

**HOUSE COMMITTEE AMENDMENTS**

2018 Regular Session

Amendments proposed by House Committee on Labor and Industrial Relations to Engrossed Senate Bill No. 336 by Senator Riser

1 AMENDMENT NO. 1

2 On page 1, line 2, delete "reenacted R.S. 23:1553(G)" and insert in lieu thereof the  
3 following:

4 "reenact R.S. 23:1(A) and (C)(3), 382(A) and (B), 390(C) and (D), 1203.1(A)(1) through (4)  
5 and (6), the introductory paragraph of (B), (E), the introductory paragraph of (F), (1),  
6 introductory paragraph of (2), (3), and (5), (G)(2) and (3), (H), and (J), 1203.1.1(A),  
7 1553(G), R.S. 36:3(2), (4), (6) and (7), 8(E)(1), 301(C), 302, 303, the introductory paragraph  
8 of 304(A), (8), (9)(b), the introductory paragraph of (B), (1)(a)(i) and (ii), and 305 through  
9 307"

10 AMENDMENT NO. 2

11 On page 1, line 2, after "repeal" and before "R.S." insert "R.S. 36:8(E)(2)(j) and"

12 AMENDMENT NO. 3

13 On page 1, at the end of line 6, insert "to provide for a change of title of the officers of the  
14 commission; to provide for technical corrections;"

15 AMENDMENT NO. 4

16 On page 1, line 10, delete "R.S. 23:1553(G) is" and insert in lieu thereof "R.S. 23:1(A) and  
17 (C)(3), 382(A) and (B), 390(C) and (D), 1203.1(A)(1) through (4) and (6), the introductory  
18 paragraph of (B), (E), the introductory paragraph of (F), (1), the introductory paragraph of  
19 (2), (3), and (5), (G)(2) and (3), (H), and (J), 1203.1.1(A), and 1553(G) are"

20 AMENDMENT NO. 5

21 On page 1, between lines 10 and 11 insert the following:

22 "§1. Louisiana Workforce Commission established; purpose; definitions

23 A. The Louisiana Workforce Commission is hereby created and established  
24 to operate an integrated workforce development delivery system in this state, in  
25 particular through the integration of job training, employment and employment-  
26 related education and training programs, vocational rehabilitation services,  
27 independent living services, and blind services programs, and to administer the  
28 state's unemployment and workers' compensation programs. The duties of this  
29 commission shall be exercised and discharged under the supervision and direction  
30 of the ~~executive director~~ secretary. He shall have charge of the administration and  
31 enforcement of all laws, rules, policies, and regulations, which it is the duty of the  
32 commission to administer and enforce, and shall direct all inspections and  
33 investigations, except as otherwise provided by law.

34 \* \* \*

35 C. As used in this Title, unless the context clearly indicates otherwise, the  
36 following terms shall be defined as follows:

37 \* \* \*

38 (3) "~~Executive director~~" means the executive director "Secretary" means the  
39 secretary of the commission.

40 \* \* \*

1 §382. Apprenticeship council

2 A. The ~~executive director~~ secretary shall appoint an apprenticeship council,  
 3 composed of three representatives each from employer and employee organizations  
 4 respectively, and of two representatives of the general public. The three employer  
 5 representatives shall be selected from lists supplied by employer organizations which  
 6 are participating in bona fide apprenticeship programs. The three employee  
 7 representatives may be representatives of labor organizations, who have been  
 8 nominated by state labor federations. The state official in charge of trade and  
 9 industrial education shall, ex officio, be a member of the ~~said~~ council. Each member  
 10 shall be appointed for a term of three years. Any member appointed to fill a vacancy  
 11 occurring prior to the expiration of the term of his predecessor shall be appointed for  
 12 the remainder of the ~~said~~ term. Each member of the council not otherwise  
 13 compensated by public monies, shall be reimbursed for transportation and shall be  
 14 paid thirty-five dollars per day for each day spent in attendance at meetings of the  
 15 apprenticeship council.

