

Regular Session, 2014

HOUSE BILL NO. 273

BY REPRESENTATIVE GEYMANN

BESE: (Constitutional Amendment) Abolishes State Board of Elementary and Secondary Education (BESE), transfers BESE duties, functions, and responsibilities to the state superintendent of education, and provides for election of the state superintendent

1 A JOINT RESOLUTION

2 Proposing to amend Article IV, Section 20, Article VII, Sections 10.1(C)(1) and (3) and
3 (D)(2)(introductory paragraph) and 10.8(C)(3)(a) and (c), and Article VIII, Sections
4 2, 4, 5(D)(introductory paragraph), 9(B), 10(A), 13(A) and (B), and 15 of the
5 Constitution of Louisiana and to repeal Article IV, Section 22(A)(2) and Article VIII,
6 Section 3 of the Constitution of Louisiana, relative to the administration of
7 elementary and secondary education, including governance and funding; to abolish
8 the State Board of Elementary and Secondary Education and to transfer the powers,
9 duties, and functions of the board to the state superintendent of education; to require
10 that the state superintendent of education be elected by the electors of the state; to
11 remove provisions authorizing the legislature to provide by law for appointment of
12 the state superintendent of education; to require the state superintendent to develop
13 and propose to the legislature a minimum foundation program formula; to permit
14 legislative amendment of the formula and to require funding of the formula most
15 recently adopted by the legislature; to provide for implementation; to provide for
16 submission of the proposed amendment to the electors; and to provide for related
17 matters.

18 Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members
19 elected to each house concurring, that there shall be submitted to the electors of the state of

1 Louisiana, for their approval or rejection in the manner provided by law, a proposal to
2 amend Article IV, Section 20 of the Constitution of Louisiana, to read as follows:

3 §20. Appointment of Officials; Merger, Consolidation of Offices and Departments

4 Section 20. After the first election of state officials following the effective
5 date of this constitution, the legislature may provide, by law enacted by two-thirds
6 of the elected members of each house, for appointment, in lieu of election, of the
7 commissioner of agriculture, the commissioner of insurance, ~~the superintendent of~~
8 ~~education~~, the commissioner of elections, or any of them. In that event, the
9 legislature shall prescribe qualifications and method of appointment and by similar
10 vote, may provide by law for the merger or consolidation of any such office, its
11 department, and functions with any other office or department in the executive
12 branch. No action of the legislature pursuant hereto shall reduce the term or
13 compensation of any incumbent elected official. By law enacted by two-thirds of the
14 elected members of each house, the legislature may reestablish any such office as
15 elective and, in that event, shall prescribe qualifications.

16 Section 2. Be it resolved by the Legislature of Louisiana, two-thirds of the members
17 elected to each house concurring, that there shall be submitted to the electors of the state of
18 Louisiana, for their approval or rejection in the manner provided by law, a proposal to
19 amend Article VII, Sections 10.1(C)(1) and (3) and (D)(2)(introductory paragraph) and
20 10.8(C)(3)(a) and (c) of the Constitution of Louisiana, to read as follows:

21 §10.1. Quality Trust Fund; Education

22 Section 10.1.

23 * * *

24 (C) Reports; Allocation. (1) ~~The State Board of Elementary and Secondary~~
25 ~~Education~~ state superintendent of education and the Board of Regents shall annually
26 submit to the legislature and the governor not less than sixty days prior to the
27 beginning of each regular session of the legislature a proposed program and budget
28 for the expenditure of the monies in the Support Fund. Proposals for such
29 expenditures shall be designed to improve the quality of education and shall

1 specifically designate those monies to be used for administrative costs, as defined
2 and authorized by law.

3 * * *

4 (3) The legislature shall appropriate the total amount intended for higher
5 educational purposes to the Board of Regents and the total amount intended for
6 elementary and secondary educational purposes to the ~~State Board of Elementary and~~
7 ~~Secondary Education which boards~~ state superintendent of education. The Board of
8 Regents and the state superintendent of education shall allocate the monies so
9 appropriated to the programs as previously approved by the legislature.

10 * * *

11 (D) Disbursement; Higher Education and Elementary and Secondary
12 Education.

13 * * *

14 (2) The treasurer shall disburse not more than fifty percent of the monies in
15 the Support Fund as that money is appropriated by the legislature and allocated by
16 the ~~State Board of Elementary and Secondary Education~~ state superintendent of
17 education for any or all of the following elementary and secondary educational
18 purposes:

19 * * *

20 §10.8. Millennium Trust

21 Section 10.8. Millennium Trust

22 * * *

23 (C) Appropriations.

