

Regular Session, 2012

HOUSE BILL NO. 1173

BY REPRESENTATIVE CARTER

SCHOOLS: Provides relative to the state special schools

1 AN ACT

2 To amend and reenact R.S. 17:43, 46(A)(1)(b), (B), (D), (E)(1), (2)(d), and (4)(b) and (c),
3 (G)(1)(a)(iii), (I), (N)(2), (P), and (Q), 47(A), (B), and (D)(1)(a) and (6)(a), (b), (c),
4 and (d), 48(A) and (B), 49(A) and (B), 348(A) and (B), and 1945 and R.S.
5 36:642(C)(1) and 648.1, to enact R.S. 17:46(A)(1)(c), and to repeal R.S. 17:4.1,
6 348(D) and (E), and 1945(C)(4) and (5), provides relative to special education;
7 provides relative to the administration and supervision of Louisiana special schools
8 and programs; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 17:43, 46(A)(1)(b), (B), (D), (E)(1), (2)(d), and (4)(b) and (c),
11 (G)(1)(a)(iii), (I), (N)(2), (P), and (Q), 47(A), (B), and (D)(1)(a) and (6)(a), (b), (c), and (d),
12 48(A) and (B), 49(A) and (B), 348(A) and (B), and 1945 are hereby amended and reenacted
13 and R.S. 17:46(A)(1)(c) is hereby enacted to read as follows:

14 §43. Special schools defined; benefits for certificated teachers; legislative policy
15 A. It is declared to be legislative policy that the Louisiana special schools,
16 which include the Louisiana Schools for the Deaf and Visually Impaired and the
17 Louisiana Special Education Center for the blind, deaf, and spastic students, and the
18 special schools comprising Special School Programs, District Number One, operated
19 and maintained as a part of the public educational system by the Louisiana
20 Department of Education, State Board of Elementary and Secondary Education
21 under the provisions of Section 3, Article VIII, Louisiana Constitution of 1974, shall
22 provide all benefits, privileges, rights, and powers as provided for certificated

1 teachers in the public elementary and secondary schools in the interest of statewide
2 uniformity of administration of teacher welfare benefits, including but not limited
3 to the benefits enumerated in this Part.

4 B.(1) As used in this Part "special schools" includes all ~~special schools under~~
5 ~~the State Board of Elementary and Secondary Education, and Special School District~~
6 ~~Number One and all the special schools comprising said district~~ Louisiana special
7 ~~scho~~ schools and all schools or educational programs in Special School Programs operated
8 by the Louisiana Department of Education through the Special School District.

9 (2) Teachers at the Louisiana Schools for the Deaf and Visually Impaired
10 may attain tenure in the educational program, either the educational program for the
11 hearing impaired or the educational program for the visually impaired, for which
12 they are certified. Teachers at the Louisiana Special Education Center may attain
13 tenure at the Louisiana Special Education Center. Teachers in Special School
14 Programs may attain tenure in Special School Programs.

15 * * *

16 §46. Sabbatical leave program

17 A.(1)

18 * * *

19 (b) As used in this Subpart, the words "teacher" or "teaching staff" shall
20 include any social worker, guidance counselor, school nurse, audiologist, educational
21 diagnostician, speech-language pathologist, or school psychologist employed by a
22 special school who holds the appropriate valid professional ancillary certificate
23 issued by the state Department of Education and who has served in the Special
24 School District for the number of years required for probationary teachers to attain
25 tenure. For a school nurse, a professional ancillary certificate means a Type A, Type
26 B, or Type C certificate.

27 (c) For purposes of this Subpart, Louisiana Schools for the Deaf and Visually
28 Impaired, Louisiana Special Education Center, and Special School Programs are
29 considered separate schools.

1 as a condition for continued consideration of the application, to be examined by a
2 licensed physician selected by the ~~board~~ superintendent. In such a case, the ~~board~~
3 special school employing the applicant shall pay all costs of the examination and any
4 tests determined to be necessary. If the physician selected by the superintendent
5 ~~board~~ finds medical necessity, the leave application shall be granted.

6 (ii) If the physician selected by the ~~board~~ superintendent disagrees with the
7 certification of the physician selected by the applicant, then the special school
8 employing the applicant ~~board~~ may require the applicant, as a condition for
9 continued consideration of the application, to be examined by a third licensed
10 appropriate physician whose name appears next in the rotation of physicians on a list
11 established by the local medical society for such purpose ~~and maintained by the~~
12 ~~school board~~. All costs of an examination and any required tests by a third doctor
13 shall be paid by the ~~board~~ special school employing the applicant. The opinion of
14 the third physician shall be determinative of the issue.

