

Regular Session, 2010

HOUSE BILL NO. 489

BY REPRESENTATIVE HARRISON

BESE: (Constitutional Amendment) Abolishes BESE, transfers board duties, functions, and responsibilities to the state superintendent and provides for the superintendent to be appointed by the governor

A JOINT RESOLUTION

1

2 Proposing to amend Article IV, Section 22(A), 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 VIII, Section 3 of the Constitution of

6 Louisiana, all to provide relative to the administration of education, including

7 governance and funding; to abolish the State Board of Elementary and Secondary

8 Education and to transfer powers, duties, and functions of the board to the state

9 superintendent of education, including the powers and functions of the board related

10 to the Louisiana Education Quality Support Fund and the Millennium Trust; to

11 provide for the title of the state superintendent and for appointment of the state

12 superintendent by the governor; to authorize the state superintendent to develop and

13 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 relative to the qualifications and duties

16 of parish superintendents; to provide exceptions; to provide for implementation; to

17 provide for submission of the proposed amendment to the electors; and to provide

18 for related matters.

1 Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members
2 elected to each house concurring, that there shall be submitted to the electors of the state of
3 Louisiana, for their approval or rejection in the manner provided by law, a proposal to
4 amend Article IV, Section 22(A) of the Constitution of Louisiana, to read as follows:

5 §22. Term Limits; Certain Boards and Commissions

6 Section 22.

7 (A) A person who has served as a member of any one or more of the
8 following boards or commissions for more than two and one-half terms in three
9 consecutive terms combined shall not serve as a member of any of the following
10 boards or commissions for a period of at least two years after the completion of such
11 consecutive terms of service:

- 12 (1) The Public Service Commission.
- 13 ~~(2) The State Board of Elementary and Secondary Education.~~
- 14 ~~(3) (2) The Board of Regents.~~
- 15 ~~(4) (3) The Board of Supervisors for the University of Louisiana System.~~
- 16 ~~(5) (4) The Board of Supervisors of Louisiana State University and~~
17 ~~Agricultural and Mechanical College.~~
- 18 ~~(6) (5) The Board of Supervisors of Southern University and Agricultural~~
19 ~~and Mechanical College.~~
- 20 ~~(7) (6) The Board of Supervisors of Community and Technical Colleges.~~
- 21 ~~(8) (7) The Forestry Commission.~~
- 22 ~~(9) (8) The State Civil Service Commission.~~
- 23 ~~(10) (9) The State Police Commission.~~

24 * * *

25 Section 2. Be it resolved by the Legislature of Louisiana, two-thirds of the members
26 elected to each house concurring, that there shall be submitted to the electors of the state of
27 Louisiana, for their approval or rejection in the manner provided by law, a proposal to
28 amend Article VII, Sections 10.1(C)(1) and (3) and (D)(2)(introductory paragraph) and
29 10.8(C)(3)(a) and (c) of the Constitution of Louisiana, to read as follows:

1 §10.1. Quality Trust Fund; Education

2 Section 10.1.

3 * * *

4 (C) Reports; Allocation. (1) The ~~State Board of Elementary and Secondary~~
5 ~~Education~~ state superintendent of education and the Board of Regents shall annually
6 submit to the legislature and the governor not less than sixty days prior to the
7 beginning of each regular session of the legislature a proposed program and budget
8 for the expenditure of the monies in the Support Fund. Proposals for such
9 expenditures shall be designed to improve the quality of education and shall
10 specifically designate those monies to be used for administrative costs, as defined
11 and authorized by law.

12 * * *

13 (3) The legislature shall appropriate the total amount intended for higher
14 educational purposes to the Board of Regents and the total amount intended for
15 elementary and secondary educational purposes to the ~~State Board of Elementary and~~
16 ~~Secondary Education~~ state superintendent of education which ~~boards~~ shall allocate
17 the monies so appropriated to the programs as previously approved by the
18 legislature.

19 * * *

20 (D) Disbursement; Higher Education and Elementary and Secondary
21 Education.

22 * * *

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

28 * * *

1 §10.8. Millennium Trust

2 Section 10.8. Millennium Trust

3 * * *

4 (C) Appropriations.

5 * * *

6 (3) Appropriations from the Education Excellence Fund shall be limited as
7 follows:

8 (a) Fifteen percent of monies available for appropriation in any fiscal year
9 from the Education Excellence Fund shall be appropriated to the state superintendent
10 of education for distribution on behalf of all children attending private elementary
11 and secondary schools that ~~have been~~ he has approved ~~by the State Board of~~
12 ~~Elementary and Secondary Education~~, both academically and as required for such
13 school to receive money from the state.

