

2016 Regular Session

SENATE BILL NO. 462

BY SENATOR WARD

CIVIL PROCEDURE. Provides relative to the state or a state agency as a party plaintiff.
(gov sig)

1 AN ACT

2 To enact R.S. 13:3420, relative to courts and judicial procedure; to provide relative to the
3 state or a state entity as a party plaintiff; to provide relative to the running of
4 prescription; to provide certain terms, procedures, conditions, requirements and
5 effects; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 13:3420 is hereby enacted to read as follows:

8 **§3420. State, state departments, agencies, or offices as a party plaintiff;**
9 **prescription**

10 **A. In any civil matter where a department, agency, or office of the state**
11 **is a plaintiff seeking monetary damages or any other remedy, prescription shall**
12 **not run against the department, agency, or office of the state, regardless of**
13 **whether the department, agency, or office of the state has been statutorily**
14 **authorized to sue and be sued in its own name, and regardless of whether the**
15 **department, agency, or office of the state is a body politic or corporate entity.**

16 **B. The provisions of this Section shall be given retroactive application**
17 **and shall apply to pending actions that have not been fully adjudicated through**

1 **the Louisiana Supreme Court at the time of the effective date of this Section.**

2 Section 2. This Act shall become effective upon signature by the governor or, if not
3 signed by the governor, upon expiration of the time for bills to become law without signature
4 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
5 vetoed by the governor and subsequently approved by the legislature, this Act shall become
6 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Ben Huxen.

DIGEST

SB 462 Engrossed

2016 Regular Session

Ward

Present law provides that prescription shall not run against the state in any civil matter, unless otherwise provided in the constitution or expressly by law. Present law further provides that if a particular state department, agency, or office, is a body politic and corporate and is given the power to sue and be sued, it cannot claim the constitutional immunity from prescription, since it could not be characterized as the state for that purpose.

Proposed law provides that, in any civil matter where a department, agency, or office of the state is a plaintiff seeking monetary damages or any other remedy, prescription shall not run against the department, agency, or office of the state, regardless of whether the department, agency, or office of the state has been statutorily authorized to sue and be sued in its own name, and regardless of whether the department, agency, or office of the state is a body politic or corporate entity.

Proposed law would apply retroactively, inclusive of pending actions that have not been fully adjudicated through the Louisiana Supreme Court at the time of the effective date.

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

(Adds R.S. 13:3420)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Revised language relative to standing and prescription.
2. Deleted provision that required that, to the extent a political subdivision of the state, including but not limited to a state board, commission, or a levee district, asserts an action on behalf of the state where it is asserted that the state is the real party in interest, the attorney general must approve the action prior to the filing of the matter.