

2021 Regular Session

HOUSE BILL NO. 128

BY REPRESENTATIVE ZERINGUE

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

FISCAL CONTROLS: Provides relative to the powers and duties of the Cash Management Review Board with respect to financial security and cybersecurity plans and procedures adopted by state agencies, including the assessment and deployment of such plans and procedures

1 AN ACT

2 To amend and reenact R.S. 39:372(D) through (H), R.S. 42:17(A)(3), and R.S. 44:4.1(B)(25)
3 and to enact R.S. 39:372(I) and R.S. 44:4(59), relative to security protocols; to
4 provide with respect to the powers and duties of the Cash Management Review
5 Board regarding financial security and cybersecurity plans; to provide with respect
6 to the confidential nature of certain cybersecurity and financial security discussions
7 and documents; to provide for executive session in public meetings in certain
8 circumstances; to provide with respect to public records exceptions for certain types
9 of cybersecurity and financial information; to direct the Louisiana State Law Institute
10 to make certain technical corrections; to provide for an effective date; and to provide
11 for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 39:372(D) through (H) are hereby amended and reenacted and R.S.
14 39:372(I) is hereby enacted to read as follows:

15 §372. Powers; policies; reports

16 * * *

17 D. Each state agency shall adopt a cybersecurity plan and financial security
18 procedures relative to cash management. Within ninety days of the enactment of this
19 Subsection, each agency shall submit its cybersecurity plan and financial security

1 procedures to the review board. Thereafter, each agency shall submit to the review
2 board any revisions to its approved plan or procedures. The review board shall
3 review and approve such plans, procedures, and revisions. The review board may
4 review implementation of such plans and procedures and make ongoing assessments
5 of the sufficiency of such plans and procedures. Discussion and records of the
6 review board regarding financial security and cybersecurity plans, procedures,
7 assessments, and implementations shall be confidential and shall not be subject to
8 production in accordance with the Louisiana Public Records Law.

9 E. The review board shall make a written report to the legislature as the
10 review board deems necessary prior to the beginning of each regular session of such
11 recommendations for changes in cash management law and practices as deemed
12 appropriate. In addition to the other reporting requirements of this Subsection, the
13 review board shall quarterly make a written report to the Joint Legislative Committee
14 on the Budget relative to the banking and checking accounts of all state agencies, as
15 follows:

- 16 (1) The state depositing authority as defined in R.S. 49:319.
- 17 (2) The banking or checking account name, account type, and, if there is
18 more than one account with the same name, the account number.
- 19 (3) The approval date for the banking or checking account and the name of
20 the fiscal agent bank.
- 21 (4) The banking or checking account investments, interest earnings, and fee
22 payments.
- 23 (5) The account balance as of the beginning and the end of the quarter.
- 24 (6) The source of the funds in the account.
- 25 (7) The purpose of the banking or checking account.
- 26 (8) If a banking or checking account is closed during the quarter, the date of
27 the closure, the balance of the account on the date of the closure, and documentation
28 from the bank that the account has been closed.

1 ~~E. F.~~ The Joint Legislative Committee on the Budget shall hold a hearing on
2 the number and types of banking or checking accounts, the need for the agency to
3 have one or more banking or checking accounts, the source of funds and the balances
4 in the banking or checking accounts, and whatever other information is deemed
5 necessary by the chairman.

6 F. G. The Joint Legislative Committee on the Budget shall forward a copy
7 of the reports that it receives from the review board, with whatever changes it deems
8 necessary, to the Revenue Estimating Conference for its use in estimating fees and
9 self-generated revenues for the official forecast.

10 ~~G. H.~~ The review board is hereby empowered to review all state agency
11 requests for the establishment of escrow funds in the state treasury, and if warranted,
12 to approve the requests in writing. The monthly reports required by the provisions
13 of R.S. 49:320.2(C) for all state agencies with escrow funds in the state treasury shall
14 be submitted to the review board, who shall compile the agency reports into one
15 report and forward it to the Joint Legislative Committee on the Budget.

16 H. I. The legislative auditor shall review each state agency's compliance with
17 the review board's approved cash management policies and procedures. Any
18 noncompliance shall be reported to the Legislative Audit Advisory Council and to
19 the cash management review board.

20 Section 2. R.S. 42:17(A)(3) is hereby amended and reenacted to read as follows:

21 §17. Exceptions to open meetings

22 A. A public body may hold an executive session pursuant to R.S. 42:16 for
23 one or more of the following reasons:

24 * * *

25 (3) Discussion regarding the report, development, or course of action
26 regarding security personnel, plans, or devices, including discussions concerning
27 cybersecurity plans, financial security procedures, and assessment and
28 implementation of any such plans or procedures.