24 * * *

25 (3) Appropriations from the Education Excellence Fund shall be limited as
26 follows:

27 (a) Fifteen percent of monies available for appropriation in any fiscal year
28 from the Education Excellence Fund shall be appropriated to the state superintendent
29 of education for distribution on behalf of all children attending private elementary

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 and secondary schools that ~~have been~~ he has approved ~~by the State Board of~~
2 ~~Elementary and Secondary Education~~, both academically and as required for such
3 school to receive money from the state.

4 * * *

5 (c) Appropriations may be made for independent public schools which have
6 been approved by the ~~State Board of Elementary and Secondary Education~~ state
7 superintendent of education or any city, parish, or other local school system and for
8 alternative schools and programs which are authorized and approved by the ~~State~~
9 ~~Board of Elementary and Secondary Education~~ state superintendent of education but
10 are not subject to the jurisdiction and management of any city, parish, or local school
11 system, to provide for an allocation for each pupil, which shall be the average
12 statewide per pupil amount provided in each city, parish, or local school system
13 pursuant to ~~Subsubparagraphs (d) and~~ Subsubparagraph (e) of this Subparagraph.

14 * * *

15 Section 3. Be it resolved by the Legislature of Louisiana, two-thirds of the members
16 elected to each house concurring, that there shall be submitted to the electors of the state of
17 Louisiana, for their approval or rejection in the manner provided by law, a proposal to
18 amend Article VIII, Sections 2, 4, 5(D)(introductory paragraph), 9(B), 10(A), 13(A) and (B),
19 and 15 of the Constitution of Louisiana, to read as follows:

20 §2. State Superintendent of Education

21 Section 2.(A) There shall be a state superintendent of education for public
22 elementary and secondary education who, ~~subject to provisions for appointment in~~
23 ~~lieu of election set forth in Article IV, Section 20, of this constitution~~, shall be
24 elected for a term of four years. ~~If the office is made appointive, the State Board of~~
25 ~~Elementary and Secondary Education shall make the appointment.~~ He shall be the
26 administrative head of the Department of Education and shall implement the policies
27 of the ~~State Board of Elementary and Secondary Education~~ department and the laws
28 affecting schools under ~~its~~ his jurisdiction. The qualifications ~~and other powers,~~
29 ~~functions, duties, and responsibilities~~ of the superintendent shall be as provided for

1 statewide elected officials in Article IV, Section 2 of this constitution and further
2 qualifications shall be provided by law.

3 ~~§3. State Board of Elementary and Secondary Education~~

4 ~~Section 3. (A) Creation; Functions. The State Board of Elementary and~~
5 ~~Secondary Education is created as a body corporate. It (B) The superintendent shall~~
6 supervise and control the public elementary and secondary schools and special
7 schools under ~~its~~ his jurisdiction and shall have budgetary responsibility for all funds
8 appropriated or allocated by the state for those schools, all as provided by law. The
9 ~~board~~ superintendent shall have other powers, duties, and responsibilities as provided
10 by this constitution or by law, but shall have no control over the business affairs of
11 a city, parish, or other local public school board or the selection or removal of its
12 officers and employees; however, the ~~board~~ superintendent shall have the power to
13 supervise, manage, and operate or provide for the supervision, management, and
14 operation of a public elementary or secondary school which has been determined to
15 be failing, including the power to receive, control, and expend state funds
16 appropriated and allocated pursuant to Section 13(B) of this Article, any local
17 contribution required by Section 13 of this Article, and any other local revenue
18 available to a school board with responsibility for a school determined to be failing
19 in amounts that are calculated based on the number of students in attendance in such
20 a school, all in the manner provided by and in accordance with law.

21 ~~(B)(1) Membership; Terms. The board shall consist of eleven members,~~
22 ~~eight of whom shall be elected from single-member districts, which shall be~~
23 ~~determined as provided by law, and three of whom shall be appointed by the~~
24 ~~governor from the state at large, with consent of the Senate. Members shall serve~~
25 ~~terms of four years, which shall be concurrent with the term of the governor.~~

26 ~~(2) No person who has served as a member of the board for more than two~~
27 ~~and one-half terms in three consecutive terms shall be elected or appointed to the~~
28 ~~board for the succeeding term. This Subparagraph shall not apply to any person~~
29 ~~elected or appointed to the board prior to the effective date of this Subparagraph[†],~~

1 except that it shall apply to any term of service of any such person that begins after
2 such date.

