

Regular Session, 2014

HOUSE BILL NO. 142

BY REPRESENTATIVE RICHARD

PUBLIC CONTRACTS: Provides for a 10% reduction of all state professional, personal, and consulting service contracts and provides for deposit of the savings into the Higher Education Financing Fund

1 AN ACT

2 To amend and reenact R.S. 39:82(A), 352, and 1489 and to enact Subpart S of Part II-A of
3 Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to be
4 comprised of R.S. 39:100.146, Subpart G of Part I of Chapter 16 of Subtitle III of
5 Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.
6 39:1493.11, and R.S. 39:1498(A)(10), relative to professional, personal, and
7 consulting services procurement; to require a reduction in the dollar amount of
8 certain professional, personal, and consulting service contracts; to provide for the
9 submission of periodic reports; to provide for exceptions; to provide for certain
10 determinations before contract approval; to establish the Higher Education Financing
11 Fund; to provide for the deposit, use, and investment of monies in the fund; to
12 prohibit expenditure of savings from contract reductions; to provide for an effective
13 date; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 39:82(A), 352, and 1489 are hereby amended and reenacted and
16 Subpart S of Part II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes
17 of 1950, comprised of R.S. 39:100.146, Subpart G of Part I of Chapter 16 of Subtitle III of
18 Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:1493.11, and R.S.
19 39:1498(A)(10) are hereby enacted to read as follows:

1 §82. Remission of cash balances to the state treasurer; authorized withdrawals of
2 state monies after the close of the fiscal year

3 A. All cash balances occurring from appropriations made by legislative act
4 or by the Interim Emergency Board regardless of date of passage to any state agency
5 for which no bona fide liability exists on the last day of each fiscal year shall be
6 remitted to the state treasurer by the fifteenth day following the last day of the fiscal
7 year. Any appropriations including those made by the Interim Emergency Board of
8 the preceding fiscal year remaining at the end of the fiscal year against which bona
9 fide liabilities existed as of the last day of the fiscal year may be withdrawn from the
10 state treasury during the forty-five day period after the last day of the fiscal year only
11 as such liabilities come due for payment. Prior to placing monies associated with
12 such unexpended appropriations into the state general fund, the state treasurer shall
13 transfer all cash balances identified and reported by the commissioner of
14 administration as being from unexpended and unencumbered direct state general
15 fund appropriations for professional, personal, and consulting service contracts
16 remaining at the end of Fiscal Year 2014-2015 for deposit in and credit to the Higher
17 Education Financing Fund as are necessary to satisfy the requirements of R.S.
18 39:100.146 and then shall make deposits to the Payments Towards the UAL Fund
19 as are necessary to satisfy the requirements of R.S. 39:100.11.

20 * * *

21 SUBPART S. HIGHER EDUCATION FINANCING FUND

22 §100.146. Higher Education Financing Fund

23 A. There is hereby established in the state treasury, as a special fund, the
24 Higher Education Financing Fund, hereinafter referred to as the "the fund".

25 B.(1) The treasurer is directed to deposit into the fund an amount equal to
26 cash balances identified and reported by the commissioner of administration as being
27 from unexpended and unencumbered direct state general fund appropriations for
28 contracts for professional, personal, and consulting services under the jurisdiction
29 of the office of contractual review available at the end of Fiscal Year 2014-2015 as

1 the Higher Education Financing Fund as are necessary to satisfy the requirements of
2 R.S. 39:100.146 and then shall make deposits to the Payments Towards the UAL
3 Fund as are necessary to satisfy the requirements of R.S. 39:100.11.

4 * * *

5 §1489. Reporting requirements; annual report

6 A. The director shall prepare such reports as he finds necessary for the
7 proper conduct of his duties, to include an annual report of all professional, personal,
8 consulting, social services, and other contracts over which the office of contractual
9 review has power and authority under the provisions of this Chapter or through
10 administrative rules and regulations. The annual report shall be compiled on a fiscal
11 year basis and consist, at a minimum, of summary descriptive and statistical data
12 regarding the number and amounts of such contracts by type of service. The annual
13 report shall be submitted to the president of the Senate and speaker of the House of
14 Representatives not later than January first of the year following the end of the fiscal
15 year for which the report is prepared.

16 B. The director shall submit a report at the end of each month to the House
17 Committee on Appropriations summarizing each contract, including the dollar value
18 of each such contract awarded that month over which the office of contractual review
19 has power and authority.

20 * * *

21 SUBPART G. REDUCTION OF CONTRACTS FOR FISCAL YEAR 2014-2015

22 §1493.11. Reduction of contracts for Fiscal Year 2014-2015

23 A.(1) The total dollar amount for professional, personal, and consulting
24 service contracts under the jurisdiction of the office of contractual review for Fiscal
25 Year 2014-2015 shall be reduced by no less than ten percent of the total dollar
26 amount for such contracts for Fiscal Year 2013-2014.

