



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064 · PHONE: 225-342-5840 · FAX: 225-342-5843

December 12, 2017

MEMORANDUM

James Garvey
1st BESE District

Kira Orange Jones
2nd BESE District

Sandy Holloway
3rd BESE District

Tony Davis
4th BESE District

Gary Jones
5th BESE District

Kathy Edmonston
6th BESE District

Holly Boffy
7th BESE District

Jada Lewis
8th BESE District

Thomas Roque
Member-at-Large

Lurie Thomason
Member-at-Large

Doris Voltier
Member-at-Large

TO: Senator John A. Alario, Jr., Senate President
Representative Taylor F. Barras, Speaker of the House
Senator Dan "Blade" Morrish, Chair, Senate Committee on Education
Representative Nancy Landry, Chair, House Committee on Education

FROM: Shan N. Davis, Executive Director *SP*
Board of Elementary and Secondary Education

RE: Summary Report on Board of Elementary and Secondary Education Proposed Rulemaking

Pursuant to R.S. 49:968(D)(1)(b), the Board of Elementary and Secondary Education hereby submits to you this summary report and announces its plan to proceed with rulemaking by finalizing the November 20, 2017, Notice of Intent that was promulgated on pages 2210 - 2212 of the *Louisiana Register*.

The Board has received no comments or requests for a public hearing and has not conducted a hearing pursuant to R.S. 49:953(A)(2)(a).

The Board has made no change to the proposed Rule.

Subject to legislative oversight by either the House Committee on Education or Senate Committee on Education, the Board anticipates adopting the Notice of Intent as a final Rule in the February 20, 2018, issue of the *Louisiana Register*.

The following document is attached:

1. A copy of the Notice of Intent.

Please contact Nina Ford at (225) 342-5841 if the Board may be of any assistance to you concerning this Rule.

SND:naf

Attachment (1)

c: Jeanne Johnston, Senior Analyst, Senate Committee on Education
Cheryl Serrett, Analyst, Senate Committee on Education
Nancy Jolly, Senior Legislative Analyst, House Committee on Education
Ryan Gremillion, Policy Director, Louisiana Department of Education
Shan N. Davis, Executive Director, BESE
Kevin Calbert, Communications Manager, BESE

Shan N. Davis
Executive Director

John C. White
State Superintendent

E. If the total amount of credits applied for in any particular year exceeds the total or QEC cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

F. After review of the expenditure verification report, final tax credit certification letter (if any), and any other pertinent factors, including but not limited to availability of tax credits in any given year, future year tax credit reservations may be revised, by amending the tax credit reservation schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 44:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons should submit written comments on the proposed Rules to Chris Stelly through the close of business on Tuesday, January 2, 2018 at 617 North 3rd Street, 11th Floor, Baton Rouge, LA 70802 or via email to Chris.Stelly@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Wednesday, January 3, 2018 at the LaSalle Building, Department of Economic Development, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Motion Picture Production Tax Credit Program—Qualified Entertainment Company Payroll Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not result in any additional savings or expenditures for state or local governmental units, as they set

forth guidelines for the Qualified Entertainment Company ("QEC") Payroll Tax Credit created by portions of Act 309 of the 2017 Regular Session (See Part II). Any administrative duties brought about by the proposed rules will be carried out by existing departmental staff funded by the existing LED budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not affect revenue collections for state or local governmental units. Act 309 of the 2017 Regular Session extends the \$180 M cap on credits that may be claimed in a fiscal year. All QEC Payroll Tax Credit activity must operate within the auspices of the \$180 M claim cap and \$150 M issuance cap outlined in Act 309.

Act 309 established the maximum amount of QEC payroll tax credit issuance by LED at 5% of the \$150 M credit Motion Picture Production Tax Credit Program issuance limit (\$7.5 M) per fiscal year for productions applying on or after July 1, 2017. The proposed rules further state that QECs receiving payroll tax credits shall not receive any other LED-administered incentives based upon a QEC's payroll. As a result, QECs statewide are limited to receiving \$7.5 M in payroll benefits annually under the \$150 M issuance cap.

Furthermore, Act 309 extends the \$180 M cap on credits that firms may claim in a given fiscal year. As a result, QECs claiming the payroll credit must claim their credits prior to exhaustion of the \$180 M cap, or have their claims count against the ensuing fiscal year's \$180 M cap. Because the cap currently exists in statute, QEC Payroll Tax Credit activity will not affect revenue collections in the aggregate.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Firms who are eligible for QEC payroll tax credits may realize a reduction in tax liabilities to the extent they qualify for the credit. In the aggregate, the amount of benefits QECs may realize statewide is \$7.5 M annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits.

Anne G. Villa
Undersecretary
1711#034

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and
State Accountability System (LAC 28:XL4503)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System*: §4503, One Year Waiver for "Severe Impact" Schools and Districts. The proposed revisions pertain to the 2016-2017 school year school performance scores and letter grades for schools that sustained significant damage as a result of federally-declared disaster DR-4277, Louisiana Severe Storms and Flooding.

