

2020 Regular Session

HOUSE BILL NO. 590

BY REPRESENTATIVES MIKE JOHNSON AND THOMPSON

PUBLIC PROPERTY: Provides relative to the donation of equipment and personnel between two political subdivisions

1 AN ACT

2 To amend and reenact R.S. 33:4712.18, relative to the donation of equipment and personnel
3 between political subdivisions; to require a written agreement between political
4 subdivisions; to identify the requirements of the written agreement; and to provide
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 33:4712.18 is hereby amended and reenacted to read as follows:

8 §4712.18. ~~Sharing~~ Donation of the use of equipment and utilization of personnel
9 between ~~public entities~~ political subdivisions

10 A.(1) ~~Notwithstanding any other provisions of law to the contrary, As set~~
11 forth in Article 7, Section 14(B)(14) of the Constitution of Louisiana, public entities
12 political subdivisions may share donate the use of public equipment and the
13 utilization of personnel with to another public entity political subdivision for an
14 activity or function the requesting political subdivision is authorized to exercise,
15 ~~without having to expend funds for such use,~~ provided that both entities have
16 executed a ~~cooperative endeavor~~ written agreement for the use of the equipment or
17 utilization of personnel.

18 (2) The ~~cooperative endeavor~~ written agreement shall set forth ~~in reasonable~~
19 ~~detail the obligations of the parties and shall:~~ the following:

20 (a) Identify the equipment that will be shared.

1 (b) Explain the use of the equipment and the approximate length of time for
2 use of the equipment by the requesting public entity.

3 (c) ~~Address~~ Provide for the responsibility for repairing or replacing the
4 equipment when the equipment becomes inoperable for its intended use due to a
5 mechanical or other breakdown while in the possession of the requesting public
6 entity.

7 (d) Include a hold harmless provision releasing the lending public entity
8 from expenses, damages, or losses arising from the use of the equipment.

9 (e) Provide for responsibility to maintain in force and effect any and all
10 compulsory policies of insurance mandated by state law.

11 (3) With respect to personnel, the written agreement shall provide:

12 (a) Identity and employment position of employee.

13 (b) Delineation of responsibility for worker's compensation and employment
14 liability insurance coverage.

15 (c) Responsible entity for issuance of pay and reporting of earnings to
16 appropriate federal and state authorities.

17 (d) Whether the employee is a direct or borrowed employee of the respective
18 political subdivisions.

19 (e) Include hold harmless and indemnification provision relating to damages
20 arising out of or connected with the activities of the employee.

21 ~~(3)(a) When an emergency situation is declared and public entities need to~~
22 ~~share equipment, the provisions of Paragraph (1) of this Subsection are not required,~~
23 ~~provided the public entities share the equipment in good faith relative to the~~
24 ~~emergency situation.~~

25 ~~(b) The Governor's Office of Homeland Security and Emergency~~
26 ~~Preparedness may coordinate the sharing of equipment between the public and~~
27 ~~private entities in order to meet the needs of an emergency or disaster pursuant to~~
28 ~~R.S. 29:724.~~

- 1 B. For the purposes of this Section, "public entities" means: (a) state boards,
 2 agencies or commissions, parishes, municipalities, city parish, and other local school
 3 boards and districts, levee boards and districts, port boards and commissions, port,
 4 harbor, and terminal and industrial districts, drainage and land reclamation districts,
 5 all special service districts including but not limited to road, water, sewage, fire
 6 protection, recreation, hospital service, and gas utility districts; (b) all other political
 7 subdivisions, special authorities, commissions, public trusts, and boards heretofore
 8 or hereafter created by or pursuant to the constitution or statutes of the state, any
 9 laws incorporated into or ratified or confirmed by the constitution, or general or
 10 special charters of any parish or municipality; and (c) all other units of local
 11 government created by or governed by the governing authorities of parishes or
 12 municipalities.
- 13 C. B. The provisions of R.S. 33:2337 and 2338 shall ~~supercede~~ supersede
 14 and control in the event of conflict with the provisions of this Section.

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 590 Reengrossed

2020 Regular Session

Mike Johnson

Abstract: Provides relative to sharing of equipment and personnel between local governments for authorized activities and functions.

Present constitution prohibits the state and political subdivisions from loaning, pledging, or donating funds, credit, property, or things of value to other persons or entities. Provides exceptions, one of which is the donation of the use of public equipment and personnel by a political subdivision upon request to another political subdivision for an activity or function the requesting political subdivision is authorized to exercise.

Present law provides for the sharing of public equipment between public entities provided that both entities have entered into a cooperative endeavor agreement.

Proposed law provides instead for the donation of the use of public equipment and the utilization of personnel between political subdivisions provided that both parties execute a written agreement.

Present law requires that the cooperative endeavor agreement include the following regarding equipment:

- (1) Identify the equipment that will be shared.

- (2) Explain the use of the equipment and the approximate length of time for use.
- (3) Responsibility for repairing or replacing the equipment.
- (4) A hold harmless provision.

Proposed law retains present law with respect to the written agreement and also requires that it include provision for compulsory insurance.

Proposed law requires that the written agreement include the following regarding personnel:

- (1) Identity and employment position of employee.
- (2) Delineation of responsibility for worker's compensation and employment liability insurance coverage.
- (3) Responsibility for pay and reporting of earnings.
- (4) Whether the employee is a direct or borrowed employee.
- (5) Hold harmless and indemnification provision.

Present law provides for the donation of equipment in emergency situations and which agencies are authorized to coordinate these donations. Proposed law repeals present law.

Present law defines "public entities" as state boards, agencies or commissions, parishes, municipalities, city parish, and other local school boards and districts, levee boards and districts, port boards and commissions, port, harbor, and terminal and industrial districts, drainage and land reclamation districts, all special service districts including but not limited to road, water, sewage, fire protection, recreation, hospital service, and gas utility districts; all other political subdivisions, special authorities, commissions, public trusts, and boards heretofore or hereafter created by or pursuant to the constitution or statutes of the state, any laws incorporated into or ratified or confirmed by the constitution, or general or special charters of any parish or municipality; and all other units of local government created by or governed by the governing authorities of parishes or municipalities.

Proposed law repeals present law and makes present law and proposed law applicable to political subdivisions, which is defined by present constitution as a parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to perform governmental functions.

(Amends R.S. 33:4712.18)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill.

1. Specify that agreements will provide for utilization of personnel rather than use of personnel.