27 (2) The office of contractual review shall submit reports on the status of the
28 implementation of this Section to the Joint Legislative Committee on the Budget on
29 October 1, 2014, January 1, 2015, April 1, 2015, and July 1, 2015.

1 B. The office of contractual review shall not approve any contract if such
2 approval increases the total dollar amount of contracts above the reduced amount
3 required under Subsection A of this Section, unless such contract meets all of the
4 following criteria:

5 (1) Either no employee of the contracting agency is both competent and
6 available to perform the services called for by the proposed contract, or the services
7 called for are of a nature not readily susceptible to being performed by persons
8 employed by the state on a continuing basis.

9 (2) The services are not available as a product of a prior or existing contract.

10 (3) The contracting agency has submitted to the office of contractual review
11 a written plan to monitor and evaluate the performance required in the proposed
12 contract.

13 (4) It is more cost-effective to obtain the proposed services through the
14 contract rather than to have the services provided by the contracting agency if the
15 agency can provide the services or by agreement with another agency.

16 (5) The commissioner of administration determines that the proposed
17 contract represents a priority expenditure for Louisiana state government.

18 C. Agencies shall not spend any money appropriated for professional,
19 personal, and consulting service contracts for any other purpose.

20 D.(1) The commissioner of administration, in consultation with the director
21 of the office of contractual review, shall periodically determine the amount of
22 monies appropriated for professional, personal, and consulting service contracts that
23 remain unexpended and unencumbered as a result of implementation of this Section.
24 Such determination shall take place on September 30, 2014, December 31, 2014,
25 March 31, 2015, and June 30, 2015.

26 (2) Following each determination required pursuant to the provisions of this
27 Subsection, the commissioner of administration shall report to the treasurer the
28 amount of direct state general fund monies appropriated for professional, personal,
29 and consulting service contracts that are expected to remain unexpended and

1 unencumbered at the end of the fiscal year as a result of implementation of this
2 Section. These monies shall be available for deposit in and credit to the Higher
3 Education Financing Fund as provided for in R.S. 39:100.146.

4 E. Notwithstanding any provision of law to the contrary, this Section shall
5 not apply to any professional, personal, or consulting service contract of the secretary
6 of state necessary to perform any constitutional or statutory function of the office.

7 * * *

8 §1498. Approval of contract; penalties

9 A. Before approving a proposed contract for professional, personal,
10 consulting, or social services, the director of the office of contractual review or an
11 assistant shall have determined that:

12 * * *

13 (10) A contract for professional, personal, or consulting services is not
14 awarded to any entity for which an appropriation was enacted through a line item
15 appropriation in the General Appropriations Act for the fiscal year in which the
16 contract is proposed, and was subsequently vetoed by the governor, for such amount
17 or services as contained in the appropriation. If the office of contractual review
18 determines that a proposed contract is for the same amount and for the same services
19 as a vetoed appropriation, the office shall submit the proposed contract to the Joint
20 Legislative Committee on the Budget. After approval by the Joint Legislative
21 Committee on the Budget, the office may approve the contract.

22 * * *

23 Section 2. This Act shall become effective on July 1, 2014; if vetoed by the governor
24 and subsequently approved by the legislature, this Act shall become effective on July 1,
25 2014, or on the day following such approval by the legislature, whichever is later.

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)]

Richard

HB No. 142

Abstract: Requires a 10% reduction in the total dollar amount of professional, personal, and consulting service contracts under the jurisdiction of the office of contractual review for FY 2014-2015. Requires deposit of the unexpended and unencumbered direct general fund appropriations for such contracts at the end of FY 2014-2015 to be deposited into the Higher Education Financing Fund. Additionally requires the office of contractual review to submit a monthly report to the House Committee on Appropriations on contracts awarded the prior month.

Proposed law creates the Higher Education Financing Fund and deposits into the fund all cash balances identified and reported by the commissioner of administration as being from unexpended and unencumbered direct state general fund appropriations for contracts for professional, personal, and consulting services under the jurisdiction of the office of contractual review at the end of FY 2014-2015 to satisfy the requirements of proposed law. Proposed law further provides that monies in the fund shall be appropriated and used solely for public institutions of higher education.

Present law requires that all cash balances from appropriations to state agencies for which no bona fide obligation exists at the end of the fiscal year be remitted to the state treasury by the 15th day following the last day of the fiscal year. Present law further provides that prior to depositing the unexpended appropriations into the state general fund, the treasurer shall make deposits into the Payments Towards the UAL Fund as are necessary to satisfy present law.

