

2025 Regular Session

SENATE BILL NO. 151

BY SENATOR MIZELL

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

PROCUREMENT CODE. Provides relative to the Louisiana Procurement Code.
(gov sig)

1 AN ACT

2 To amend and reenact R.S. 39:1594(C)(1) and (3), 1595, 1621(A), (B), and (C)(1) and (3),

3 1630, 1641(A), 1643(A), 1644(A)(1), (B), and (C), 1671(F), 1672.3, 1672.4(A),

4 1683(E)(2), 1685(E)(2), the heading of 1691 and (A), (C), and (D), 1692(C), and

5 1702(A)(1) and to repeal R.S. 39:1600.2(B), relative to the Louisiana Procurement

6 Code; to provide for advertisement and notice requirements for procurement and

7 exceptions; to provide for competitive sealed proposals; to provide for negotiation

8 and award of contracts; to provide for methods of procurement; to provide for the

9 utilization requirements of certain procurement methods; to establish procedures for

10 contract negotiations; to provide for the authority and duties of the commissioner of

11 administration with respect to procurement and protests; to provide for certain

12 exemptions; to provide relative to lease contracts; to provide for amendment of lease

13 contracts; to provide for legal and contractual remedies; to provide relative to

14 administrative appeals; to provide for cooperative purchasing; to provide for an

15 effective date; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 39:1594(C)(1) and (3), 1595, 1621(A), (B), (C)(1) and (3), 1630,

1 1641(A), 1643(A), 1644(A)(1), (B), and (C), 1671(F), 1672.3, 1672.4(A), 1683(E)(2),
2 1685(E)(2), the heading of 1691 and (A), (C), and (D), 1692(C), and 1702(A)(1) are hereby
3 amended and reenacted to read as follows:

4 §1594. Competitive sealed bids

5 * * *

6 C. Public notice.

7 (1) Adequate public notice of the invitation for bids shall be given at least ~~ten~~
8 **five** days prior to the date set forth therein for the opening of bids on all matters
9 except those made for housing of state agencies, their personnel, operations,
10 equipment, or activities pursuant to R.S. 39:1643, for which such notice shall be
11 given at least twenty days prior to the opening of bids. Notice shall be in writing and
12 to persons in a position to furnish the supplies, services, or major repairs required,
13 as shown by its records, and by advertising if the amount of the purchase is
14 ~~twenty-five thousand dollars or more~~ **exceeds the amount provided by the small**
15 **purchase executive order issued in accordance with R.S. 39:1596.**

16 * * *

17 (3) Each advertisement ~~shall~~ **may** be published in the official journal of the
18 state. In the case of any purchase to meet the needs of a single budget unit the
19 advertisement shall be published also in a newspaper of general circulation printed
20 in the parish in which the budget unit is situated or, if there is no newspaper printed
21 in the parish, in a newspaper printed in the nearest parish, which has a general
22 circulation in the parish in which the budget unit is situated.

23 * * *

24 §1595. Competitive sealed proposals

25 A.(1) Notwithstanding any other provision of this Section to the contrary,
26 with the ~~approval of the commissioner and the~~ written determination by the state
27 chief procurement officer that the best interests of the state would be served, a
28 competitive request for proposals process as provided in this Subsection may be used
29 in the following circumstances:

1 (a) For the procurement of supplies, services, or major repairs, including but
2 not limited to the procurement of high technology acquisitions or of complex
3 services.

4 (b) Through a contract with a group purchasing organization, for the
5 procurement of medical and laboratory supplies and medical equipment required for
6 the purpose of diagnosis or direct treatment of a patient by a health care provider in
7 a hospital or clinical setting, provided the commissioner determines the total cost to
8 be less than the state procurement prices and in the best interest of the state.

9 (c) The ~~approval and~~ written determination ~~requirements~~ **requirement** of this
10 Paragraph shall not apply to a request for proposals for professional, personal,
11 consulting, or social services.

12 (2) For a contract to be let under the provisions of this Subsection, the agency
13 shall give adequate public notice of the request for proposals by advertising ~~in the~~
14 ~~official journal of the state~~ **through a centralized electronic interactive**
15 **environment administered by the division of administration and on the**
16 **electronic website accepting the electronic bids as provided in this Section** at
17 least thirty days before the last day that proposals will be accepted. **The agency may**
18 **also advertise in the official journal of the state.** In addition, the agency shall
19 provide written **or electronic** notice to persons, firms, or corporations who are
20 known to be in a position to furnish the required services at least thirty days before
21 the last day that proposals will be accepted. The agency shall also notify the Board
22 of Regents of the request for proposals at least thirty days before the last day that
23 proposals will be accepted.