14 * * *

15 (c) Appropriations may be made for independent public schools which have
16 been approved by the ~~State Board of Elementary and Secondary Education~~ state
17 superintendent of education or any city, parish, or other local school system and for
18 alternative schools and programs which are authorized and approved by the ~~State~~
19 ~~Board of Elementary and Secondary Education~~ state superintendent of education but
20 are not subject to the jurisdiction and management of any city, parish, or local school
21 system, to provide for an allocation for each pupil, which shall be the average
22 statewide per pupil amount provided in each city, parish, or local school system
23 pursuant to Subsubparagraphs (d) and (e) of this Subparagraph.

24 * * *

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

1 §2. State Superintendent of Education

2 Section 2. (A) There shall be a state superintendent of education for public
3 elementary and secondary education who, ~~subject to provisions for appointment in~~
4 ~~lieu of election set forth in Article IV, Section 20, of this constitution, shall be~~
5 ~~elected for a term of four years. If the office is made appointive, the State Board of~~
6 ~~Elementary and Secondary Education shall make the appointment.~~ shall be appointed
7 by the governor, subject to Senate confirmation, and shall serve at the pleasure of the
8 governor. He shall be the administrative head of the Department of Education and
9 shall implement the policies of the ~~State Board of Elementary and Secondary~~
10 ~~Education~~ department and the laws affecting schools under its jurisdiction. The
11 qualifications and other powers, functions, duties, and responsibilities of the
12 superintendent shall be provided by law.

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

14 ~~Section 3. (A) Creation; Functions. The State Board of Elementary and~~
15 ~~Secondary Education is created as a body corporate. It~~ (B) The superintendent shall
16 supervise and control the public elementary and secondary schools and special
17 schools under ~~its~~ his jurisdiction and shall have budgetary responsibility for all funds
18 appropriated or allocated by the state for those schools, all as provided by law. The
19 ~~board~~ superintendent shall have other powers, duties, and responsibilities as provided
20 by this constitution or by law, but shall have no control over the business affairs of
21 a city, parish, or other local public school board or the selection or removal of its
22 officers and employees; however, the ~~board~~ superintendent shall have the power to
23 supervise, manage, and operate or provide for the supervision, management, and
24 operation of a public elementary or secondary school which has been determined to
25 be failing, including the power to receive, control, and expend state funds
26 appropriated and allocated pursuant to Section 13(B) of this Article, any local
27 contribution required by Section 13 of this Article, and any other local revenue
28 available to a school board with responsibility for a school determined to be failing

1 in amounts that are calculated based on the number of students in attendance in such
2 a school, all in the manner provided by and in accordance with law.

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

8 ~~(2) No person who has served as a member of the board for more than two~~
9 ~~and one-half terms in three consecutive terms shall be elected or appointed to the~~
10 ~~board for the succeeding term. This Subparagraph shall not apply to any person~~
11 ~~elected or appointed to the board prior to the effective date of this Subparagraph[†],~~
12 ~~except that it shall apply to any term of service of any such person that begins after~~
13 ~~such date.~~

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

18 §4. Approval of Private Schools

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

25 §5. Board of Regents

26 Section 5.

27 * * *

28 (D) Powers. The Board of Regents shall meet with the ~~State Board of~~
29 ~~Elementary and Secondary Education~~ state superintendent of education at least twice

1 a year to coordinate programs of public elementary, secondary, vocational-technical,
2 career, and higher education. The Board of Regents shall have the following powers,
3 duties, and responsibilities relating to public institutions of postsecondary education:

4 * * *

5 §9. Parish School Boards; Parish Superintendents

6 Section 9.

7 * * *

8 (B) Superintendents. Each parish board shall elect a superintendent of parish
9 schools. ~~The State Board of Elementary and Secondary Education shall fix the~~
10 ~~qualifications and prescribe the duties of the parish superintendent. He~~ The
11 superintendent of schools need not be a resident of the parish in which he serves.

12 §10. Existing Boards and Systems Recognized; Consolidation

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

18 * * *

19 §13. Funding; Apportionment

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

24 (B) Minimum Foundation Program. ~~The State Board of Elementary and~~
25 ~~Secondary Education,~~ state superintendent of education ~~or its successor,~~ shall
26 annually develop and ~~adopt~~ propose to the legislature a formula which shall be used
27 to determine the cost of a minimum foundation program of education in all public
28 elementary and secondary schools as well as to equitably allocate the funds to parish
29 and city school systems. Such formula shall provide for a contribution by every city

