

2017 Regular Session

HOUSE BILL NO. 231

BY REPRESENTATIVE THIBAUT

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

ETHICS/CODE: Allows the immediate family member of a mayor or governing authority member of a municipality with a population of five thousand or less or a legal entity in which the family member has an interest to enter into a transaction with the municipality subject to certain conditions

1 AN ACT

2 To amend and reenact R.S. 42:1123(22), relative to an exception from ethics laws for  
3 transactions involving certain municipalities; to allow an immediate family member  
4 and related legal entities to enter into certain transactions with the municipality  
5 subject to certain conditions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 42:1123(22) is hereby amended and reenacted to read as follows:

8 §1123. Exceptions

9 This Part shall not preclude:

10 \* \* \*

11 (22)(a) Any mayor or member of a governing authority of a municipality  
12 with a population of five thousand or less, or an immediate family member of such  
13 a mayor or governing authority member, or legal entity in which ~~he~~ such a mayor,  
14 governing authority member, or immediate family member has a controlling interest,  
15 from entering into any transaction that is under the supervision or jurisdiction of the  
16 municipality.

17 (b) A ~~mayor or member of a governing authority who enters into a~~  
18 ~~transaction as provided for in~~ allowed by Subparagraph (a) of this Paragraph ~~shall~~  
19 ~~do so under the supervision or jurisdiction of the municipality, provided that~~ may

1        only be entered into if the municipality submits a plan to the Louisiana Board of  
2        Ethics for approval and the board approves the plan. The municipality's plan shall  
3        be developed in accordance with the following:

4                (i) The elected official involved shall immediately recuse himself from  
5        acting in his governmental capacity in matters affecting the transaction and file  
6        quarterly affidavits concerning the recusal with the clerk of the municipality and the  
7        board. The affidavits shall set out the name and address of the elected official, the  
8        name and population of the municipality, and a description of the transactions  
9        involving the elected official, his immediate family member, or his or his immediate  
10       family member's legal entity that occurred during the preceding quarter. The plan  
11       of the municipality shall set out the due dates of the quarterly affidavits.

12               (ii) The plan developed by the municipality shall address how the  
13       transactions shall be supervised after ~~an~~ the elected official is recused.

14               (iii) Individual transactions of two hundred fifty dollars or less ~~are not~~  
15       ~~required to~~ shall not be subject to the ~~following rules. However, if~~ provisions  
16       contained in Items (iv) and (v) of this Subparagraph until such transactions involving  
17       a single elected official or a legal entity in which he owns a controlling interest or  
18       an immediate family member or a legal entity in which he owns a controlling interest  
19       exceed two thousand five hundred dollars in the aggregate within the calendar year;  
20       thereafter the provisions contained in Items (iv) and (v) of this Subparagraph shall  
21       apply.

22               (iv) For transactions in excess of two hundred fifty dollars, but less than two  
23       thousand five hundred dollars, telephone quotations with written confirmation or  
24       facsimile quotations shall be solicited from at least three vendors within the  
25       municipality, the parish, or within a fifty mile radius of the municipality. However,  
26       in the case of an emergency, no quotations shall be required so long as the elected  
27       official recuses himself from the transaction and files an affidavit as required in Item  
28       (i) of this Subparagraph within three business days of the occurrence of the

1 transaction. "Emergency" shall be defined in the plan adopted by the municipality  
2 and subject to board approval.

3 (v) In the case of a transaction in excess of two hundred fifty dollars but less  
4 than two thousand five hundred dollars, if the quotation submitted by the elected  
5 official, his immediate family member, or legal entity in which the elected official  
6 or his immediate family member has a controlling interest is the lowest bid received  
7 by the municipality the transaction is allowed. The plan adopted by the municipality  
8 and subject to board approval may specify situations in which a quotation submitted  
9 by the elected official, his immediate family member, or his or his immediate family  
10 member's legal entity may be accepted even if it was not the lowest bid received by  
11 the municipality.

12 (vi) An elected official, his immediate family member, or legal entity in  
13 which the elected official or his immediate family member has a controlling interest  
14 may enter into transactions with the municipality in excess of two thousand five  
15 hundred dollars only after written invitations are sent to at least three bona fide  
16 qualified bidders, other than the elected official, his immediate family member, or  
17 his or his immediate family member's legal entity, and upon specific advance  
18 approval by the board. Any such request for approval shall include the details of the  
19 proposed transaction, a copy of the written invitation, copies of the bids received in  
20 response to the invitation, and the method of recusal developed by the municipality.  
21 The plan developed by the municipality shall set out the details of the bid process.

22 \* \* \*

23 Section 2. This Act shall become effective upon signature by the governor or, if not  
24 signed by the governor, upon expiration of the time for bills to become law without signature  
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
27 effective on the day following such approval.

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**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)]

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HB 231 Engrossed

2017 Regular Session

Thibaut

**Abstract:** Allows an immediate family member of the mayor or a member of a governing authority of a municipality with a population of 5,000 or less, or related legal entities to enter into certain transactions under the supervision or jurisdiction of the municipality.

Present law provides for any mayor or member of a governing authority of a municipality with a population of 5,000 or less, or legal entity in which he has a controlling interest, from entering into any transaction that is under the supervision or jurisdiction of the municipality. Provides that any person who enters into such a transaction does so under the supervision or jurisdiction of the municipality and requires the municipality to submit a plan to the Board of Ethics for approval. The plan shall include recusal of the elected official in matters affecting the transaction; quarterly affidavits concerning the recusal filed with the clerk of the municipality and the board; the manner of supervising the transactions.

Present law provides certain rules based on the amount of the transaction. Exempts individual transactions of \$250 or less, until they exceed \$2,500 in the aggregate in a calendar year; thereafter such a transaction requires at least three telephone quotations with written confirmation in the manner provided for transactions in excess of \$250, but less than \$2,500. Requires telephone quotations with written confirmation or facsimile quotations to be solicited from at least three vendors within the municipality, the parish, or within a 50-mile radius of the municipality for transactions in excess of \$250, but less than \$2,500, except in case of emergency. Provides that the plan adopted by the municipality and subject to board approval may specify situations in which a quotation submitted by the elected official or his legal entity may be accepted even if it was not the lowest bid received by the municipality. Provides for an elected official or legal entity in which the elected official has a controlling interest to enter into transactions with the municipality in excess of \$2,500 only after written invitations are sent to at least three bona fide qualified bidders, other than the elected official or his legal entity, and upon specific advance approval by the board.

Proposed law retains present law, but additionally allows an immediate family member of such a mayor or governing authority member, or legal entity in which such an immediate family member has a controlling interest to enter into transactions with the municipality subject to the same conditions, and requires the elected official involved to file the same affidavits required by present law for transactions entered into by his immediate family members and legal entities in which his immediate family members own a controlling interest. Additionally makes some technical changes.

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

(Amends R.S. 42:1123(22))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Clarify that after individual transactions of \$250 or less exceed \$2,500 in the aggregate within the calendar year, such a transaction would require at least three telephone quotations with written confirmation.
2. Make technical changes.