

2023 Regular Session

SENATE BILL NO. 129

BY SENATOR CLOUD AND REPRESENTATIVE ZERINGUE

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

LEGISLATIVE COMMITTEES. Requires certain state entities to report corrective actions taken to mitigate state risk exposure upon request of the litigation subcommittee of the Joint Legislative Committee on the Budget. (8/1/23)

1 AN ACT

2 To amend and reenact R.S. 44:4(15) and to enact R.S. 24:653(H)(3), relative to the litigation
3 subcommittee of the Joint Legislative Committee on the Budget; to require certain
4 state entities to report corrective actions taken to mitigate state risk exposure upon
5 request of the litigation subcommittee; to provide for an exemption from the Public
6 Records Law; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 24:653(H)(3) is hereby enacted to read as follows:

9 §653. Duties and functions

10 * * *

11 H.(1) * * *

12 **(3)(a) At the request of the litigation subcommittee, any department,**
13 **agency, board, commission, educational institution, or other state entity entitled**
14 **to indemnification by the state shall report on any corrective actions taken to**
15 **mitigate state risk exposure.**

16 **(b) When convened to consider a compromise of litigation pursuant to**
17 **R.S. 39:1535(D), the litigation subcommittee may request that any indemnified**

1 state entity appear at a subsequent meeting of the litigation subcommittee to
 2 discuss and report on corrective measures. Any such meeting with the reporting
 3 state entity shall occur only after the subject litigation has been concluded. The
 4 litigation subcommittee may also request that the reporting state entity appear
 5 at additional future meetings of the litigation subcommittee to determine the
 6 status or completion of any corrective measures.

7 (c) The reporting state entity shall present all relevant information to the
 8 litigation subcommittee in executive session, and any documentation prepared
 9 or compiled by the reporting state entity for this purpose shall not be subject to
 10 disclosure pursuant to the Public Records Law set forth in R.S. 44:1 et seq.

11 * * *

12 Section 2. R.S. 44:4(15) is hereby amended and reenacted to read as follows:

13 §4. Applicability

14 This Chapter shall not apply:

15 * * *

16 (15) To any pending claims or pending claim files in the custody or control
 17 of the office of risk management, division of administration, or similar records in the
 18 custody of any municipality or parish; to any information concerning pending legal
 19 claims in the files of any attorney representing the state or any municipality in
 20 connection with the office of risk management, division of administration, or any
 21 office with similar responsibilities of any municipality or parish; or to any pending
 22 claims relating to loss reserves maintained or established by the office of risk
 23 management, division of administration, or any office with similar responsibilities
 24 of any municipality or parish, for any claims or for losses incurred but not reported;
 25 however, this Chapter shall be applicable to reserves as reported in the financial
 26 statement of the office of risk management, division of administration, or any
 27 municipality or parish. Nothing in this Paragraph shall be construed or interpreted
 28 in a manner as to prevent or inhibit in any manner the chairman and vice chairman
 29 of the Joint Legislative Committee on the Budget and the litigation subcommittee of

1 the Joint Legislative Committee on the Budget from obtaining dollar amounts billed
 2 by and paid to contract attorneys and experts in defense of claims against the state
 3 that the chairman or vice chairman, or the subcommittee determines is necessary to
 4 perform functions and duties relative to the evaluation of performance or the
 5 determination of budget policy; however, no legislator or any committee of the
 6 legislature shall disclose any confidential information so obtained that would
 7 jeopardize or have a detrimental effect on the litigating position of the state.

8 **Additionally, this Chapter shall not apply to any documentation or other**
 9 **information related to a closed litigated claim that is provided by a state entity**
 10 **to the litigation subcommittee of the Joint Legislative Committee on the Budget**
 11 **pursuant to R.S. 24:653(H)(3).**

12 * * *

The original instrument was prepared by Curry J. Lann. The following digest,
 which does not constitute a part of the legislative instrument, was prepared
 by Dawn Romero Watson.

DIGEST

SB 129 Reengrossed

2023 Regular Session

Cloud

Present law requires the Joint Legislative Committee on the Budget to form a litigation subcommittee to monitor and study the amounts of state funds required to pay judgments and compromises arising out of lawsuits against the state. Provides that no attorney representing the state or any of its departments or agencies or any of its employees entitled to indemnification shall sign any compromise or settlement which obligates the state to pay more than \$1,000,000 without prior consultation with the attorney general and the members of the litigation subcommittee.

Proposed law retains present law.

Proposed law provides that at the request of the litigation subcommittee, any department, agency, board, commission, educational institution, or other state entity entitled to indemnification by the state shall report on any corrective actions taken to mitigate state risk exposure. Provides that such reporting shall be after the subject litigation has been concluded and that the litigation subcommittee may also request the state entity to appear at additional future meetings to determine the status or completion of the corrective measures. Requires the reporting state entity to present all relevant information to the litigation subcommittee in executive session.

Present law (R.S. 44:1 et seq. – Public Records Law) provides for access and retention of public records. Establishes a framework for the ready availability of public records to requesting persons.

Proposed law retains present law.

Present law provides an exemption from the Public Records Law for certain pending claims

or pending claim files in the custody or control of the office of risk management (ORM), division of administration, or similar records in the custody of any municipality or parish.

Proposed law retains present law and additionally provides an exemption from the Public Records Law for any documentation or other information related to a closed litigated claim that is provided by a state entity to the litigation subcommittee of the Joint Legislative Committee on the Budget.

Effective August 1, 2023.

(Amends R.S. 44:4(15); adds R.S. 24:653(H)(3))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

1. Simplifies proposed law to provide that indemnification of the state entity is by the state instead of through the state risk program administered by ORM.

Senate Floor Amendments to engrossed bill

1. Adds that the corrective measure reporting shall be after conclusion of the subject litigation.
2. Adds that the litigation subcommittee may request additional reporting by the state entity on status or completion of corrective measures.