16 B. The apprenticeship council shall meet at the call of the ~~executive director~~  
 17 secretary or the director of apprenticeship and shall aid in formulating policies for  
 18 the effective administration of this Chapter. Subject to the approval of the ~~executive~~  
 19 ~~director~~ secretary, the apprenticeship council may recommend standards and  
 20 procedures for registration and de-registration of apprenticeship programs in  
 21 conformity with established programs approved by the United States Department of  
 22 Labor, Office of Apprenticeship, and for approval of apprenticeship agreements  
 23 which in no case shall be lower than those prescribed by this Chapter and by the  
 24 United States Department of Labor, Office of Apprenticeship, or lower than  
 25 approved national standards; shall issue such rules and regulations as may be  
 26 necessary to carry out the intent and purposes thereof; and shall perform such other  
 27 functions as the ~~executive director~~ secretary may direct. Not less than once a year the  
 28 apprenticeship council shall make a report, through the ~~executive director~~ secretary,  
 29 of its activities and findings to the legislature and to the public.

30 \* \* \*

31 §390. Settlement of controversies or complaints

32 \* \* \*

33 C. Upon the complaint of any interested person or upon his own initiative,  
 34 the director of apprenticeship may investigate to determine if there has been a  
 35 violation of the terms of an apprenticeship agreement made under this Chapter and  
 36 hold hearings, inquiries, and other proceedings necessary to such investigations and  
 37 determination. The director of apprenticeship shall investigate programs only as  
 38 necessary to establish compliance, and then only upon proper notice. The parties to  
 39 such agreement shall be given a fair and impartial hearing, after reasonable notice  
 40 thereof. All hearings, investigations, and determinations shall be made under  
 41 authority of reasonable rules and procedure prescribed by the apprenticeship council,  
 42 subject to the approval of the ~~executive director~~ secretary.

43 D. The determination of the director of apprenticeship shall be filed with the  
 44 ~~executive director~~ secretary. If no appeal therefrom is filed with the ~~executive~~  
 45 ~~director~~ secretary within twenty days after the date thereof, such determination shall  
 46 become the order of the ~~executive director~~ secretary. Any person aggrieved by any  
 47 determination or action of the director of apprenticeship may appeal therefrom to the  
 48 ~~executive director~~ secretary who shall hold a hearing thereon, after due notice to the  
 49 interested parties. Orders and decisions of the ~~executive director~~ secretary shall be  
 50 prima facie lawful and reasonable if supported by reasonable and competent  
 51 evidence. Any party to an apprenticeship agreement aggrieved by an order or  
 52 decision of the ~~executive director~~ secretary may appeal to the courts on questions of  
 53 law. The decision of the ~~executive director~~ secretary shall be conclusive if no appeal  
 54 therefrom is filed within thirty days after the date of the order or decision.

55 \* \* \*

56 §1203.1. Definitions; medical treatment schedule; medical advisory council

57 A. For use in this Section, the following terms ~~shall~~ have the following  
 58 meanings, unless clearly indicated otherwise by the context:

1           (1) "Assistant secretary" means an assistant secretary of the Louisiana  
2 Workforce Commission responsible for the functions of the office of workers'  
3 compensation administration.

4           ~~(1)~~ (2) "Associate medical director" means a physician who is licensed to  
5 practice medicine in the state of Louisiana and has been chosen by the ~~director of the~~  
6 ~~office of workers' compensation administration~~ assistant secretary pursuant to R.S.  
7 23:1203.1.1.

8           ~~(2)~~ (3) "Council" means the medical advisory council appointed by the  
9 ~~director of the office of workers' compensation administration~~ assistant secretary.

10          ~~(3) "Director" means the director of the office of workers' compensation~~  
11 ~~administration.~~

12          (4) "Medical director" means a physician who is licensed to practice  
13 medicine in the state of Louisiana and has been chosen by the ~~director of the office~~  
14 ~~of workers' compensation administration~~ assistant secretary pursuant to R.S.  
15 23:1203.1.1.

16   \*         \*         \*

17          (6) "Schedule" means the medical treatment schedule to be developed by the  
18 council and promulgated by the office and the ~~director~~ assistant secretary.

19          B. The ~~director~~ assistant secretary shall, through the office of workers'  
20 compensation administration, promulgate rules in accordance with the  
21 Administrative Procedure Act, R.S. 49:950 et seq., to establish a medical treatment  
22 schedule.

