

Regular Session, 2012

HOUSE BILL NO. 901

BY REPRESENTATIVE SMITH

STUDENT/ASSESSMENT: Permits parents of public school students to opt out of certain LEAP tests

1 AN ACT

2 To enact R.S. 17:10.1(G), 10.9, and 24.4(J), relative to parental authority; to provide for
3 legislative findings and declaration; to prohibit penalizing students for certain
4 parental decisions; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 17:10.1(G), 10.9, and 24.4(J) are hereby enacted to read as follows:

7 §10.1. School and district accountability system; purpose; responsibilities of state
8 board

9 * * *

10 G. Notwithstanding any other provision of law to the contrary, the state
11 board shall direct the state Department of Education to adjust any calculation of
12 student performance necessary to take into account students for whom no score is
13 recorded due to a parent's refusal to allow his or her child to participate in all or part
14 of the administration of any assessment referred to in R.S. 17:24.4 or in Part VI of
15 Chapter 1 of this Title. The department shall not lower the school performance score
16 of or otherwise penalize any public school in response to the lack of participation or
17 partial participation of one or more students in the administration of any assessment
18 referred to in R.S. 17:24.4 or in Part VI of Chapter 1 of this Title.

19 * * *

1 §10.9. Parental authority

2 The Louisiana Legislature hereby finds the following:

3 (1) Parental authority in educational decisions has been a guiding tenet in
4 education policy in this state for several years and is a core value of the statewide
5 system of public education in Louisiana.

6 (2) Parental rights, especially in the area of education, are broadly protected
7 by United States Supreme Court decisions. The United States Supreme Court has
8 repeatedly held that parents have the fundamental right to direct the upbringing and
9 education of their children.

10 (3) In *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925), the United
11 States Supreme Court declared that, "The child is not the mere creature of the State:
12 those who nurture him and direct his destiny have the right, coupled with the high
13 duty, to recognize and prepare him for additional obligations."

14 (4) In recognition of both the right and responsibility of parents to control
15 their children's education, the United States Supreme Court has further stated, "It is
16 cardinal with us that the custody, care, and nurture of the child reside first in the
17 parents, whose primary function and freedom include preparation for obligations the
18 State can neither supply nor hinder." (*Prince v. Massachusetts*, 321 U.S. 158, 166
19 (1944))

20 (5) The United States Supreme Court has also recognized that the right of
21 parents to raise their children free from unreasonable state interferences is one of the
22 unwritten liberties protected by the due process clause of the Fourteenth Amendment
23 to the United States Constitution and criticized a state legislature for trying to
24 interfere "with the power of parents to control the education of their own". (*Meyer*
25 *v. Nebraska*, 262 U.S. 390, 401 (1923))

26 (6) Policies that place school personnel at odds with appropriate parental
27 authority are counter to the goals held by Louisiana's statewide system of public
28 education.

1 (3) The provisions of this Subsection do not prohibit a school district or
 2 charter school from enforcing the compulsory attendance requirements in Subpart
 3 C of Part III of Chapter 1 of this Title.

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 by 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)]

Smith

HB No. 901

Abstract: Recognizes parents' right to refuse their children's participation in annual statewide assessments and prohibits penalizing the child for their parent's choice.

Proposed law provides for legislative findings and declares that schools and students should not be punished for choices made by parents taken in the best interest of the child in regards to annual statewide assessments.

Proposed law prohibits penalizing a student in annual statewide assessments were the parent does not allow the student's participation.

Proposed law requires informing parents of the right to refuse their child's participation in assessments.

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

(Adds R.S. 17:10.1(G), 10.9, and 24.4(J))