24 B. Requests for proposals.

25 (1) For consulting service contracts with a total maximum compensation of
26 **one hundred** fifty thousand dollars or more, except for such contracts entered into
27 by the Department of Transportation and Development, adequate public notice of the
28 request for proposals shall be given by advertising **through a centralized electronic**
29 **interactive environment administered by the division of administration and on**

1 **the electronic website accepting the electronic bids as provided in this Section.**

2 **The agency may also advertise** in the official journal of the state and in one or more
3 newspapers of general circulation in the state ~~at least once~~. The **electronic**
4 advertisement shall appear at least thirty days before the last day that proposals will
5 be accepted. When available, advertisements ~~shall~~ **may** be placed in those national
6 trade journals which serve the particular type of contractor desired. In addition,
7 written **or electronic** notice shall be provided to persons, firms, or corporations who
8 are known to be in a position to furnish such services, at least thirty days before the
9 last day that proposals will be accepted. The agency shall also notify the Board of
10 Regents of the request for proposals at least thirty days before the last day that
11 proposals will be accepted.

12 (2) For social service contracts not qualifying under R.S. 39:1619(B),
13 adequate public notice of the request for proposals shall be given by advertising
14 **through a centralized electronic interactive environment administered by the**
15 **division of administration and on the electronic website accepting the electronic**
16 **bids as provided in this Section. The agency may also advertise** in the official
17 journal of the state, in the official journal of the parish in which the services are to
18 be performed and such other newspapers, bulletins, or other media as are appropriate
19 in the circumstances. ~~Such advertisements shall appear at least once in the official~~
20 ~~journal of the state and once in the official journal of the parish. If the services are~~
21 ~~to be performed in or made available to residents of a multiparish area, advertising~~
22 ~~in the official journal of the state and in one or more newspapers of general~~
23 ~~circulation in the state at least once shall be sufficient to meet this requirement. In~~
24 all cases, the **electronic** advertisement shall appear at least fourteen days before the
25 last day that the proposals will be accepted. In addition, written **or electronic** notice
26 shall be provided to persons, firms, or corporations who are known to be in a
27 position to furnish such services, at least fourteen days before the last day that
28 proposals will be accepted. This last requirement is subject to reasonable limitation
29 at the discretion of the using agency. The agency shall also notify the Board of

1 Regents of the request for proposals at least fourteen days before the last day that
2 proposals will be accepted.

3 (3) For consulting service contracts entered into by the Department of
4 Transportation and Development with a total maximum compensation of ~~fifty~~ **one**
5 **hundred fifty** thousand dollars or more, adequate public notice of the request for
6 proposals shall be given by advertising **through a centralized electronic interactive**
7 **environment administered by the division of administration and on the**
8 **electronic website accepting the electronic bids as provided in this Section. The**
9 **agency may also advertise** in the official journal of the state ~~at least once~~. The first
10 **notice or** advertisement shall appear at least fifteen days before the last day that
11 proposals will be accepted. In addition, written **or electronic** notice shall be provided
12 to persons, firms, or corporations who are known to be in a position to furnish such
13 services, at least fifteen days prior to the last day that proposals will be accepted. The
14 agency shall also notify the Board of Regents of the request for proposals at least
15 fifteen days before the last day that proposals will be accepted.

16 (4) All requests for proposals shall be advertised through a centralized
17 electronic interactive environment administered by the division of administration and
18 on the electronic website accepting the electronic bids as provided in this Section.
19 The **electronic** advertisement ~~or written notice~~ required by this Section shall contain
20 the name and address of the using agency and shall establish the specific date, time,
21 and place by which the request for proposals must be received.

22 (5) The requests for proposals:

23 (a) ~~For consulting, social, and professional services not otherwise exempt by~~
24 ~~law or regulation shall indicate the relative importance of price and other evaluation~~
25 ~~factors, shall clearly define the tasks to be performed under the contract, the criteria~~
26 ~~to be used in evaluating the proposals and the time frames within which the work~~
27 ~~must be completed.~~

28 (b) ~~For all others, it shall clearly state the technological or other outcome~~
29 ~~desired from the procurement of the supplies, services, or major repairs, if~~

1 ~~applicable~~, and shall indicate the relative importance of price and other evaluation
2 factors, the criteria to be used in evaluating the proposals, and the time frames within
3 which the work must be completed, **if applicable**.

4 (6)(a) Proposals shall be submitted in writing in accordance with the
5 requirements set forth in the request for proposals or electronically through a
6 uniform and secure electronic interactive environment.

7 (b) Public entities shall provide, ~~as an additional option for submission of~~
8 ~~proposals~~, a uniform and secure electronic interactive system for the submission of
9 competitive sealed proposals as provided for in this Section. Any public entity
10 providing a secure electronic interactive system shall follow the standards for the
11 receipt of electronic bids adopted by the office of the governor, division of
12 administration, and the office of information technology as provided for in LAC
13 4:XV.701. Any special condition or requirement for the submission shall be
14 specified in the advertisement of the request for proposals required by this Section.