23   \*         \*         \*

24          E. The medical advisory council shall develop guidelines in accordance with  
25 Subsections C and D of this Section and may amend the schedule in accordance with  
26 Subsection C and Paragraph (D)(2) of this Section before submission to the ~~director~~  
27 ~~of the office of workers' compensation administration~~ assistant secretary for initial  
28 and subsequent formal adoption and promulgation in accordance with the  
29 Administrative Procedure Act, R.S. 49:950, et seq.

30          F. The ~~director of the office of workers' compensation administration~~  
31 assistant secretary shall appoint a medical advisory council, which shall be selected  
32 in accordance with the following:

33           (1) The professional association in Louisiana that represents each discipline  
34 enumerated in this Subsection shall provide the ~~director of the office of workers'~~  
35 ~~compensation,~~ assistant secretary ~~on or before August 15, 2009,~~ the names of three  
36 nominees, from which at least one representative shall be chosen to represent his  
37 respective discipline on the council.

38           (2) The ~~director~~ assistant secretary shall select at least one representative  
39 from each of the following disciplines or associations:

40   \*         \*         \*

41           (3) The ~~director~~ assistant secretary may consider and appoint additional  
42 representatives in order to fulfill his duties as defined in this Section.

43   \*         \*         \*

44           (5) The ~~director~~ assistant secretary shall have the authority to contract with  
45 a medical director and with consultants to assist the ~~director~~ assistant secretary and  
46 the medical advisory council in the establishment and promulgation of the schedule.

47          G. The medical advisory council shall:

48   \*         \*         \*

49           (2) Provide recommendations to the ~~director~~ assistant secretary for the  
50 designation of guidelines to be established and promulgated as the medical treatment  
51 schedule by the office.

52           (3) Provide any additional advice and counsel to the ~~director~~ assistant  
53 secretary as may be reasonable and necessary, or as may be requested, relative to the  
54 effective and efficient delivery of quality medical services to injured workers.

55          H. The ~~director~~ assistant secretary, with the assistance of the medical  
56 advisory council, is authorized to review and update the medical treatment schedule  
57 no less often than once every two years. Such updates shall be made by rules  
58 promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et

1 seq. In no event shall the schedule contain multiple guidelines covering the same  
2 aspects of the same medical condition which are simultaneously in force.

3 \* \* \*

4 J.(1) After a medical provider has submitted to the payor the request for  
5 authorization and the information required by the Louisiana Administrative Code,  
6 Title 40, Chapter 27, the payor shall notify the medical provider of their action on  
7 the request within five business days of receipt of the request. If any dispute arises  
8 after January 1, 2011, as to whether the recommended care, services, or treatment is  
9 in accordance with the medical treatment schedule, or whether a variance from the  
10 medical treatment schedule is reasonably required as contemplated in Subsection I  
11 of this Section, any aggrieved party shall file, within fifteen calendar days, an appeal  
12 with the office of workers' compensation administration medical director or associate  
13 medical director on a form promulgated by the ~~director~~ assistant secretary. The  
14 medical director or associate medical director shall render a decision as soon as is  
15 practicable, but in no event, not more than thirty calendar days from the date of  
16 filing.

17 (2) If either party, the medical director, or associate medical director believes  
18 that a potential conflict of interest exists, he shall communicate in writing such  
19 information to the ~~director~~ assistant secretary, who shall make a determination as to  
20 whether a conflict exists within two business days. The ~~director~~ assistant secretary  
21 shall notify in writing the patient, the physician, and, if applicable, the attorney of  
22 his decision within two business days.

23 \* \* \*

24 §1203.1.1. Medical director and associate medical director

25 A. The ~~director~~ assistant secretary shall hire a medical director and an  
26 associate medical director to render decisions on disputed cases filed pursuant to R.S.  
27 23:1203.1(J).

