

2017 Regular Session

HOUSE BILL NO. 90

BY REPRESENTATIVES DANAHAAY AND GREGORY MILLER

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

ETHICS/CODE: Provides relative to donations received by public servants for the purposes of disaster aid or relief to provide aid or to offset losses resulting from a gubernatorially declared disaster or emergency

1 AN ACT

2 To enact R.S. 42:1111.1 and to repeal R.S. 42:1123(36), relative to ethics; to allow public
3 servants to accept certain donations and contributions from not-for-profit
4 organizations or funds within the organizations following a gubernatorially declared
5 disaster or emergency; to require disclosures to the Board of Ethics; to provide
6 relative to the effectiveness of such provisions; to remove a substantially similar
7 exception specific to Hurricanes Katrina and Rita; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 42:1111.1 is hereby enacted to read as follows:

10 §1111.1. Charitable giving to public servants during gubernatorially declared
11 disasters and emergencies; limitations; requirements; annual reports

12 A. Notwithstanding any contrary provision of this Part, during the time
13 period extending from the date of a gubernatorially declared disaster or emergency
14 and ending on the date five years after the date the gubernatorially declared disaster
15 or emergency was initially declared by the governor, a public servant may receive
16 any thing of economic value as a contribution or donation from a not-for-profit
17 organization or a fund within a not-for-profit organization for the purpose of disaster
18 aid or relief to offset any economic losses suffered by the public servant as a result
19 of the gubernatorially declared disaster or emergency, provided that the total value

1 of contributions or donations received by the public servant related to the
2 gubernatorially declared disaster or emergency from not-for-profit organizations or
3 funds within not-for-profit organizations shall not exceed twenty-five thousand
4 dollars.

5 B. Each not-for-profit organization which disburses, either directly or
6 through a fund, a contribution or donation to a public servant that, except for the
7 provisions of Subsection A of this Section, would otherwise be prohibited by this
8 Part shall utilize objective criteria in both evaluating the need for and the
9 disbursement of contributions or donations to public servants to ensure that fair and
10 equitable disbursements are made and that the disbursements are based upon
11 demonstrated and documented needs directly related to the gubernatorially declared
12 disaster or emergency.

13 C. Not later than February fifteenth of each year following a year that a not-
14 for-profit organization has given, either directly or through a fund, a contribution or
15 donation to a public servant that, except for the provisions of Subsection A of this
16 Section, would otherwise be prohibited by this Part, the not-for-profit organization
17 shall file a report with the Board of Ethics containing the identification of the
18 gubernatorially declared disaster associated with the contribution or donation, the
19 objective criteria utilized as required by Subsection B of this Section, the name of
20 each public servant to whom a contribution or donation was given, the name of the
21 agency of each such public servant, the nature of the donation or contribution given
22 to each such public servant, and the value of the donation or contribution given to
23 each such public servant.

24 Section 2. Each not-for-profit organization that gave a public servant a contribution
25 or donation, either directly or through a fund, for the purpose of disaster aid or relief to offset
26 any economic losses suffered by the public servant as a result of a gubernatorially declared
27 disaster or emergency occurring in 2016, that, except for the provisions of R.S. 42:1111.1(A)
28 as enacted by Section 1 of this Act, was otherwise prohibited by the Code of Governmental
29 Ethics, shall file a report no later than February 15, 2018, with the Board of Ethics

1 containing the identification of the gubernatorially declared disaster associated with the
 2 contribution or donation, the criteria used by the not-for-profit organization to determine the
 3 need for and make disbursements to public servants, the name of each public servant to
 4 whom a contribution or donation was given, the name of the agency of each such public
 5 servant, the nature of the donation or contribution given to each such public servant, and the
 6 value of the donation or contribution given to each such public servant.

7 Section 3. R.S. 42:1123(36) is hereby repealed in its entirety.

8 Section 4. The provisions of Section 1 of this Act are declared to be remedial and
 9 curative and shall be applied retroactively to January 1, 2016, as well as prospectively.

