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	* * *

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	<u>§10.9. Parental authority</u>
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	<u>(1944))</u>
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	<u>v. Nebraska, 262 U.S. 390, 401 (1923))</u>
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	(7) Further, schools should not be judged based on parental compliance but
2	on factors that are within a school's control.
3	(8) The performance of each school relating to statewide assessments should
4	be based solely on the performance of students participating in the statewide
5	assessments.
6	Therefore, the Louisiana Legislature declares that schools and students
7	should not be punished for the choices made and actions taken by parents in the best
8	interests of their children with regard to participation by their children in annual
9	statewide assessments.
10	* * *
11	§24.4. Louisiana Competency-Based Education Program; statewide standards for
12	required subjects; Louisiana Educational Assessment Program; parish or city
13	school board comprehensive pupil progression plans; waivers
14	* * *
15	J.(1) Notwithstanding any other provision of law to the contrary, no school
16	district or charter school shall penalize a student if that student's parent does not
17	allow the student to participate in all or part of any assessment referred to in this
18	Section or in Part VI of Chapter 1 of this Title. For purposes of this Section, a
19	penalty includes but is not limited to:
20	(a) Withholding of credits toward graduation or denying a student the ability
21	to graduate or receive a diploma.
22	(b) Denying a student the opportunity to participate in an educational
23	program of an extracurricular activity.
24	(c) Denying a student the ability to advance to a subsequent grade level.
25	(2) Before administering any assessment referred to in this Section or in Part
26	VI of Chapter 1 of this Title, the school district or charter school shall inform parents
27	of their right to refuse to allow their child to participate in the assessment.

1 (3) The provisions of this Subsection do not prohibit a school district or

- 2 <u>charter school from enforcing the compulsory attendance requirements in Subpart</u>
- 3 <u>C of Part III of Chapter 1 of this Title.</u>
- 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.

<u>Proposed law</u> 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.

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

<u>Proposed law</u> 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))