15 (c) The opinion of all physicians consulted as provided in this Paragraph
16 shall be submitted to the ~~board~~ superintendent in the form of a sworn statement, as
17 referenced in R.S. 14:125.

18 * * *

19 G.(1)(a) Every person on medical leave is prohibited from undertaking any
20 gainful employment during such leave unless all of the following conditions are met:

21 * * *

22 (iii) The ~~board~~ superintendent of the Special School District authorizes such
23 part-time work.

24 * * *

25 I. Any person who fails to comply with the provisions of Subsections G and
26 H of this Section may have his leave terminated by the superintendent of the Special
27 School District at any time, except where noncompliance is due to conditions which

1 would have constituted sufficient grounds for failing to perform his duties had he
2 been in active service.

3 * * *

4 N.

5 * * *

6 (2) The superintendent of the Special School District ~~board~~ may grant such
7 additional leave or compensation as ~~it~~ he may establish and fix in the best interest of
8 the special school.

9 * * *

10 P. The ~~board~~ superintendent of the Special School District may grant leaves
11 of absence, without pay, for periods not exceeding one year, to any regularly
12 employed teacher or other employee, who requests such leave in writing, whenever
13 in the discretion of the ~~board~~ superintendent such leave is in the best interests of the
14 special school. The granting of such leaves shall not affect any tenure rights which
15 the applicant may have acquired prior thereto.

16 Q. Each person granted sabbatical leave shall sign an agreement or contract
17 with the ~~board~~ superintendent of the Special School District stipulating that, as a
18 condition of his sabbatical leave and in order to be eligible for compensation during
19 such leave, he will return to service for one semester for each semester of leave
20 following the expiration of his leave in the special school granting the leave. Should
21 a person taking sabbatical leave fail to return to service in the special school granting
22 leave ~~or~~ for one semester for each semester of leave following the expiration of such
23 leave for any reason other than incapacitating illness as certified by two physicians,
24 that person shall forfeit all compensation received during the leave period, provided
25 however, the ~~board~~ superintendent may waive the provisions of this Section in
26 accordance with the prepublished criteria if ~~it~~ he deems to be in the best interest of
27 the special school to do so. No such waiver shall favor or discriminate against any
28 employee or applicant because of his job description, age, race, or sex.

1 §47. Sick and personal leave

2 A.(1) All teachers ~~and superintendents~~ employed by the special schools of
3 this state shall be entitled to and shall be allowed a minimum of ten days absence per
4 school year because of personal illness or because of other emergencies, without loss
5 of pay. Such sick leave when not used in any year shall be accumulated to the credit
6 of the teacher ~~or superintendent~~ without limitation. Provided that when a teacher is
7 absent for six or more consecutive days because of personal illness, he shall be
8 required to present a certificate from a physician certifying such illness; provided,
9 further that the ~~board~~ superintendent of the Special School District is authorized to
10 adopt such rules and regulations as are necessary relative to the use of such sick
11 leave, either current or accumulated, for emergencies. The ~~board~~ superintendent may
12 grant additional sick leave, without loss of pay, or with such reduction of pay as it
13 he may establish and fix.

14 (2) The minimum of ten days of sick leave provided in this Subsection shall
15 be allowed based on a teacher ~~and superintendent~~ beginning work at the beginning
16 of a school year. In the case of a teacher ~~or superintendent~~ who begins work in the
17 first month of a school year, ten days shall be allowed; in the case of a teacher ~~or~~
18 ~~superintendent~~ who begins work in the second month of a school year, nine days
19 shall be allowed; in the case of a teacher ~~or superintendent~~ who begins work in the
20 third month of a school year, eight days shall be allowed; in the case of a teacher ~~or~~
21 ~~superintendent~~ who begins work in the fourth month of a school year, seven days
22 shall be allowed; in the case of a teacher ~~or superintendent~~ who begins work in the
23 fifth month of a school year, six days shall be allowed; in the case of a teacher ~~or~~
24 ~~superintendent~~ who begins work in the sixth month of a school year, five days shall
25 be allowed; in the case of a teacher ~~or superintendent~~ who begins work in the seventh
26 month of a school year, four days shall be allowed; and, in the case of a teacher ~~or~~
27 ~~superintendent~~ who begins work in the eighth month or thereafter of a school year,
28 three days shall be allowed.

1 ~~the board~~. All costs of an examination and any required tests by a third doctor shall
2 be paid by the employer. The opinion of the third physician shall be determinative
3 of the issue.

