

## DIGEST

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SB 447 Reengrossed

2016 Regular Session

Appel

Present law, regarding public benefit corporations, provides that whenever a public benefit corporation formed by the city of New Orleans or Orleans Parish, through its chief executive officer for the purposes of owning, leasing, developing, and operating properties owned by the public benefit corporation or the political subdivision, leases any property owned by the public benefit corporation or the political subdivision, such public benefit corporation shall not be required to advertise for and receive bids as provided in present law. Such leases entered into shall provide for a fair and equitable return of revenue to the public benefit corporation or political subdivision.

Proposed law eliminates present law and provides that a public benefit corporation that meets the requirements of present law and proposed law is not required to advertise for and receive bids for other leases. Leases must comply with the provisions of present law, and shall be subject to the provisions of present law and proposed law.

Proposed law provides that fair and reasonable criteria shall be applied by the public benefit corporation with respect to negotiating and letting such leases and subleases.

Proposed law provides that, in addition to other factors, the public benefit corporation shall consider the highest return of revenue and benefits to the political subdivision.

Present law provides that political subdivisions must have a beneficial interest in a public benefit corporation while indebtedness issued by the corporation to finance the acquisition, construction or improvement of property remains outstanding and must obtain full legal title to the property of the corporation with respect to which the indebtedness was incurred upon retirement of such indebtedness. Proposed law eliminates present law regarding indebtedness.

Proposed law further provides the procedures for any person or other entity who challenges, seeks to nullify, or seeks to enjoin a lease or sublease of immovable property owned, leased or controlled by a public benefit corporation.

Proposed law provides that actions for a temporary restraining order or preliminary injunction shall be required to furnish security as required by C.C.P. Art. 3601, et seq.

Proposed law provides that in any suit or appeal to challenge, nullify, or enjoin a lease or sublease of immovable property owned, leased, or controlled by a public benefit corporation, trial on the merits in the district court shall be set within 60 days of the filing of the suit and shall be given preference over all other matters on the court's calendar, and provides that the district court shall render a final judgment not more than 20 days after the conclusion of the trial.

Proposed law provides that an appeal may be taken within 10 days of the rendition of the final judgment of the district court and shall be returnable to the appropriate appellate court not more than 20 days from the rendition of the final judgment.

Proposed law further provides that the appeal shall be heard with the greatest possible expedition and no later than 30 days from the return day of the appeal, and that the appellate court shall render its ruling on the merits within 30 days of the return day of the appeal.

Proposed law further provides for terms of lease, including that in the city of New Orleans a lease or sublease shall be for a period not exceeding 99 years and shall provide for a rental payable in cash in a lump sum or installments.

Proposed law provides that it shall be applicable to leases entered into by public benefit corporations after the effective date of proposed law, and to claims, suits or appeals pending on the effective date or filed on or after the effective date.

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

(Amends R.S. 41:1212(G) and 1215(B)(1), (2), (3), (4), (5), and (6); Adds R.S. 41:1215(D), (E), and (F))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Makes technical corrections.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the reengrossed bill:

1. Delete provisions specifying that reasonable discretion and business judgment shall be applied in lease negotiations, and instead specify that fair and reasonable criteria shall be applied by the public benefit corporation.
2. Provide that the highest return of revenue and benefits to the political subdivision shall be considered.
3. Delete the proposed requirements of posting security in any suit or appeal by an unsuccessful entity challenging the lease of the immovable.
4. Add provisions specifying that actions for a temporary restraining order or preliminary injunction shall be required to furnish security as required by C.C.P. Art. 3601, et seq.
5. Add specify procedures and delays for setting the suit for trial, for rendering final judgment, for appeal, and for rendering a ruling on appeal.