

2022 Regular Session

SENATE BILL NO. 471

BY SENATOR MILLIGAN AND REPRESENTATIVE MIKE JOHNSON

CONTRACTS. Provides for foreign sources to fund certain gifts and contracts to the state or political subdivisions. (1/1/23)

1 AN ACT

2 To enact R.S. 38:2191.1, relative to public contracts; to provide for foreign sources of funds
3 for gifts and contracts involving state agencies and political subdivisions; to provide
4 for reporting of sources of monies used as gifts or grants or in contracts involving
5 state agencies and political subdivisions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 38:2191.1 is hereby enacted to read as follows:

8 **§2191.1. Foreign gifts and contracts**

9 **A. As used in this Section, the following terms shall have the following**
10 **meanings unless the context clearly indicates otherwise:**

11 **(1) "Contract" means any agreement for the direct benefit or use of any**
12 **party to the agreement, including an agreement for the sale of commodities or**
13 **services.**

14 **(2) "Foreign country of concern" means a country or nation determined**
15 **by the appropriate federal agency to be a potential source of intelligence**
16 **gathering or espionage activities detrimental to the United States.**

17 **(3) "Foreign government" means the government of any country, nation,**

1 or group of nations, or any province or other political subdivision of any
2 country or nation, other than the government of the United States and its states
3 and political subdivisions, including any agent of the foreign government.

4 (4) "Foreign source" means any of the following:

5 (a) A foreign government or an agency of a foreign government.

6 (b) A legal entity, governmental or otherwise, created solely under the
7 laws of a foreign state or states.

8 (c) An individual who is not a citizen or a national of the United States
9 or of a territory or protectorate of the United States.

10 (d) An agent, including a subsidiary or an affiliate of a foreign legal
11 entity, acting on behalf of any source defined in Subparagraphs (a), (b), or (c)
12 of this Paragraph.

13 (5) "Gift" means any transfer of money or property from one entity to
14 another without compensation.

15 (6) "Grant" means a transfer of money for a specified purpose, including
16 a conditional gift.

17 (7) "Interest" in an entity means any direct or indirect investment in or
18 loan to the entity valued at five percent or more of the entity's net worth or any
19 form of direct or indirect control exerting similar or greater influence on the
20 governance of the entity.

21 (8) "State agency" means any agency or unit of state government created
22 or established by law.

23 B.(1) Any state agency or political subdivision that receives directly or
24 indirectly any gift or grant having a value of fifty thousand dollars or more
25 from a foreign source shall disclose the gift or grant to the division of
26 administration within thirty days after its receipt.

27 (2) Disclosures required by this Subsection shall include the date and
28 amount of the gift or grant and the country of residence or domicile of the
29 foreign source.

1 C.(1) Any entity that applies to a state agency or political subdivision for
2 a grant or proposes a contract having a value of one hundred thousand dollars
3 or more shall disclose the following information to the agency or political
4 subdivision:

5 (a) Any current or prior interest in any contract received from a foreign
6 country of concern having a value of fifty thousand dollars or more and whether
7 the interest in the contract existed or was in force at any time during the
8 previous five years.

9 (b) Any grant or gift received from a foreign country of concern having
10 a value of fifty thousand dollars or more and whether the grant or gift was
11 received or in force at any time during the previous five years.

12 (2) The disclosure required by this Subsection shall include the
13 following:

14 (a) The name and mailing address of the disclosing entity.

15 (b) The amount of the contract, grant, or gift or the value of the interest
16 in the contract, grant, or gift disclosed.

17 (c) The applicable foreign country of concern.

18 (d) The date the contract was executed, and the date of termination of
19 the contract or interest, if applicable.

20 (e) The date of receipt of the grant or gift.

21 (f) The name of the agent or controlled entity that is the source or
22 interest holder.

23 (3) The division of administration may publish the disclosure
24 information online, and if published online, the information is considered
25 disclosed to every state agency and political subdivision.

26 (4) Once a disclosure is filed and during the term of the grant or
27 contract, the entity shall revise the disclosure within thirty days after executing
28 a contract or after receipt of a grant or gift from a foreign country of concern
29 or within thirty days after any interest is acquired in the entity by a foreign

1 country of concern.

2 D. Any entity identified as being subject to any governmental sanctions,
 3 embargoes, or other restrictions, shall be included on the online procurement
 4 system. The division of administration shall ensure that purchasers using the
 5 online procurement system may easily access all disclosures made by entities
 6 participating in the system.

7 E.(1) After receipt of a referral from the compliance officer of an agency
 8 or political subdivision compliance officer or a sworn complaint based upon
 9 substantive information and reasonable belief, the division of administration is
 10 to investigate any allegation of a violation of this Section.

11 (2) The division of administration may request records relevant to any
 12 reasonable suspicion of a violation of this Section, and an entity shall provide
 13 the records within thirty days after the request or at a later time agreed to by
 14 the division of administration.

15 F. The division of administration may adopt rules necessary to carry out
 16 its responsibilities under this Section, which rules may identify the federal
 17 agencies to be consulted and the procedure for notifying a vendor of the
 18 disclosure requirements under this Section.

19 Section 2. This Act shall become effective on January 1, 2023.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Thomas L. Tyler.

DIGEST

SB 471 Engrossed

2022 Regular Session

Milligan

Proposed law requires any state agency or political subdivision that receives directly or indirectly any gift or grant having a value of \$50,000 or more from a foreign source to disclose the gift or grant to the division of administration within 30 days after receipt.

Proposed law defines certain terms including a "foreign country of concern".

Proposed law requires that the disclosure include the date and amount of the gift or grant and the country or resident or domicile of the foreign source.

Proposed law requires any entity applying to a state agency or political subdivision for a grant or proposing a contract having a value of \$100,000 to disclose the following information:

- (1) Any current or prior interest in a contract received from a foreign country of concern having a value of \$50,000 or more and whether the interest existed or was in force at any time during the previous five years.
- (2) Any grant or gift received from a foreign country of concern having a value of \$50,000 or more and whether the grant or gift was received or in force at anytime during the previous five years.

Proposed law requires that the disclosure document include the following:

- (1) The name and mailing address of the disclosing entity.
- (2) The amount of the contract, grant, or gift or the value of the interest in the contract, grant, gift disclosed.
- (3) The applicable foreign country of concern.
- (4) The date the contract was executed, and the date of termination of the contract or interest, if applicable.
- (5) The date of receipt of the grant or gift.
- (6) The name of the agent or controlled entity that is the source or interest holder.

Proposed law authorizes the division of administration to publish the disclosure information online and if published online it is considered disclosed to every state agency and political subdivision.

Proposed law requires that when a disclosure is filed and during the term of the grant or contract, the entity is to revise it within 30 days after the contract execution or after receipt of a grant or gift from a foreign country of concern or within 30 days after any interest is acquired in the entity by a foreign country of concern.

Proposed law requires any entity identified as subject to any governmental sanctions, embargoes, or other restrictions, to be included on the online procurement system. Purchasers using the online procurement system are to have easy access to all disclosures made by vendors.

Proposed law requires the division of administration to investigate allegations of violations of proposed law once a referral is made by an agency or political subdivision compliance officer. Authorizes the division of administration to request relevant records which are to be provided within 30 days after requested or at a later time agreed to by the division of administration.

Proposed law authorizes adoption of necessary rules by the division, which rules may identify the federal agencies to be consulted and the procedure for notifying a vendor of the disclosure requirements under proposed law.

Effective January 1, 2023.

(Adds R.S. 38:2191.1)