28 \* \* \*

29 AMENDMENT NO. 6

30 On page, after line 17, insert the following:

31 "Section 2. R.S. 36:3(2), (4), (6) and (7), 8(E)(1), 301(C), 302, 303, the introductory  
32 paragraph of 304(A), (8), (9)(b), the introductory paragraph of (B), (1)(a)(i) and (ii), and 305  
33 through 307 are hereby amended and reenacted to read as follows:

34 §3. Definitions

35 For the purposes of this Title the following terms shall have the following  
36 meanings unless the context clearly indicates otherwise:

37 \* \* \*

38 (2) "Assistant secretary" means the officer designated by law or by the  
39 secretary of each department to carry out the duties and functions of an office within  
40 certain departments, except an office of management and finance and the office of  
41 state police of the Department of Public Safety and Corrections. ~~For the Louisiana~~  
42 ~~Workforce Commission, the "director" shall mean the officer designated by law or~~  
43 ~~by the executive director to carry out the duties and functions of an office within the~~  
44 ~~Louisiana Workforce Commission except the office of management and finance.~~

45 \* \* \*

46 (4) "Deputy secretary" means the officer authorized to be appointed by the  
47 secretary to serve as his principal administrative assistant. For the Department of  
48 Public Safety and Corrections, the "deputy secretary for public safety services" and  
49 the "deputy secretary for corrections services" shall be the officers of the department  
50 appointed by the secretary to serve as the principal administrative assistants of the  
51 secretary and references in any provision of law to the deputy secretary, where  
52 reference is to a deputy secretary of the Department of Public Safety and  
53 Corrections, shall include these two officers. ~~For the Louisiana Workforce~~  
54 ~~Commission, the "deputy executive director" shall mean the officer authorized by the~~  
55 ~~executive director to serve as his principal administrative assistant.~~

\* \* \*

(6) "Secretary" means the officer appointed by the governor as the executive head and chief administrative officer of certain departments created and provided for by this Title. ~~For the Louisiana Workforce Commission, the "executive director" shall mean the officer appointed by the governor as the executive head and chief administrative officer.~~

(7) "Undersecretary" means the officer designated to direct and be responsible for the functions of the office of management and finance of certain departments. ~~For the Louisiana Workforce Commission, the "chief financial officer" shall mean the officer designated to direct and be responsible for the functions of the office of management and finance.~~ For the Department of Children and Family Services, "undersecretary" means the officer designated to direct and be responsible for the functions of the division of management and finance within the office of children and family services.

\* \* \*

§8. Fiscal oversight and program evaluation

\* \* \*

E. As used in this Section, the following words shall have the following meanings unless the context clearly indicates otherwise:

(1) "Secretary" means the chief administrative officer of each department of the executive branch of state government, except that with respect to agencies of the Department of Education transferred under the provisions of R.S. 36:651(K), "secretary" means the Louisiana Student Financial Assistance Commission, with respect to the Department of Public Service, "secretary" means the Public Service Commission, and with respect to the Department of State Civil Service, "secretary" means the State Civil Service Commission, through the director of state civil service ~~and with respect to the Louisiana Workforce Commission, "secretary" means the executive director.~~

\* \* \*

§301. Louisiana Workforce Commission; creation; domicile; composition; purposes and functions

\* \* \*

C.(1) The Louisiana Workforce Commission shall be composed of the executive office of the ~~executive director~~ secretary, the office of management and finance, the office of workforce development, the office of unemployment insurance administration, the office of workers' compensation administration, the office of occupational information services, and such other offices as shall be created by law. The Louisiana Workforce Investment Council, as more specifically provided in R.S. 23:2042 et seq., shall be placed within the executive office of the ~~executive director~~ secretary.

(2) Whenever the ~~executive director~~ secretary determines that the administration of the functions of the commission may be more efficiently performed by eliminating, merging, or consolidating existing offices or establishing new offices, he shall present a plan therefor to the legislature for its approval by statute.

§302. Officers of the commission; compensation for one office only

A. The officers of the commission shall be the ~~executive director, the chief financial officer, the deputy executive director if a deputy executive director is appointed, and directors,~~ secretary, the undersecretary, the deputy secretary if a deputy secretary is appointed, and assistant secretaries, each of whom shall be selected and shall perform functions as provided in this Title.

B. No person serving as ~~executive director, chief financial officer, deputy executive director, or director~~ secretary, undersecretary, deputy secretary, or assistant secretary shall receive any additional salary from the state other than that salary which he receives by virtue of serving in any one of such offices. Any statewide elected official appointed to serve as ~~executive director, chief financial officer, deputy executive director, or director,~~ secretary, undersecretary, deputy secretary, or assistant secretary shall not receive any additional salary from the state other than that salary which he receives as a statewide elected official.

