction.

(2) Each local public school board shall determine the number of schools to be opened, the location of school houses, and the number of ~~teachers and other school~~ personnel to be employed. The local school superintendent shall have authority to employ ~~teachers~~ personnel by the month or by the year, and to fix their salaries and to prorate salaries, according to approved salary schedules, to accommodate the needs of the district, all subject to the approved budget; provided that however, there shall be no discrimination as to sex in the fixing thereof and provided further, that it is not the purpose of this Section to require or direct the reduction of any salary, or salary schedule, presently in force. The local school superintendent shall see that the provisions of the state school law are complied with.

(3) Each local public school board shall delegate authority for the hiring, ~~and placement, and dismissal~~ of ~~all school~~ personnel, including those for which state certification is required to the local school superintendent. Each local public school board shall also delegate to the local superintendent the authority to develop and amend job descriptions and keep them current with state regulations and local school district needs. It shall be the responsibility of the superintendent to ensure that all persons have proper certification, as applicable, and are qualified for the position.

(4) Each local public school board shall adopt policies for and establish procedures which require a local school superintendent to:

(a) Delegate to the principal all decisions regarding the hiring or placement of ~~any teacher or other~~ personnel at the school in which the principal is employed, subject to the approval of the local school superintendent.

(b) Consult with teachers prior to making any decisions regarding the hiring or placement of a principal at the school in which such teachers are employed. Any recommendations made by teachers shall not be binding upon the superintendent but shall be considered by the superintendent when making employment decisions.

(5) No school board shall take any action or threaten to take any action intended to interfere with, compel, or coerce any personnel decision by the superintendent or a school principal, including the hiring, promotion, discipline, demotion, transfer, discharge of, or assignment of work to any school employee. Actions and threats of actions which are prohibited by this Paragraph when intended to have such effect include but are not limited to the following:

(a) Modification of budgets including capital budgets.

(b) Shifting of funds or any other resource.

(c) Modification of tables of organization or assignment of positions.

(d) Modification of or failure to approve job descriptions.

(e) Modification of salaries or salary schedules.

(6) ~~Any~~ All policies and procedures adopted by a local public school board pursuant to the provisions of this Subsection shall be in accordance with all laws, all state rules, regulations, and policies relative to certification of ~~teachers and other~~ personnel, and any court order or restrictions relative to desegregation.

~~(6)~~ (7) The superintendent and the school principal shall make all employment-related decisions based upon performance, effectiveness, and qualifications as applicable to each specific position. Effectiveness, as determined pursuant to R.S. 17:3881 through 3905, shall be used as the primary criterion for making personnel decisions; however, in no case shall seniority or tenure be used as

1 the primary criterion when making decisions regarding the hiring, assignment, or
2 dismissal of ~~teachers and other school employees~~ personnel.

3 * * *

4 Section 2. This Act shall become effective upon signature by the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 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. 1022

Abstract: Prohibits local public school boards from taking certain actions intended to interfere with the personnel decisions of a superintendent or principal; provides that school board may not remove a superintendent if it or one of its members has interfered with such decisions.

Present law requires each local public school board to determine the number of schools to be opened, the location of school houses, and the number of teachers and other school personnel to be employed.

Present law authorizes the local school superintendent to employ teachers by the month or by the year, and to fix their salaries. Proposed law authorizes the superintendent to employ all personnel by the year or month. Further authorizes the superintendent to prorate salaries.

Present law requires a school board to delegate authority for the hiring and placement of all school personnel, including those for which state certification is required, to the local school superintendent. Proposed law additionally requires that the school board delegate to the superintendent the authority to dismiss personnel and the authority to develop and amend job descriptions and keep them current.

Present law requires a school board to adopt policies for and establish procedures which require a local school superintendent to delegate to the principal all decisions regarding the hiring or placement of personnel at the school in which the principal is employed, subject to the approval of the local school superintendent. Proposed law retains present law.

Proposed law prohibits a school board from taking or threatening any action intended to interfere with, compel, or coerce any personnel decision by the superintendent or a school principal, including the hiring, promotion, discipline, demotion, transfer, discharge, or assignment of work to any school employee. Provides that the following actions and threats of actions are specifically prohibited when intended to have such effect:

- (1) Modification of budgets including capital budgets.
- (2) Shifting of funds or any other resource.

- (3) Modification of tables of organization or assignment of positions.
- (4) Modification of or failure to approve job descriptions.
- (5) Modification of salaries or salary schedules.

Present law prohibits a member of a local public school board from acting in an individual capacity to use the authority of his office or position as a member in a manner intended to interfere with, compel, or coerce any personnel decision made by the superintendent or a school principal, including the hiring, promotion, discipline, demotion, transfer, discharge, or assignment of work to any school employee. Provides that the superintendent, as the instructional leader of the district and its chief executive officer, shall have primary responsibility for personnel actions in the district.

Proposed law provides that if a school board or member thereof interferes or attempts to interfere with a personnel decision in violation of present law or proposed law, the local public school board may not remove a superintendent from office. Requires the superintendent to report interference in personnel actions to the State Board of Elementary and Secondary Education (BESE). Such a report shall be made in writing, shall include specifics regarding the action taken by the board or member, and shall include any documentation or other evidence of the action. The board shall retain such reports and submit them to the division of administrative law when requested.

Proposed law provides that if a superintendent is removed and believes the school board is prohibited from doing so, the superintendent may appeal the removal to the division of administrative law. Provides that in making its determination, the division shall request and consider all reports submitted by the superintendent to BESE in accordance with proposed law. The division shall furnish to the school board a copy of its decision, together with notice of the manner for requesting judicial review. If the division determines that the school board or a member of the school board has interfered or attempted to interfere with a personnel decision, the removal of the superintendent shall be void and of no effect.

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

(Amends R.S. 17:54(C) and 81(A))