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

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 90 Engrossed

2017 Regular Session

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Abstract: Allows a public servant to receive any thing of economic value as a contribution or donation up to a total of \$25,000 from not-for-profit organizations or funds within not-for-profit organizations for the purpose of disaster aid or relief to offset any economic losses suffered by the public servant as a result of a gubernatorially declared disaster or emergency.

Present law (R.S. 42:1111 - Code of Governmental Ethics) provides, subject to certain exceptions, that no public servant (defined as a public employee or an elected official) shall receive any thing of economic value, other than compensation and benefits from the governmental entity to which he is duly entitled, for the performance of the duties and responsibilities of his office or position. Present law (R.S. 42:1115(A)) prohibits a public servant from soliciting or accepting any thing of economic value as a gift or gratuity from any person if the public servant knows or should know that such person has or is seeking to obtain a business relationship with the public servant's agency or is seeking to influence the passage or defeat of legislation by the public servant's agency. Present law (R.S. 42:1115(B)) further prohibits a public employee from accepting any thing of economic value from any person who conducts operations regulated by the public employee's agency or who has substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duty.

Present law (R.S. 42:1123(36)) provides an exception to the ethics code which, during the time period of Aug. 29, 2005, to Dec. 31, 2009, allowed a public employee to receive a thing of economic value as a contribution or donation from certain specified not-for-profit organizations or specified funds within such organizations for disaster aid or relief to offset economic losses the employee suffered due to Hurricane Katrina or Rita. Provides that the value of contributions or donations received by the employee from any one of such organizations or funds shall not exceed \$10,000 and that the total value of such contributions or donations received by the employee from such organizations or funds shall not exceed \$25,000. Present law required a detailed report from each not-for-profit no later than Feb. 15, 2010.

Proposed law repeals the present law exception.

Proposed law provides instead an ethics code exception to allow a public servant, during the time period extending from the date of a gubernatorially declared disaster or emergency and ending on the date five years after the date the gubernatorially declared disaster or emergency was initially declared by the governor, to accept a thing of economic value as a contribution or donation from a not-for-profit organization or a fund within a not-for-profit organization for the purpose of disaster aid or relief to offset any economic losses suffered by the public servant as a result of the gubernatorially declared disaster or emergency. Limits the total value of contributions or donations received by the public servant related to the gubernatorially declared disaster or emergency from not-for-profit organizations or funds within not-for-profit organizations to \$25,000. Requires each not-for-profit organization which disburses a contribution or donation to a public servant to utilize objective criteria in both evaluating the need for and the disbursement of contributions and donations to public servants to ensure that fair and equitable disbursements are made and that the disbursements are based upon demonstrated and documented needs directly related to the gubernatorially declared disaster or emergency. Requires each not-for-profit organization to file a report, by Feb. 15 of each year following a year it gives such contributions or donations, with the Board of Ethics containing the identification of the gubernatorially declared disaster associated with the contribution or donation, the objective criteria utilized, the name of each public servant to whom a contribution or donation was given, the name of his agency, the nature of the donation or contribution, and the value of the donation or contribution. Further requires a report covering 2016 to be filed no later than Feb. 15, 2018.

Proposed law provides that the provisions of proposed law adding the exception to allow a public servant to receive a donation or contribution related to the gubernatorially declared disaster or emergency shall be applied retroactively to Jan. 1, 2016, as well as prospectively.

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

(Adds R.S. 42:1111.1; Repeals R.S. 42:1123(36))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Clarify that the objective criteria and reporting requirements in the proposed law ethics exception apply to not-for-profit organizations disbursing contributions and donations that would have otherwise been prohibited by the ethics code.
2. Apply the requirement for the utilization of objective criteria on disbursements to all contributions and donations, not just funds.
3. Make technical changes.