Proposed law requires the treasurer to transfer all cash balances identified and reported by the commissioner of administration as being from unexpended and unencumbered direct state general fund appropriations for professional, personal, and consulting service contracts at the end of FY 2014-2015 into the Higher Education Financing Fund as are necessary to satisfy the requirements of proposed law and then make deposits into the Payments Towards the UAL Fund as required by present law.

Present law provides that if any portion of an appropriation for an item of expenditure that occurs annually by provision of law or for contingent expense remains unexpended at the end of the fiscal year in which the appropriation was made, the commissioner of administration is required to cancel any balance of the appropriation, and in each succeeding year shall open a new account for the appropriation for that particular year without carrying forward any unexpended balance of appropriation for the previous fiscal year. Present law further provides that prior to depositing the unexpended appropriations into the state general fund, the treasurer shall make deposits into the Payments Towards the UAL Fund as are necessary to satisfy present law.

Proposed law requires the treasurer to transfer all cash balances identified and reported by the commissioner of administration as being from unexpended and unencumbered direct state general fund appropriations for professional, personal, and consulting service contracts at the end of FY 2014-2015 into the Higher Education Financing Fund as are necessary to satisfy the requirements of proposed law and then make the deposits into the Payments Towards the UAL Fund as required by present law.

Proposed law requires a 10% reduction in the total dollar amount for professional, personal, and consulting service contracts under the jurisdiction of the office of contractual review for FY 2014-2015.

Proposed law requires the office of contractual review to submit reports on the status of the implementation of proposed law to the Joint Legislative Committee on the Budget on Oct. 1, 2014, Jan. 1, 2015, April 1, 2015, and July 1, 2015.

Proposed law prohibits the office of contractual review from approving any contract if such approval increases the total dollar amount of contracts above the reduction required in proposed law, unless such contract meets all of the following criteria:

- (1) Either no employee of the contracting agency is both competent and available to perform the services called for by the proposed contract or the services called for are not the type readily susceptible to being performed by persons employed by the state on a continuing basis.
- (2) The services are not available as a product of a prior or existing contract.
- (3) The contracting agency has submitted a written plan to monitor and evaluate the performance called for in the proposed contract.
- (4) It is more cost-effective to obtain the proposed services through the contract than to have the services provided by the contracting agency if the agency can provide the services or by agreement with another state agency.
- (5) The commissioner of administration determines that the proposed contract represents a priority expenditure for state government.

Proposed law prohibits an agency from spending money appropriated for professional, personal, and consulting service contracts for any other purpose.

Proposed law requires the commissioner of administration, in consultation with the director of contractual review, to periodically determine the amount of monies appropriated for professional, personal, and consulting service contracts that remain unexpended and unencumbered as a result of implementation of proposed law. Further provides that such determination shall take place on Sept. 30, 2014, Dec. 31, 2014, March 31, 2015, and June 30, 2015.

Proposed law provides that following each determination, the commissioner of administration shall report to the treasurer on the amount of direct state general fund monies appropriated for professional, personal, and consulting service contracts expected to remain unexpended and unencumbered at the end of the fiscal year as a result of implementation of proposed law. These monies shall be deposited into and credited to the Higher Education Financing Fund as provided for in proposed law.

Proposed law exempts professional, personal, or consulting service contracts of the secretary of state from the provisions of proposed law which are necessary to perform any constitutional or statutory function of the office.

Present law provides for certain determinations by the director of contractual review prior to the approval of proposed contracts.

Proposed law retains present law and further provides that before approval, the director of contractual review shall determine that a contract for professional, personal, or consulting services is not awarded to any entity for which a line item appropriation in the General Appropriations Act for the fiscal year in which the contract is proposed was vetoed by the governor. Proposed law further provides that if the office of contractual review determines

that a contract in the amount and for such services as were contained in the vetoed appropriation is proposed, the office shall submit the proposal to the Joint Legislative Committee on the Budget (JLCB). After approval of the JLCB, the office may approve the contract.

Present law requires the director of contractual review to prepare an annual report on Jan. first of each year on all professional, personal, consulting, social services, and other contracts over which the office of contractual review has power and authority. The annual report shall be compiled on a fiscal year basis and consist of summary descriptive and statistical data regarding the number and amounts of such contracts by type of service.

Proposed law adds a requirement that the director submit a report at the end of each month to the House Committee on Appropriations summarizing each contract, including the dollar value of each contract awarded that month over which the office of contractual review has power and authority.

Effective July 1, 2014.

(Amends R.S. 39:82(A), 352, and 1489; Adds R.S. 39:100.146, 1493.11, and 1498(A)(10))