3 (C) ~~Vacancy. A vacancy in the office of an elected member, if the remaining~~
4 ~~portion of the term is more than one year, shall be filled for the remainder of the term~~
5 ~~by election, as provided by law. Other vacancies shall be filled for the remainder of~~
6 ~~the term by appointment by the governor.~~

7 §4. Approval of Private Schools

8 Section 4. Upon application by a private elementary, secondary, or
9 proprietary school with a sustained curriculum or specialized course of study of
10 quality at least equal to that prescribed for similar public schools, the ~~State Board of~~
11 ~~Elementary and Secondary Education~~ state superintendent of education shall approve
12 the private school. A certificate issued by an approved private school shall carry the
13 same privileges as one issued by a state public school.

14 §5. Board of Regents

15 Section 5.

16 * * *

17 (D) Powers. The Board of Regents shall meet with the ~~State Board of~~
18 ~~Elementary and Secondary Education~~ state superintendent of education at least twice
19 a year to coordinate programs of public elementary, secondary, vocational-technical,
20 career, and higher education. The Board of Regents shall have the following powers,
21 duties, and responsibilities relating to public institutions of postsecondary education:

22 * * *

23 §9. Parish School Boards; Parish Superintendents

24 Section 9.

25 * * *

26 (B) Superintendents. Each parish board shall elect a superintendent of parish
27 schools. The ~~State Board of Elementary and Secondary Education~~ state
28 superintendent of education shall fix the qualifications and prescribe the duties of the

1 parish superintendent. ~~He~~ The parish superintendent need not be a resident of the
2 parish in which he serves.

3 §10. Existing Boards and Systems Recognized; Consolidation

4 Section 10.(A) Recognition. Parish and city school board systems in
5 existence on the effective date of this constitution are recognized, subject to control
6 and supervision by the ~~State Board of Elementary and Secondary Education~~ state
7 superintendent of education and the power of the legislature to enact laws affecting
8 them.

9 * * *

10 §13. Funding; Apportionment

11 Section 13.(A) Free School Books. The legislature shall appropriate funds
12 to supply free school books and other materials of instruction prescribed by the ~~State~~
13 ~~Board of Elementary and Secondary Education~~ state superintendent of education to
14 the children of this state at the elementary and secondary levels.

15 (B) Minimum Foundation Program. The ~~State Board of Elementary and~~
16 ~~Secondary Education;~~ state superintendent of education ~~or its successor;~~ shall
17 annually develop and ~~adopt~~ propose to the legislature a formula which shall be used
18 to determine the cost of a minimum foundation program of education in all public
19 elementary and secondary schools as well as to equitably allocate the funds to parish
20 and city school systems. Such formula shall provide for a contribution by every city
21 and parish school system. Prior to ~~approval~~ adoption of the formula by the
22 legislature, the legislature may ~~return the formula adopted by the board to the board~~
23 ~~and may recommend to the board an amended formula for consideration by the board~~
24 ~~and submission to the legislature for approval.~~ amend the formula. The legislature
25 shall annually appropriate funds sufficient to fully fund the current cost to the state
26 of such a program as determined by applying the ~~approved~~ formula adopted by the
27 legislature in order to insure a minimum foundation of education in all public
28 elementary and secondary schools. ~~Neither the~~ The governor ~~nor the legislature may~~
29 shall not reduce such appropriation, except that the governor may reduce such

1 appropriation using means provided in the act containing the appropriation provided
 2 that any such reduction is consented to in writing by two-thirds of the elected
 3 members of each house of the legislature. The funds appropriated shall be equitably
 4 allocated to parish and city school systems according to the formula as adopted by
 5 ~~the State Board of Elementary and Secondary Education, or its successor, and~~
 6 ~~approved~~ by the legislature prior to making the appropriation. Whenever the
 7 legislature fails to ~~approve~~ adopt the formula most recently ~~adopted~~ proposed by the
 8 ~~board, state superintendent of education, or its successor, with or without~~
 9 amendment, the last formula adopted by the board, or its successor, and approved by
 10 the legislature shall be used for the determination of the cost of the minimum
 11 foundation program and for the allocation of funds appropriated.

* * *

13 §15. ~~Members of State Board of Elementary and Secondary Education; beginning~~
 14 ~~and end of terms~~ Implementation of Election of State Superintendent;
 15 Abolition of State Board of Elementary and Secondary Education