29 * * *

1 Section 3. R.S. 44:4.1(B)(25) is hereby amended and reenacted and R.S. 44:4(59)
2 is hereby enacted to read as follows:

3 §4. Applicability

4 This Chapter shall not apply:

5 * * *

6 (59) To any records, data, writings, accounts, reports, recordings, letters,
7 exhibits, pictures, drawings, charts, photographs, memoranda, evaluations, or copies
8 thereof, in the custody or control of any state agency, department, board, or
9 commission required to deposit monies in the state treasury in accordance with
10 Article VII, Section 9(A) of the Constitution of Louisiana of 1974, concerning
11 cybersecurity plans, financial security procedures, or the assessment or
12 implementation of any such plans or procedures.

13 §4.1. Exceptions

14 * * *

15 B. The legislature further recognizes that there exist exceptions, exemptions,
16 and limitations to the laws pertaining to public records throughout the revised
17 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
18 limitations are hereby continued in effect by incorporation into this Chapter by
19 citation:

20 * * *

21 (25) R.S. 39:294, 372, 1435

22 * * *

23 Section 4. The Louisiana State Law Institute is hereby directed to correct any
24 references to R.S. 39:372 in the Louisiana Revised Statutes of 1950, including in R.S.
25 49:320.1, to conform with the provisions of this Act.

26 Section 5. This Act shall become effective upon signature by the governor or, if not
27 signed by the governor, upon expiration of the time for bills to become law without signature
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

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)]

HB 128 Original

2021 Regular Session

Zeringue

Abstract: Requires the Cash Management Review Board (Board) to review and approve all cybersecurity plans and financial security procedures adopted by each state agency relative to cash management. Requires the implementation and revision of any such plans or procedures to also be approved by the Board. Authorizes the Board to make ongoing assessments of the sufficiency of such adopted plans and procedures. Further provides that all discussions and documents relative to such review, approval, assessment, and implementation are confidential.

Present law establishes the Board for oversight over all state agency banking and checking accounts, including balances therein, as well as the agencies' policies and procedures for handling receipts in and disbursements from such accounts. Defines "state agency" to mean each state agency, department, board, or commission required to deposit monies in the state treasury in accordance with present constitution (Art. VII, Section 9(A)).

Proposed law retains present law. Requires each state agency to adopt a cybersecurity plan and financial security procedures relative to cash management. Further requires each agency to submit its adopted cybersecurity plan and financial security procedures to the review board within 90 days of the effective date of proposed law. Thereafter, requires each agency to submit any revisions to such plans or procedures to the review board. Requires the Board to review and approve such plans, procedures, and revisions. Grants the board authority to review implementation of such plans and procedures and make ongoing assessments of the sufficiency of such plans and procedures. Provides that all discussions and records involved in such review and approval are confidential and prohibits release under present law (La. Public Records Law-R.S. 44:1, et seq.).

Present law establishes the Open Meetings Law (R.S. 42:11, et seq.), which requires meetings of public bodies to be open to the public. Present law further provides exceptions to the open meeting requirement, allowing bodies to discuss certain limited items outside of public view. One such exception in present law is for discussion regarding the report, development, or course of action regarding security personnel, plans or devices. Proposed law retains present law and adds to this exception discussions concerning cybersecurity plans, financial security procedures, and assessment and implementation of any such plans or procedures.

Present law (La. Public Records Law-R.S. 44:1, et seq) generally requires all books, records, writings, or any other material, regardless of physical form or characteristic, that are or have been used in the conduct or performance of any public business to be made available for public inspection. Further provides exceptions to this public inspection requirement for certain specified public records. Proposed law adds to present law exceptions any documents involved in the review and approval of cybersecurity plans, financial security procedures, and the assessment and implementation of any such plans or procedures. This includes documents in the possession of the Board or a state agency, department, board, or commission required to deposit monies in the state treasury in accordance with present constitution (Art. VII, Section 9(A)).

Proposed law directs the Louisiana State Law Institute to correct present law references in R.S. 39:372 in the revised statutes to conform with the provisions of proposed law.

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

(Amends R.S. 39:372(D)-(H), R.S. 42:17(A)(3), and R.S. 44:4.1(B)(25); Adds R.S. 39:372(I) and 44:4(59))