

2015 Regular Session

SENATE BILL NO. 43

BY SENATOR APPEL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

BESE. Provides relative to the adoption of BESE rules and the role of legislative committees and the governor for oversight purposes. (See Act)

1 AN ACT  
2 To amend and reenact R.S. 49:969 and 970, and to enact R.S. 17:6.1 and R.S. 49:968.1,  
3 relative to the State Board of Elementary and Secondary Education; to require the  
4 board to adopt rules in accordance with the Administrative Procedure Act for certain  
5 programs, statements, guidelines, or requirements for conduct; to provide relative to  
6 the approval, amendment, suspension, or rejection of certain proposed or adopted  
7 rules by a legislative committee or the governor; to provide for effectiveness; and to  
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 17:6.1 is hereby enacted to read as follows:

11 **§6.1. Rulemaking**

12 **The board shall adopt rules in accordance with the Administrative**  
13 **Procedure Act for any program, statement, guideline, or requirement for**  
14 **conduct or action prescribed by the board, the state superintendent of**  
15 **education, and the state Department of Education. The provisions of this**  
16 **Section shall not apply to any statement, guideline, or requirement regulating**  
17 **only the internal management of the board or the state Department of**

1           **Education.**

2           Section 2. R.S. 49:969 and 970 are amended and reenacted and R.S. 49:968.1 is  
3 hereby enacted to read as follows:

4           **§968.1. Review of rules relative to state content standards; elementary and**  
5                               **secondary education**

6                       **A. Each rule proposed by the State Board of Elementary and Secondary**  
7                       **Education to adopt, amend, suspend, or repeal state content standards for use**  
8                       **in public elementary and secondary schools shall be submitted to the Senate**  
9                       **Committee on Education and the House Committee on Education for review,**  
10                      **in accordance with the provisions of this Chapter.**

11                      **B. State content standards proposed to be adopted by rule pursuant to**  
12                      **this Section shall not be subject to severability in consideration by a legislative**  
13                      **committee or the governor in oversight determinations. The state content**  
14                      **standards set forth in a proposed rule shall be considered in globo in any**  
15                      **determination of acceptability or unacceptability for oversight purposes.**

16           §969. Legislative veto, amendment, or suspension of rules, regulations, and fees

17                      **A.** In addition to the procedures provided in R.S. 49:968 for review of the  
18 exercise of the rulemaking authority delegated by the legislature to state agencies,  
19 as defined by this Chapter, the legislature, by Concurrent Resolution, may suspend,  
20 amend, or repeal any rule or regulation or body of rules or regulations, or any fee or  
21 any increase, decrease, or repeal of any fee, adopted by a state department, agency,  
22 board, or commission. The Louisiana Register shall publish a brief summary of any  
23 Concurrent Resolution adopted by the legislature pursuant to this Section. Such  
24 summary shall be published not later than forty-five days after signing of such  
25 Resolution by the presiding officers of the legislature.

26                      **B. Notwithstanding the provisions of Subsection A of this Section, a rule**  
27                      **adopted by the State Board of Elementary and Secondary Education relative to**  
28                      **state content standards adopted by the board for use in public elementary and**  
29                      **secondary schools, may not be amended by the legislature and may only be**

1           **suspended or repealed in its entirety.**

2           §970. Gubernatorial suspension or veto of rules and regulations

3           **A.** The governor, by executive order, may suspend or veto any rule or  
4 regulation or body of rules or regulations adopted by a state department, agency,  
5 board or commission, except as provided in R.S. 49:967, within thirty days of their  
6 adoption. Upon the execution of such an order, the governor shall transmit copies  
7 thereof to the speaker of the House of Representatives and president of the Senate.

8           **B. Notwithstanding the provisions of Subsection A of this Section, the**  
9 **governor may only suspend or veto a rule adopted by the State Board of**  
10 **Elementary and Secondary Education relative to state content standards**  
11 **adopted by the board for use in public elementary and secondary schools in its**  
12 **entirety.**

13           Section 2. This Act shall take effect and become operative if and when the Acts  
14 which originated as House Bill No. 373 and as House Bill No. 542 of the 2015 Regular  
15 Session of the Legislature is enacted and becomes effective.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Jeanne C. Johnston.

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DIGEST

SB 43 Reengrossed

2015 Regular Session

Appel

Proposed law (R.S. 17:6.1) requires the State Board of Elementary and Secondary Education (BESE) to adopt rules in accordance with the Administrative Procedure Act (APA) for any program, statement, guideline, or requirement for conduct or action prescribed by the board, the state superintendent of education, and the state Department of Education. Provides that the provisions of proposed law shall not apply to any statement, guideline, or requirement regulating only the internal management of the board or the state Department of Education.

Proposed law (R.S. 49:968.1) provides that each rule proposed by BESE to adopt, amend, suspend, or repeal state content standards for use in public elementary and secondary schools shall be submitted to the Senate Committee on Education and the House Committee on Education for review, in accordance with the provisions of the APA.

Proposed law provides that state content standards proposed to be adopted by rule shall not be subject to severability in consideration by a legislative committee or the governor in oversight determinations. Further provides that state content standards set forth in a proposed rule shall be considered in globo in any determination of acceptability or unacceptability for oversight purposes.

Present law (R.S. 49:969) provides that in addition to the provisions of present law that provide for legislative review of the rulemaking authority delegated to state agencies, the legislature, by Concurrent Resolution, may suspend, amend, or repeal any rule or regulation

or body of rules or regulations, or any fee or any increase, decrease, or repeal of any fee, adopted by a state department, agency, board, or commission. Further provides that the Louisiana Register shall publish a brief summary of any Concurrent Resolution adopted by the legislature not later than 45 days after it is signed by the presiding officers of the legislature.

Proposed law retains present law, but provides that notwithstanding present law, a rule adopted by the BESE relative to state content standards adopted by the board for use in public elementary and secondary schools, may not be amended by the legislature and may only be suspended or repealed in its entirety.

Present law (R.S. 49:970) provides that the governor, by executive order, may suspend or veto any rule or regulation or body of rules or regulations adopted by a state department, agency, board or commission (except for limited exemptions provided in present law), within 30 days of their adoption. Requires the governor, upon the execution of such an order, to transmit copies of the executive order to the speaker of the House of Representatives and president of the Senate.

Proposed law retains present law, but provides that notwithstanding present law, the governor may only suspend or veto a rule adopted by BESE relative to state content standards adopted by the board for use in public elementary and secondary schools in its entirety.

Effective if and when HB 373 and HB 542 of the 2015 Regular Session are enacted into law.

(Amends R.S. 49:969 and 970; adds R.S. 17:6.1 and R.S. 49:968.1)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Education to the original bill

1. Provides that proposed BESE rules relative to K-12 state content standards are not severable and must be considered by a legislative oversight committee or the governor in globo.
2. Prohibits the legislature from amending an adopted rule relative to K-12 state content standards by Concurrent Resolution.
3. Provides that the legislature may only suspend or repeal an adopted rule relative to K-12 state content standards in its entirety by Concurrent Resolution.
4. Provides that the governor may only suspend or veto an adopted rule relative to K-12 state content standards in its entirety by executive order.
5. Changed effectiveness from governor's signature to being contingent upon enactment of HB 373 of the 2015 R.S.

##### Senate Floor Amendments to engrossed bill

1. Adds HB 542 of the 2015 R.S. to contingent effective date.