16 Section 15. ~~In order to effectuate the terms of office as provided in Article~~
 17 ~~VIII, Section 3(B), the successors in office to the elected members whose terms end~~
 18 ~~in 1980 and 1982 shall be elected for terms which shall end at noon on the second~~
 19 ~~Monday in March in 1984, and thereafter the successors in office to those members~~
 20 ~~shall be elected and shall take office at the same time as the governor. The successor~~
 21 ~~in office to the elected member whose term ends in 1984 shall be elected for a term~~
 22 ~~which shall end at noon on the second Monday in March in 1988, and thereafter the~~
 23 ~~successor in office to that member shall be elected and shall take office at the same~~
 24 ~~time as the governor. The successors in office to the appointed members whose~~
 25 ~~terms end in 1980 and 1982 shall be appointed for terms which shall end at noon on~~
 26 ~~the second Monday in March in 1984, and thereafter the successors in office to those~~
 27 ~~members shall be appointed for terms which shall be concurrent with the term of the~~
 28 ~~governor making the appointment. The successor in office to the appointed member~~
 29 ~~whose term ends in 1984 shall be appointed for a term which shall end at noon on~~

1 ~~the second Monday in March in 1988, and thereafter the successors in office to that~~
2 ~~member shall be appointed for terms which shall be concurrent with the term of the~~
3 ~~governor making the appointment.~~ (A)(1) The provisions of this Section shall
4 become part of the constitution and shall become effective on January 1, 2015.

5 (2) The provisions of Article IV, Section 20, Article VII, Sections 10.1(C)(1)
6 and (3) and (D)(2)(introductory paragraph) and 10.8(C)(3)(a) and (c), and Sections
7 2, 4, 5(D)(introductory paragraph), 9(B), 10(A), and 13(A) and (B) of this Article
8 and the repeal of Article IV, Section 22(A)(2) and Section 3 of this Article, all as
9 ratified in 2014, shall become part of this constitution and shall become effective on
10 the second Monday in January of 2016.

11 (B) There shall be an appointed state superintendent of education until the
12 second Monday in January of 2016, when an elected superintendent shall assume the
13 office. The state superintendent of education who will take office on the second
14 Monday in January of 2016 shall be elected at the time for election of members of
15 the legislature in 2015.

16 (C) The members of the State Board of Elementary and Secondary Education
17 in office on the day this amendment is ratified by the electors of the state or their
18 successors shall continue in office through the day before the second Monday in
19 January of 2016; however, any vacancy occurring prior to such date shall be filled
20 for the remainder of the unexpired term by appointment by the governor, with the
21 consent of the Senate. No election for members of the board shall be held at the
22 gubernatorial elections of 2015.

23 (D) The minimum foundation program formula in effect on the second
24 Monday in January of 2016 shall remain in effect until a new formula is adopted
25 pursuant to Section 13 of this Article as ratified in 2014.

26 Section 4. Be it resolved by the Legislature of Louisiana, two-thirds of the members
27 elected to each house concurring, that there shall be submitted to the electors of the state of
28 Louisiana, for their approval or rejection in the manner provided by law, a proposal to repeal
29 Article IV, Section 22(A)(2) and Article VIII, Section 3 of the Constitution of Louisiana.

1 Section 5. Be it further resolved that this proposed amendment shall be submitted
2 to the electors of the state of Louisiana at the statewide election to be held on November 4,
3 2014.

4 Section 6. Be it further resolved that on the official ballot to be used at said election
5 there shall be printed a proposition, upon which the electors of the state shall be permitted
6 to vote FOR or AGAINST, to amend the Constitution of Louisiana, which proposition shall
7 read as follows:

8 Do you support an amendment to abolish the State Board of Elementary and
9 Secondary Education; to transfer the board's powers and responsibilities to
10 the state superintendent of education; to provide that the state superintendent
11 of education shall be elected by the voters of the state; to authorize the state
12 superintendent to develop and propose a minimum foundation program
13 formula to the legislature; to provide for legislative amendment and adoption
14 of the formula? (Effective on the second Monday in January of 2016, except
15 for transitional provisions, which are effective on January 1, 2015.) (Amends
16 Article IV, Section 20, Article VII, Sections 10.1(C)(1) and (3) and
17 (D)(2)(introductory paragraph) and 10.8(C)(3)(a) and (c), and Article VIII,
18 Sections 2, 4, 5(D)(introductory paragraph), 9(B), 10(A), 13(A) and (B), and
19 15; Repeals Article IV, Section 22(A)(2) and Article VIII, Section 3)

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)]

Geymann

HB No. 273

Abstract: Abolishes the State Board of Elementary and Secondary Education (BESE), transfers its functions to the state superintendent of education, requires the statewide election of the superintendent and removes legislative authority to make this position appointive, provides for proposal of MFP formula by the superintendent and adoption of the MFP formula by the legislature, and authorizes the legislature to amend the MFP formula.