1 C. Notwithstanding any provision herein to the contrary, subject to approval  
2 of the governor, any person, including any statewide elected official, serving or  
3 appointed to serve as ~~executive director, chief financial officer, deputy executive~~  
4 ~~director or director~~, secretary, undersecretary, deputy secretary, or assistant secretary  
5 may receive additional compensation for part-time services rendered as an instructor  
6 in post-secondary educational institutions, or as a member of the National Guard.

7 §303. ~~Executive director~~ Secretary

8 There shall be ~~an executive director~~ a secretary, who shall be appointed by  
9 the governor with consent of the Senate and who shall serve at the pleasure of the  
10 governor at a salary fixed by the governor, which salary shall not exceed the amount  
11 approved for the position by the legislature while in session. The ~~executive director~~  
12 secretary shall serve as the executive head and chief administrative officer of the  
13 Louisiana Workforce Commission and shall have the responsibility for the policies  
14 of the commission, except as otherwise provided by this Title, and for the  
15 administration, control, and operation of the functions, programs, and affairs of the  
16 commission; provided that the ~~executive director~~ secretary shall perform his  
17 functions under the general control and supervision of the governor.

18 §304. Powers and duties of ~~executive director~~ secretary

19 A. In addition to the functions, powers, and duties otherwise vested in the  
20 ~~executive director~~ secretary by law, he shall:

21 \* \* \*

22 (8) Provide for the ongoing merger and consolidation of the agencies and  
23 functions transferred to his commission and submit a report thereon to the governor  
24 and the legislature, which report shall accompany the budget request which he  
25 submits under provisions of R.S. 39:33. Such report shall include a statement of the  
26 goals of the commission and of the programs thereof and shall summarize the  
27 accomplishments of the commission in meeting such goals and implementing such  
28 programs. The report shall also contain a specific statement of the reorganization  
29 and consolidation plan for the commission for the next year and shall include a report  
30 on the implementation of such reorganization and consolidation plan for the previous  
31 year. The report concerning reorganization shall specifically detail the extent to  
32 which the commission has achieved goals stated the previous year with respect to  
33 merger and consolidation of functions, abolition of agencies, consolidation of  
34 offices, elimination of job positions, and efficiency and economy in delivery of  
35 services. The report shall contain any recommendations with respect to  
36 reorganization which may require legislative action under the provisions of this Title.  
37 A copy of the report and recommended legislation shall also be submitted by the  
38 ~~executive director~~ secretary to the presiding officer of both houses of the legislature.  
39 The presiding officer shall refer the report to the appropriate committee having  
40 jurisdiction of the subject matter as provided in the rules of the respective house.

41 (9)

42 \* \* \*

43 (b) The ~~executive director~~ secretary may submit the annual report required  
44 by this Paragraph in electronic format and is further authorized, but is not required,  
45 to submit the report at the time of submission of the annual report required by  
46 Paragraph (7) of this Subsection.

47 B. The ~~executive director~~ secretary shall have authority to:

48 (1)(a) Except as otherwise specifically provided in R.S. 36:801 and R.S.  
49 36:803:

50 (i) Employ, appoint, remove, assign, and promote such personnel as is  
51 necessary for the efficient administration of the executive office of the ~~executive~~  
52 ~~director~~ secretary and the performance of its powers, duties, functions, and  
53 responsibilities and such other personnel, who are not assigned to an office, as may  
54 be necessary for the efficient administration of the commission and for the  
55 performance of the responsibilities, powers, duties, and functions of agencies  
56 transferred to it;

57 (ii) Employ, assign, and remove all personnel employed for the commission  
58 on a contractual basis, ~~and~~

59 \* \* \*

1            §305. Deputy ~~executive director~~ secretary

2            There may be a deputy ~~executive director~~ secretary of the commission, who  
 3 shall be appointed by the ~~executive director~~ secretary with consent of the Senate and  
 4 who shall serve at the pleasure of the ~~executive director~~ secretary at a salary fixed  
 5 by the ~~executive director~~ secretary, which salary shall not exceed the amount  
 6 approved for such position by the legislature while in session. The duties and  
 7 functions of the deputy ~~executive director~~ secretary shall be determined and assigned  
 8 by the ~~executive director~~ secretary. If appointed, he shall serve as acting ~~executive~~  
 9 ~~director~~ secretary in the absence of the ~~executive director~~ secretary.

