

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 Administrative Procedure Act, and such action or inaction is determined to be
2 grossly negligent or wanton or reckless misconduct.

3 Section 2. Due to the impact of COVID-19, this Act shall be retroactive to March
4 11, 2020.

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

2020 Second Extraordinary Session

Frieman

Abstract: Provides for the applicability of limitations of liability for schools, school systems, postsecondary education institutions, and postsecondary education governing authorities relating to COVID-19.

Present law provides that all of the following are immune from civil liability for damages resulting from exposure to COVID-19 or acts undertaken to respond to the COVID-19 public health emergency.

- (1) Public and nonpublic schools, school systems, and school governing authorities.
- (2) Public and nonpublic postsecondary education systems, institutions, and management boards.
- (3) The officers, employees, and agents of any of the above.

Proposed law provides that the immunity for acts undertaken applies to acts undertaken to respond to COVID-19 rather than those undertaken to respond to the COVID-19 public health emergency. Otherwise retains present law.

Present law provides that present law is limited to claims related to the COVID-19 public health emergency. Proposed law provides instead that present law and proposed law are limited to claims related to COVID-19.

Present law provides that the immunity provided by present law does not apply to an action if the action violated established laws, policies, rules, or regulations and if the action is determined to be grossly negligent or wanton or reckless misconduct. Prohibits public school governing authorities from adopting a policy, rule, or regulation that imposes a lesser standard than a rule or regulation adopted by the State Bd. of Elementary and Secondary Education.

Proposed law retains present law.

Present law and proposed law are 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)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Reinstates present law prohibition against a public school governing authority's adoption of a policy, rule, or regulation that imposes a lesser standard than what is prescribed in a rule or regulation adopted by BESE.