
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 491 Engrossed

2021 Regular Session

Gadberry

Abstract: Allows a member of a municipal or parish governing authority, an appointed member of a planning or zoning or appeals board or commission of a parish or municipality and related persons and legal entities to make application for the approval of the subdivision or resubdivision of property and for the zoning of such property or for a building permit and any inspections performed pursuant thereto under specified circumstances.

Present law (Code of Governmental Ethics (ethics code)) generally prohibits a public servant, a member of his immediate family, or a legal entity in which he has a controlling interest from bidding on or entering into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the public servant's agency. Present law further prohibits an appointed board or commission member, a member of his immediate family, or a legal entity in which he has a substantial economic interest from bidding on or entering into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the appointed member's agency. Present law further prohibits a public servant from participating in a transaction in which he, his immediately family members, and specified other persons and entities have a substantial economic interest of which he may be reasonably expected to know involving the governmental entity.

Present law (ethics code) provides an exception to allow a member of a municipal or parish governing authority in a parish or municipality with a population of 25,000 or less according to the latest federal decennial census or a member of such official's immediate family, or a legal entity in which he has a controlling interest to make application for the approval of a subdivision, resubdivision, or zoning of property or for a building permit and any inspections related thereto, provided that:

- (1) The zoning of such property shall not be less restrictive than the zoning of the original parcel.
- (2) No variance or special exception from any planning or zoning regulation or requirement or any building code or permit shall be requested or granted.
- (3) The subdivision, resubdivision, or zoning of such property shall be for residential purposes only.
- (4) The application(s) submitted by or on behalf of the elected official, a member of his immediate family, or legal entity in which he has a controlling interest, collectively, shall be limited to the subdivision, resubdivision, or zoning of not more than 12 lots per calendar year and the construction of not more than 12 residential units per calendar year.

- (5) No public funds shall be used to construct any infrastructure for the use or benefit of such property or development.
- (6) The elected official shall file written notice containing all details regarding the transaction deemed necessary by the Board of Ethics with the board and the governing authority at least 10 days prior to any hearing pertaining to such application, or if no hearing is held, then at least 10 days prior to final action thereon.
- (7) Any such member of a governing authority shall recuse himself from any vote related to such application and shall not participate in any other aspect of the application or transaction.

Proposed law expands the exception by:

- (1) Removing the population restriction for parishes and municipalities of 25,000 or less.
- (2) Including appointed members of a planning or zoning or appeals board or commission of a parish or municipality and their immediate family members and related legal entities.
- (3) Removing the restriction that no variance or special exception from any planning or zoning regulation or requirement or any building code or permit shall be requested or granted.

Proposed law further changes exception as it pertains to the related legal entities being allowed to make such applications, from those in which such a person has a controlling interest to those in which such a person has an interest. Proposed law retains the other restrictions contained in the present law exception and further requires the advance written notice regarding the transaction to be filed by the elected or appointed public servant (not just the elected governing authority members), requires such a public servant to recuse himself from any vote related to the application, and prohibits participation in any other aspect of the application or transaction by the public servant.

(Amends R.S. 42:1123(34))