10          §306. ~~Chief financial officer~~ Undersecretary; functions; office of management and  
 11 finance

12          A. There shall be a ~~chief financial officer~~ an undersecretary of the Louisiana  
 13 Workforce Commission, who shall be appointed by the governor with the consent  
 14 of the Senate and who shall serve at the pleasure of the governor at a salary fixed by  
 15 the governor, which salary shall not exceed the amount approved for such position  
 16 by the legislature while in session. The ~~chief financial officer~~ undersecretary shall  
 17 be directly responsible to and shall perform his functions under the supervision and  
 18 control of the ~~executive director~~ secretary.

19          B. The ~~chief financial officer~~ undersecretary shall direct and be responsible  
 20 for the functions of the office of management and finance within the Louisiana  
 21 Workforce Commission. In such capacity he shall be responsible for accounting and  
 22 budget control, procurement and contract management, management and program  
 23 analysis, personnel management, and grants management for the commission and all  
 24 of its offices, including all agencies transferred to the Louisiana Workforce  
 25 Commission, except as otherwise specifically provided in this Title. He shall  
 26 employ, appoint, remove, assign, and promote such personnel as is necessary for the  
 27 efficient administration of the office of management and finance and the  
 28 performance of its powers, duties, functions, and responsibilities, in accordance with  
 29 applicable civil service laws, rules, and regulations, and with policies and rules of  
 30 the commission, all subject to budgetary control and applicable laws. The ~~chief~~  
 31 ~~financial officer~~ undersecretary shall exercise all powers and authority granted to  
 32 him in this Title subject to the overall direction and control of the ~~executive director~~  
 33 secretary.

34          §307. ~~Directors~~ Assistant secretaries

35          A. Each office within the Louisiana Workforce Commission, except the  
 36 office of management and finance, shall be under the immediate supervision and  
 37 direction of a ~~director~~ an assistant secretary, who shall be appointed by the governor  
 38 with consent of the Senate. Each shall serve at the pleasure of the governor and shall  
 39 be paid a salary which shall be fixed by the governor, which salary shall not exceed  
 40 the amount approved for such position by the legislature while in session.

41          B. Except as otherwise expressly provided in this Title, the duties and  
 42 functions of each office and its ~~director~~ assistant secretary shall be determined by the  
 43 ~~executive director~~ secretary, and all of such duties and functions shall be exercised  
 44 under the direct supervision and control of the ~~executive director~~ secretary.

45          C. Except as otherwise provided in R.S. 36:801, each ~~director~~ assistant  
 46 secretary shall employ, appoint, remove, assign, and promote such personnel as is  
 47 necessary for the efficient administration of his office and its programs and the  
 48 performance of its powers, duties, functions, and responsibilities, in accordance with  
 49 applicable civil service laws, rules, and regulations, and with policies and rules of  
 50 the commission, all subject to budgetary control and applicable laws.

51          D. Each ~~director~~ assistant secretary shall exercise all powers and authority  
 52 granted to him in this Title subject to the overall direction and control of the  
 53 ~~executive director~~ secretary."

54          AMENDMENT NO. 7

55          On page 2, line 1, change "Section 2." to "Section 3."

1 AMENDMENT NO. 8

2 On page 2, line 5, change "Section 3." to "Section 4."

3 AMENDMENT NO. 9

4 On page 2, line 12, change "Section 4." to "Section 5."

5 AMENDMENT NO. 10

6 On page 2, line 14, change "Section 5." to "Section 6."

7 AMENDMENT NO. 11

8 On page 2, delete line 28, and insert in lieu thereof the following:

9 "Section 7. R.S. 36:8(E)(2)(j) and R.S. 49:191(8)(a) are hereby repealed in their  
10 entirety.

11 Section 8. The Louisiana State Law Institute is hereby directed to change all  
12 references to "executive director" to "secretary"; all references to "deputy executive director"  
13 to "deputy secretary"; all references to "chief financial officer" to "undersecretary"; and all  
14 references to "director" to "assistant secretary" throughout the Louisiana Revised Statutes  
15 of 1950 except as provided in R.S. 23:382, 390, 1203.1, and 1203.1.1."

16 AMENDMENT NO. 12

17 On page 2, line 29, change "Section 7." to "Section 9."