1 and parish school system. Prior to ~~approval~~ adoption of the formula by the
2 legislature, the legislature may ~~return the formula adopted by the board to the board~~
3 ~~and may recommend to the board an amended formula for consideration by the board~~
4 ~~and submission to the legislature for approval.~~ amend the formula. The legislature
5 shall annually appropriate funds sufficient to fully fund the current cost to the state
6 of such a program as determined by applying the ~~approved~~ formula adopted by the
7 legislature in order to ~~insure~~ ensure a minimum foundation of education in all public
8 elementary and secondary schools. Neither the governor nor the legislature may
9 reduce such appropriation, except that the governor may reduce such appropriation
10 using means provided in the act containing the appropriation provided that any such
11 reduction is consented to in writing by two-thirds of the elected members of each
12 house of the legislature. The funds appropriated shall be equitably allocated to
13 parish and city school systems according to the formula as adopted ~~by the State~~
14 ~~Board of Elementary and Secondary Education, or its successor, and approved by the~~
15 legislature prior to making the appropriation. Whenever the legislature fails to
16 ~~approve~~ adopt the formula most recently ~~adopted~~ proposed by the ~~board,~~ state
17 superintendent, or its successor, with or without amendment, the last formula
18 ~~adopted by the board, or its successor, and approved by the legislature shall be used~~
19 for the determination of the cost of the minimum foundation program and for the
20 allocation of funds appropriated.

21 * * *

22 §15. ~~Members of State Board of Elementary and Secondary Education; beginning~~
23 ~~and end of terms~~ Implementation of Appointment of Superintendent by
24 Governor; Abolition of State Board of Elementary and Secondary Education
25 Section 15. ~~In order to effectuate the terms of office as provided in Article~~
26 ~~VIII, Section 3(B), the successors in office to the elected members whose terms end~~
27 ~~in 1980 and 1982 shall be elected for terms which shall end at noon on the second~~
28 ~~Monday in March in 1984, and thereafter the successors in office to those members~~
29 ~~shall be elected and shall take office at the same time as the governor. The successor~~

1 in office to the elected member whose term ends in 1984 shall be elected for a term
2 which shall end at noon on the second Monday in March in 1988, and thereafter the
3 successor in office to that member shall be elected and shall take office at the same
4 time as the governor. The successors in office to the appointed members whose
5 terms end in 1980 and 1982 shall be appointed for terms which shall end at noon on
6 the second Monday in March in 1984, and thereafter the successors in office to those
7 members shall be appointed for terms which shall be concurrent with the term of the
8 governor making the appointment. The successor in office to the appointed member
9 whose term ends in 1984 shall be appointed for a term which shall end at noon on
10 the second Monday in March in 1988, and thereafter the successors in office to that
11 member shall be appointed for terms which shall be concurrent with the term of the
12 governor making the appointment. (A)(1) The provisions of this Section shall
13 become part of the constitution and shall become effective on January 1, 2011.

14 (2) The provisions of Article IV, Section 22(A), Article VII, Sections
15 10.1(C)(1) and (3) and (D)(2)(introductory paragraph) and 10.8(C)(3)(a) and (c),
16 and Sections 2, 4, 5(D)(introductory paragraph), 9(B), 10(A), 13(A) and (B), and 15
17 of this Article and the repeal of Section 3 of this Article, all as ratified in 2010, shall
18 become part of this constitution and shall become effective on the second Monday
19 in January of 2012.

20 (B) The superintendent of education for public elementary and secondary
21 education in office on the day before the second Monday in January of 2012 shall
22 serve until his successor is appointed and takes office as provided in Section 2 of this
23 Article as ratified in 2010.

24 (C) The members of the State Board of Elementary and Secondary Education
25 in office on the day this amendment is ratified by the electors of the state and their
26 successors shall continue in office through the day before the second Monday in
27 January of 2012; however, any vacancy occurring prior to such date shall be filled
28 for the remainder of the unexpired term by appointment by the governor, with the

1 consent of the Senate. No election for members of the board shall be held at the
2 gubernatorial elections of 2011.

3 (D) The minimum foundation program formula in effect on the second
4 Monday in January of 2012 shall remain in effect until a new formula is adopted
5 pursuant to Section 13 of this Article as ratified in 2010.

6 Section 4. Be it resolved by the Legislature of Louisiana, two-thirds of the members
7 elected to each house concurring, that there shall be submitted to the electors of the state of
8 Louisiana, for their approval or rejection in the manner provided by law, a proposal to repeal
9 Article VIII, Section 3 of the Constitution of Louisiana.

10 Section 5. Be it further resolved that this proposed amendment shall be submitted
11 to the electors of the state of Louisiana at the statewide election to be held on November 2,
12 2010.