State Board of Elementary and Secondary Education (BESE) - Abolition

Present constitution creates and provides for the State Board of Elementary and Secondary Education (BESE), composed of eight members elected from single-member districts and

three members appointed by the governor with Senate consent who serve terms concurrent with the governor. Proposed constitutional amendment abolishes BESE effective at the end of the current term. Provides that members in office on the day the amendment is ratified and their successors shall continue in office until then and that any vacancy before then be filled by the governor.

State Superintendent of Education - Election

Present constitution provides for a superintendent of education for public elementary and secondary education who shall be elected by the state's electors, but present constitution authorizes the legislature to provide for the appointment, in lieu of election, of specified elected officials, including the state superintendent, by a law enacted by a 2/3 vote of the legislature. Provides that the legislature shall prescribe qualifications and method of appointment should the office become appointive. Further provides that the legislature, by a 2/3 vote, may reestablish the office as elective. (Note: Acts 1985, No. 444, which became effective March 14, 1988, made the office of state superintendent appointive and provided for BESE's appointment of the superintendent.)

Proposed constitutional amendment removes the office of state superintendent of education from the list of elected offices that may be made appointive by legislative enactment. Provides that the office remains an appointive office until the second Mon. in Jan. 2016, when a superintendent elected in 2015 will take office.

Present constitution provides that the superintendent's qualifications shall be provided by law. Proposed constitutional amendment provides that the superintendent's qualifications shall be as provided by present constitution for other statewide elected officials (at least 25 years old, an elector, and citizen of La. and U.S. for at least five years) and that further qualifications shall be provided by law. (Present law provides that the state superintendent shall have, at minimum, the same qualifications as those required of parish superintendents.)

BESE Powers & Functions - Transfer to State Superintendent of Education

Present constitution provides for BESE powers and functions, including:

- (1) Supervision and control of public elementary and secondary schools and special schools under its jurisdiction and budgetary responsibility for all funds appropriated or allocated by the state for those schools, all as provided by law.
- (2) Approval of certain private schools.
- (3) Coordination of public elementary, secondary, vocational-technical, career, and higher education programs with the Board of Regents.
- (4) Fixing of qualifications and duties of superintendents of parish schools.
- (5) Control and supervision of parish and city school board systems.
- (6) Prescription of school books and other materials of instruction.

Proposed constitutional amendment transfers these powers and functions to the state superintendent. Also removes the requirement that the superintendent implement BESE policies and provides that he shall implement policies of the state Dept. of Education and laws affecting schools under his jurisdiction.

Minimum Foundation Program (MFP)

Present constitution requires BESE to annually develop and adopt a formula used to determine the cost of a minimum foundation program (MFP) of education in all public

elementary and secondary schools and to equitably allocate the funds to public school systems. Proposed constitutional amendment requires the state superintendent to annually develop the formula and propose it to the legislature.

Present constitution authorizes the legislature, prior to approving the formula, to return it to BESE and recommend an amended formula. Proposed constitutional amendment authorizes the legislature to amend the formula prior to adopting it.

Present constitution requires that funds appropriated be allocated according to the formula as adopted by BESE and approved by the legislature prior to making the appropriation. Proposed constitutional amendment requires that funds appropriated be allocated according to the formula as adopted by the legislature.

Present constitution provides that if the legislature fails to approve the formula most recently adopted by BESE, the last formula adopted by BESE and approved by the legislature shall be used to determine MFP cost and allocation of funds appropriated. Proposed constitutional amendment provides that if the legislature fails to adopt the formula proposed by the superintendent, with or without amendment, the last formula adopted by the legislature shall be used to determine MFP cost and allocation of funds appropriated.

Education Quality Support Fund and Millennium Trust

Present constitution provides that BESE annually submit to the legislature and governor a proposed program and budget for the expenditure of the monies in the La. Education Quality Support Fund. Requires the legislature to appropriate the total amount intended for elementary and secondary educational purposes to BESE, which shall allocate the monies to the programs as previously approved by the legislature. Present constitution further provides for the establishment in the state treasury of a special permanent trust known as the "Millennium Trust". Authorizes appropriations to certain independent public schools and alternative schools or programs authorized and approved by BESE. Proposed constitutional amendment changes these references from BESE to the state superintendent.

Submission to Voters and Effectiveness

Provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 4, 2014.

Effective on second Mon. in Jan. 2016 except for transitional provisions, which are effective on Jan. 1, 2015.

(Amends Const. Art. IV, §20, Const. Art. VII, §§10.1(C)(1) and (3) and (D)(2)(intro. para.) and 10.8(C)(3)(a) and (c), and Const. Art. VIII, §§2, 4, 5(D)(intro. para.), 9(B), 10(A), 13(A) and (B), and 15; Repeals Const. Art. IV, §22(A)(2) and Const. Art. VIII, §3)