

2016 Regular Session

HOUSE BILL NO. 265

BY REPRESENTATIVES MARCELLE AND SMITH

PUBLIC CONTRACTS: Prohibits certain contractors from inquiring about a job applicant's criminal history on a job application

1 AN ACT

2 To enact R.S. 39:1624(A)(10) and Chapter 27 of Subtitle III of Title 39 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 39:2211 and 2212, relative to
4 public contracts; to provide relative to the consideration of criminal history in certain
5 employment situations; to provide for applicability; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 39:1624(A)(10) and Chapter 27 of Subtitle III of Title 39 of the
9 Louisiana Revised Statutes of 1950, comprised of R.S. 39:2211 and 2212 are hereby enacted
10 to read as follows:

11 §1624. Approval of contract; penalties

12 A. Before approving a proposed contract for professional, personal,
13 consulting, or social services, the state chief procurement officer or an assistant shall
14 have determined that:

15 * * *

16 (10) All requirements of R.S. 39:2212, if applicable, have been met.

17 * * *

1 CHAPTER 27. CONSIDERATION OF CRIMINAL HISTORY IN CERTAIN
2 PROCUREMENT TRANSACTIONS

3 §2211. Applicability

4 A. This Chapter shall apply to procurements, cooperative endeavor
5 agreements, and public contracts governed by Chapter 17 of this Title.

6 B. This Chapter shall not apply to procurements, cooperative endeavor
7 agreements, and public contracts prohibited by federal law from inclusion in this
8 Chapter.

9 C. Political subdivisions may adopt all or a part of this Chapter and its
10 accompanying regulations.

11 §2212. Prohibition of inquiry by state contractors of criminal history on application
12 forms; exceptions; affidavits; notification of using agencies

13 A. A contractor shall be prohibited from inquiring about an applicant's
14 criminal history on a job application form if state or federal law does not require a
15 criminal background check for the position for which the applicant is applying;
16 however, a contractor may inquire about an applicant's criminal history after the
17 applicant has been given an opportunity to interview for the position or, if no such
18 interview is to be conducted, after the applicant has been given a conditional offer
19 of employment.

20 B. Any contract, cooperative endeavor agreement, or procurement agreement
21 subject to the provisions of this Chapter shall contain a sworn affidavit by the
22 contractor indicating the contractor's pledge to comply with the requirements of this
23 Section.

24 C.(1) The office of state procurement shall notify all using agencies of the
25 requirements of this Chapter.

26 (2) The office of state procurement may adopt rules and regulations
27 necessary to implement the provisions of this Chapter.

1 Section 2. The provisions of this Act shall apply to new procurements, cooperative
2 endeavor agreements, and public contracts and to any procurement agreement, cooperative
3 endeavor agreement, or public contract modified after August 1, 2016.

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 265 Original

2016 Regular Session

Marcelle

Abstract: Prohibits state contractors from inquiring about an applicant's criminal history on a job application form unless the application is for a position that requires a criminal background check.

Proposed law applies to procurements, cooperative endeavor agreements, and public contracts for services (such as professional, consulting, or social services) governed by present law under the La. Procurement Code (Chapter 17 of Title 39). Prohibits state contractors from inquiring about a job applicant's criminal history on a job application if state or federal law does not require a criminal background check for the position for which the applicant is applying. Permits the contractor to inquire about an applicant's criminal history after the applicant has been given an opportunity to interview for the position or, if no such interview is to be conducted, after the applicant has been given a conditional offer of employment.

Proposed law requires the state chief procurement officer, prior to approving a proposed contract for professional, personal, consulting, or social services, to determine that the requirements of proposed law have been met.

Proposed law authorizes political subdivisions to adopt all or a part of proposed law and its accompanying regulations.

Proposed law requires a procurement, cooperative endeavor agreement, or public contract entered into pursuant to present law to contain a sworn affidavit by the contractor pledging to comply with proposed law. Proposed law applies to new procurements and public contracts for services and to any such procurement or contracts modified after Aug. 1, 2016.

Proposed law requires the office of state procurement to notify all using agencies of the requirements of proposed law. Further authorizes the office state procurement to adopt rules and regulations necessary to implement the provisions of proposed law.

(Adds R.S. 39:1624(A)(10), 2211 and, 2212)