**Title 28
EDUCATION**

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 45. Disaster Considerations for School and District Accountability

§4503. One Year Waiver for "Severe Impact" Schools and Districts

[Formerly LAC 28:LXXXIII.4503]

A. - A.2. ...

3. for the 2016-2017 school year school performance scores and letter grades, any school which sustained significant damage as a result of federally declared disaster DR-4277, Louisiana Severe Storms and Flooding, such that schools temporarily relocated to another school campus or facility, or received a displaced school or entire grade levels from another school at its campus as a result of such disaster, the LDE shall use for school accountability purposes the higher of the 2016-2017 or 2015-2016 school performance score. This policy shall also apply to all schools within the East Baton Rouge Parish system. The state superintendent, with consent of the president of the board, may provide for the same in cases of extraordinary and abnormal displacement of teachers and students and hardship due to such disaster, if such displacement directly and indisputably contributed to abnormal changes in school performance scores and assessment results, based on analysis conducted by the LDE.

B. - G.2. ...

a. will not enter or advance in comprehensive or urgent intervention labels or academically unacceptable status as a result of accountability labels based on data collected during the year of the disaster; but

b. schools can exit comprehensive or urgent intervention labels based on data collected during the year of the disaster.

H. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1412 (August 2006), amended LR 33:636 (April 2007), LR 36:1994 (September 2010), LR 37:2120 (July 2011), LR 44:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m., December 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE:**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be potential savings for the school district, however, it is more likely that individual schools will benefit from this one year waiver to the extent the school would otherwise have received a lower school performance score. Potential costs that would otherwise have been incurred could utilize existing resources of the school or could require additional resources from the district. Per the state accountability system, potential implications for schools which are labeled academically in crisis or failing include increased resource needs for intervention and improvement programs, increased potential for students to enroll at other schools, as well as increased risk of takeover by the state Recovery School District.

The proposed revisions pertain to the 2016-2017 school year school performance scores and letter grades for schools in the East Baton Rouge school district that sustained significant damage as a result of federally declared disaster DR-4277, *Louisiana Severe Storms and Flooding*. For those schools temporarily relocated to another school campus or facility, or which received a displaced school or entire grade levels from another school at its campus as a result of such disaster, the school performance score shall be the higher of the 2016-2017 or 2015-2016 school performance score. This policy shall apply to all schools within the East Baton Rouge Parish System as well as the district performance score.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1711#040

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.Chapters 3-40)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement to revise *Bulletin 126—Charter Schools*: §309. Charter Authorizer Reporting Requirements; §311. Application Process for Locally-Authorized Charter Schools; §313. Local School Board Consideration of Charter Application, Awarding of Charters; §501. Organization of Nonprofit Corporation; §503. Eligibility to Apply for a Type 2 Charter School; §511. Application Process; §512. Application Process for Locally-Authorized Charter

Schools; §513. Stages of Application Cycle for BESE-Authorized Charter Schools; §515. Application Components; §518. BESE Pre-Opening Procedures Following Approval; §519. Local School Board Consideration of Charter Application, Awarding of Charters; §521. Charter School Replication; §701. Charter School Contract with BESE; §901. Timeline for Opening; §1101. Evaluation; §1103. Alternate Charter Schools; §1105. Intervention Process for Charter Schools; §1303. Extension Review; §1501. Renewal of Charter; §1503. BESE Processes for Charter Renewal; §1503. Charter Renewal Process and Timeline; §1505. Eligibility for Renewal for BESE-Authorized Charter Schools; §1507. Renewal Term Length for BESE-Authorized Charter Schools; §1509. Automatic Renewal of Charter Schools; §1601. Closure; §1901. Charter Amendments; §1903. Material Amendments for BESE-Authorized Charter Schools; §1905. Non-Material Amendments for BESE-Authorized Charter Schools; §2101. Board of Director Composition; §2107. Prohibitions; §2301. State Funding; §2303. Local Education Agency (LEA) Status and Federal Funding; §2501. Qualified and Competent Business Professional; §2505. Financial Reporting; §2509. Assets; §2701. Students Eligible to Attend; §2703. Enrollment Capacity; §2705. Admission Requirements; §2707. Application Period; §2709. Enrollment of Students, Lottery, and Waitlist; §2711. Enrollment Preferences for BESE-Authorized Charter Schools; §2801. Transportation Requirements; §2805. Parent Volunteers at BESE-Authorized Charter Schools; §2901. Employment of Staff; §2905. Criminal History Review; §2911. Evaluation and Assessment; §3101. Required Notifications; §3301. Charter Operator Complaint Procedure; §3501. Volunteer Programs; §3703. Curriculum in Virtual Charter School; §4001. Applicability of State and Local Rules and Regulations; §4003. Applicability of State Laws; and §4005. Other Statutory Requirements.

**Title 28
EDUCATION**

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 3. Charter School Authorizers

§311. Application Process for Locally-Authorized Charter Schools

A. Application Cycle

1. Local school boards shall accept charter applications from applicants according to the local district timeline established by the department and approved by BESE. BESE shall approve at least one charter application cycle for the local district timeline per year. The department may extend approved cycles or provide for additional cycles, and shall notify BESE of any such changes.

2. Local school boards may request supplementary materials once the initial application has been submitted. Final decisions regarding the approval of charter applications must be made by local school boards according to the local district charter application timeline. Notifications of charter proposal denied shall include written explanation of the reasons for such denial.

3. Prior to the consideration of a charter school proposal by any local school board, each charter applicant shall be afforded the opportunity to provide a written response to the independent evaluation of the application. Such response shall be available to the independent