4 (c) The opinion of all physicians consulted as provided in this Paragraph
5 shall be submitted to the ~~board~~ superintendent in the form of a sworn statement
6 which shall be subject to the provisions of R.S. 14:125.

7 (d)(i) In addition to the authority provided in Subsection A of this Section,
8 special schools ~~the board~~ shall adopt a policy providing for employees suffering from
9 catastrophic and long-term illness.

10 (ii) The superintendent ~~The board~~ may, as part of a collective bargaining
11 agreement, or by ~~its own~~ policy provide additional compensation or extended leave
12 days in excess of what is required in this Section.

13 * * *

14 §48. Maternity leave

15 A. The ~~board~~ superintendent of the Special School District shall grant leaves
16 of absence to regularly employed women teachers for a reasonable time before and
17 after childbirth. The granting of such leaves shall not affect any of the tenure rights
18 which the teacher may have acquired prior thereto under the provisions of Subpart
19 C of this Part.

20 B. The position vacated by a teacher who has been granted a maternity leave,
21 or by a teacher transferred to the position vacated by a teacher taking a maternity
22 leave, in accordance, may be filled by the ~~board by the~~ appointment of substitute
23 teachers.

24 * * *

25 §49. Military leave

26 A. The ~~board~~ superintendent of the Special School District shall grant leaves
27 of absence to regularly employed teachers serving in the military service or in the
28 armed forces of the United States for a period dating from induction, enlistment,
29 enrollment, or call to service. The granting of such leaves shall not affect any of the

1 tenure rights which the teacher may have acquired prior thereto under the provisions
2 of Subpart C of this Part.

3 B. The position vacated by a teacher who has been granted a military leave,
4 or by a teacher transferred to the position vacated by a teacher granted a military
5 leave, in accordance with Subsection A of this Section may be filled ~~by the board~~ by
6 the appointment of substitute teachers.

7 * * *

8 §348. Louisiana ~~State School~~ Schools for the Deaf; ~~Louisiana School for the~~ and
9 Visually Impaired; Louisiana Special Education Center; year-round
10 operation; continuing service

11 A. The Louisiana Schools ~~State School~~ for the Deaf, ~~the Louisiana School~~
12 ~~for the~~ and Visually Impaired and the Louisiana Special Education Center, ~~and the~~
13 ~~Cerebral Palsy Center at Monroe~~ may ~~convert to~~ operate year-round ~~operation~~ under
14 the provisions of this Subpart, subject to the approval of the ~~State Board of~~
15 ~~Elementary and Secondary Education~~ superintendent of the Special School District
16 and subject to the availability of funds.

17 B. Special educational services at the Louisiana Special Education Center
18 ~~and the Cerebral Palsy Center~~ may be continued to be provided until the thirty-
19 second birthday for individuals with severe physically handicapping conditions who
20 are receiving work skill training and who have not reached employable proficiency
21 by their twenty-second birthday, subject to the approval of the superintendent of the
22 Special School District ~~State Board of Elementary and Secondary Education~~ and
23 subject to the availability of funds.

24 * * *

25 §1945. Special schools and school districts

26 A. The Special School District shall be considered an educational service
27 agency administered by the Department of Education, subject to the limitations of
28 such units which shall include no authority to levy tax. The Special School District

1 shall have the responsibility and authority to create and fill positions to serve the
2 students in the district subject to the availability of funds.

3 (1) The state superintendent of education shall be the governing authority for
4 Special School District.

5 (2) The Special School District includes:

6 (a) Louisiana special schools.

7 (b) Special School Programs.

8 (3) The services of the Special School District shall be available to all
9 eligible students as described in this Section, regardless of their place of residence
10 within the state.

11 ~~B.(1) The State Board of Elementary and Secondary Education shall have~~
12 ~~jurisdiction and exercise supervision and control over the state's special schools for~~
13 ~~the blind, deaf, and orthopedically impaired. The Louisiana School Schools for the~~
14 ~~Deaf, the Louisiana School for the and Visually Impaired, and the Louisiana Special~~
15 ~~Education Center, hereinafter in this Section referred to as Board Louisiana Special~~
16 ~~Schools, are residential schools established to provide such academic, vocational,~~
17 ~~and other related services as may be required.~~

18 ~~B.(1)~~ (2) The Board Louisiana Special Schools shall establish an annual
19 enrollment deadline for admission to each of the respective schools. After a school's
20 deadline, any other children with hearing, visual, or orthopedic impairments may
21 enroll at the request of their parents, guardians, appointed custodians, or other legal
22 surrogates if the school, as applicable, determines that there are sufficient resources
23 to meet the needs of these children as well as the needs of the children enrolled prior
24 to the enrollment deadline.