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

17 To abolish the State Board of Elementary and Secondary Education; to
18 provide for appointment by the governor of the state superintendent of
19 education, in lieu of election or appointment by the board; to transfer the
20 board's powers and responsibilities to the state superintendent; to authorize
21 the state superintendent to develop and propose a minimum foundation
22 program formula to the legislature; to provide for legislative amendment and
23 adoption of the formula; to provide for establishment of qualifications and
24 duties of parish superintendents. (Effective on the second Monday in
25 January of 2012, except for transitional provisions, which are effective on
26 January 1, 2011.) (Amends Article IV, Section 22(A), Article VII, Sections
27 10.1(C)(1) and (3) and (D)(2)(introductory paragraph) and 10.8(C)(3)(a) and
28 (c), and Article VIII, Sections 2, 4, 5(D)(introductory paragraph), 9(B),
29 10(A), 13(A) and (B), and 15; Repeals 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)]

Harrison

HB No. 489

Abstract: Abolishes BESE, transfers its functions to the state superintendent of education, provides for appointment of superintendent by governor, provides for proposal of MFP formula by superintendent, and permits legislative amendment of MFP formula.

- (1) 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 the board on the 2nd Mon. in Jan. 2012. Provides that members in office on the day the amendment is ratified and their successors shall continue in office until such day in 2012 and that any vacancies before then be filled by the governor. Provides for no election of board members at 2011 gubernatorial elections.

- (2) Present constitution provides for a superintendent of education for public elementary and secondary education, elected for a four-year term. Provides that he shall be the administrative head of the Dept. of Education, implement BESE policies and applicable law, and have such qualifications, powers, functions, duties, and responsibilities as provided by law. Permits the legislature to make office appointive by a 2/3 vote, in which case appointment shall be made by BESE. (The legislature has so provided).

Proposed constitutional amendment changes the title of "state superintendent of education for public elementary and secondary education" to "state superintendent of education". Provides that he shall be appointed by the governor, subject to Senate confirmation, and serve at the governor's pleasure. Requires that he possess qualifications provided by law.

Proposed constitutional amendment provides that the superintendent in office on the day before the 2nd Mon. in Jan. 2012 shall remain in office and serve until his successor is appointed and takes office as provided in the amendment.

- (3) Present constitution provides for BESE's powers and functions as follows:
- (a) 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.
 - (b) Other powers, duties, and responsibilities as provided by the constitution or by law.
 - (c) Approval of certain private schools.
 - (d) Coordination of public elementary, secondary, vocational-technical, career, and higher education programs with the Board of Regents.

- (e) Fixing of qualifications and duties of superintendents of parish schools.
- (f) Control and supervision of parish and city school board systems.
- (g) Prescription of school books and other materials of instruction at the elementary and secondary levels.

Proposed constitutional amendment transfers these powers and functions to the state superintendent and provides that he shall have other powers, duties, and functions as provided by the constitution or by law. Provides for establishment of qualifications and duties of parish superintendents by law. Also removes the provision that the superintendent implement the board's policies and provides that he shall implement policies of the legislature and laws affecting schools under his jurisdiction.

- (4) 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. Requires formula to provide for contribution by every such school system. Provides that prior to legislative approval of the formula, the legislature may return the formula to the board and recommend an amended formula for consideration by the board and submission to the legislature for approval. Requires that the legislature annually appropriate funds sufficient to fully fund the current cost to the state as determined by the approved formula. Prohibits reduction in such appropriation, except that the governor may reduce such appropriation using means provided in the Act containing the appropriation, provided that any such reduction is consented to in writing by 2/3 of the elected members of each house of the legislature. Requires that funds appropriated be allocated according to the formula as adopted by BESE and approved by the legislature prior to making the appropriation. Provides that if the legislature fails to approve the formula most recently adopted by the board, the last formula adopted by the board and approved by the legislature shall be used to determine MFP cost and allocation of funds appropriated.

Proposed constitutional amendment retains present constitution except:

- (a) Requires the state superintendent to annually develop the formula and propose it to the legislature.
 - (b) Provides that prior to adoption of the formula by the legislature, the legislature may amend the formula.
 - (c) Requires that funds appropriated be allocated according to the formula as adopted by the legislature.
 - (d) 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.
- (5) 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. Provides that the legislature shall appropriate the total amount intended for elementary and secondary educational purposes to BESE which shall allocate the monies so appropriated 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. Provides for certain monies to be distributed relative to the MFP and refers to the approval of the most recent MFP budget letter by BESE.

Proposed constitutional amendment changes these references from BESE to the state superintendent.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 2, 2010.

Effective on second Mon. in Jan. 2012 except for transitional provisions, which are effective on Jan. 1, 2011.

(Amends Const. Art. IV, §22(A), 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. VIII, §3)