25 ~~(2)~~ (3) The Board Louisiana Special Schools may share services and
26 functions, including but not limited to fiscal, human resources, maintenance,
27 security, physical plant, food, transportation, admissions, diagnostics, and health
28 services, to the extent that sharing such services and functions is not in conflict with
29 federal laws and rules applicable to the education of students with exceptionalities.

1 C.(1) ~~A special school~~ Special School Programs district shall be established
2 to provide:

3 (a) ~~special~~ Special education and related services to any eligible student with
4 exceptionalities who is ~~enrolled~~ in any state-operated facility that provides only a
5 general education program. ~~as a resident of the facility and to provide~~

6 (b) ~~appropriate~~ Appropriate educational services to any eligible student in a
7 state-operated facility that does not provide an educational program. ~~enrolled in any~~
8 ~~state-operated health facility.~~

9 (2) Special School Programs may provide appropriate educational services
10 at facilities where public agencies place students who are in the care or custody of
11 the public agency or students whose education is the responsibility of the public
12 agency.

13 (3) Special School Programs may provide the services authorized in this
14 Section to students until their twenty-fifth birthday and may provide the services
15 authorized in this Section to students regardless of age, pursuant to an agreement
16 between Special School Programs and the facility or the public agency that placed
17 the student.

18 (2) ~~The special school district shall be considered an education service~~
19 ~~agency administered by the Department of Education, with the approval of the State~~
20 ~~Board of Elementary and Secondary Education, subject to the limitations of such~~
21 ~~units which shall include no authority to levy tax.~~

22 (3) ~~The services of the special school district shall be available to all eligible~~
23 ~~students herein described, regardless of their place of residence within the state.~~

24 (4) ~~The special school district may enter into interagency agreements with~~
25 ~~other state agencies to provide appropriate educational services to any eligible~~
26 ~~student who is not a resident of a state-operated facility but who is in the care or~~
27 ~~custody of a public or private department, agency, or institution.~~

- 1 Section 3. R.S. 17:4.1, 348(D) and (E), and 1945(C)(4) and (5) are hereby repealed
2 in their entirety.

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)]

Carter

HB No. 1173

Abstract: Provides relative to the management and supervision of La. special education schools and programs.

Proposed law amends generally with respect to the management and operation of special education schools and programs as follows:

- (1) Provides for an entity within the Dept. of Education known as the Special School District; removes references to Special School District No. 1.
- (2) Provides that the Special School District includes special schools (the La. Schools for the Deaf and Visually Impaired and the La. Special Education Center) as well as Special School Programs which provide services to students in state-operated facilities.
- (3) Provides for a superintendent of the Special School District who is responsible for administration and management of the district and its schools and programs. Removes provisions regarding the responsibilities of the State Board of Elementary and Secondary Education with respect to such schools and programs.
- (4) Provides that the superintendent of the Special School District, rather than the State Board of Elementary and Secondary Education, is responsible for matters pertaining to sabbatical, sick, personal, maternity, and military leave for teachers in the special schools and programs.
- (5) Provides that the state superintendent of education is the governing authority of the Special School District.
- (6) Provides that a teacher at the La. Schools for the Deaf and Visually Impaired may attain tenure in the educational program, either the program for the hearing impaired or for the visually impaired, for which the teacher is certified. A teacher at the La. Special Education Center may attain tenure at the center, and a teacher in Special School Programs may attain tenure in such programs.
- (7) For purposes of sabbatical leave, La Schools for the Deaf and Visually Impaired, La. Special Education Center, and Special School Programs are considered separate schools.

(Amends R.S. 17:43, 46(A)(1)(b), (B), (D), (E)(1), (2)(d), and (4)(b) and (c), (G)(1)(a)(iii), (I), (N)(2), (P), and (Q), 47(A), (B), and (D)(1)(a) and (6)(a), (b), (c), and (d), 48(A) and (B), 49(A) and (B), 348(A) and (B), and 1945 and R.S. 36:642(C)(1) and 648.1; Adds R.S. 17:46(A)(1)(c); Repeals R.S. 17:4.1, 348(D)and (E), and 1945(C)(4) and (5))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Adds provisions regarding tenure for teachers being acquired in a specific school or program and regarding special schools and Special School Programs being considered separate schools for purposes of sabbatical leave.
2. Changes provision relative to the governing authority of the Special School District to provide that the state superintendent of education is the governing authority rather than the superintendent of the Special School District.