15 (c) The requirements of Subparagraph (b) of this Paragraph shall not apply
16 to the following public entities:

17 (i) Public entities that are currently without high-speed Internet access, until
18 high-speed Internet access becomes available.

19 (ii) Any parish with a police jury form of government and a population of less
20 than twenty thousand.

21 (iii) Any city or municipality with a population of less than ten thousand.

22 (iv) Any public entity that is unable to comply with the electronic proposal
23 submission provisions of this Subsection without securing and expending additional
24 funding.

25 (7) Written or oral discussions shall be conducted with all responsible
26 proposers who submit proposals determined in writing to be reasonably susceptible
27 of being selected for award. ~~Discussions~~ **The state** shall not disclose any information
28 derived from proposals submitted by competing proposers **until after the contract**
29 **is awarded**. Discussions need not be conducted:

1 (a) If prices are fixed by law or regulation, except that consideration shall be
2 given to competitive terms and conditions.

3 (b) If time of delivery or performance will not permit discussions.

4 (c) If it can be clearly demonstrated and documented from the existence of
5 adequate competition or accurate prior cost experience with the particular service
6 that acceptance of an initial offer without discussion would result in fair and
7 reasonable prices, and the request for proposals notifies all proposers of the
8 possibility that award may be made on the basis of the initial offers.

9 ~~(8)(a) Award shall be made to the responsible proposer whose proposal is
10 determined in writing by the using agency to be the most advantageous to the state,
11 taking into consideration review of price and the evaluation factors set forth in the
12 request for proposals.~~

13 ~~(b) A request for proposals or other solicitation may be cancelled or all
14 proposals may be rejected only if it is determined, based on reasons provided in
15 writing, that such action is taken in the best interest of the state.~~

16 ~~(9) A request for proposals or other solicitation may be cancelled or all
17 proposals may be rejected only if it is determined, based on reasons provided in
18 writing, that such action is taken in the best interest of the state.~~

19 ~~(10) Each contract entered into pursuant to this Subsection shall contain as
20 a minimum:~~

21 ~~(a) Description of the work to be performed or objectives to be met, when
22 applicable.~~

23 ~~(b) Amount and time of payments to be made.~~

24 ~~(c) Description of reports or other deliverables to be received, when
25 applicable.~~

26 ~~(d) Date of reports or other deliverables to be received, when applicable.~~

27 ~~(e) Responsibility for payment of taxes, when applicable.~~

28 ~~(f) Circumstances under which the contract can be terminated either with or
29 without cause.~~

1 (g) Remedies for default.

2 (h) ~~A statement giving the legislative auditor the authority to audit records~~
3 ~~of the individual or firm.~~

4 (i) Performance measurements.

5 (j) Monitoring plan.

6 ~~(11)(a) Upon entering into a contract, the using agency shall have full~~
7 ~~responsibility for the diligent administration and monitoring of the contract. The~~
8 ~~state chief procurement officer may require the using agency to report at any time~~
9 ~~on the status of any such outstanding contracts to which the using agency is a party.~~
10 ~~After completion of performance under a contract, the using agency shall evaluate~~
11 ~~contract performance and the utility of the final product. This evaluation shall be~~
12 ~~delivered to the state chief procurement officer or his designee or the director of~~
13 ~~purchasing at a college or university, as applicable, within one hundred twenty days~~
14 ~~after completion of performance and shall be retained in the official contract file.~~

15 ~~(b)(i) No contract shall be valid, nor shall the state be bound by the contract,~~
16 ~~until it has first been executed by the head of the using agency, or his designee,~~
17 ~~which is a party to the contract and the contractor and has been approved in writing~~
18 ~~by the state chief procurement officer or his designee or the director of purchasing~~
19 ~~at a college or university, as applicable.~~

20 ~~(ii) In cases where the head of the using agency wants to delegate authority~~
21 ~~to one or more of his subordinates to sign contracts on behalf of the agency, this~~
22 ~~delegation shall be made in accordance with regulations of the commissioner and~~
23 ~~shall be subject to the approval of the state chief procurement officer.~~

24 **(8) Modification or withdrawal of proposals. Proposals may be modified**
25 **or withdrawn at any time prior to the conclusion of discussions.**

26 **(9) Negotiation and award of contract. The using agency shall negotiate**
27 **a contract with the responsible proposer whose proposal is determined in**
28 **writing by the using agency to be the most advantageous to the state, taking into**
29 **consideration review of price and the evaluation factors set forth in the request**

1 for proposals.

2 (10) Elements of negotiation. Contract negotiations shall be directed
3 toward:

4 (a) Making certain that the proposer has a clear understanding of the
5 scope of the work, services, or supplies, specifically, the essential requirements
6 involved in providing the required work, services, or supplies.

7 (b) Determining that the proposer will make available the necessary
8 personnel and facilities to perform the services within the required time.

9 (c) Agreeing upon compensation which is fair and reasonable, taking into
10 account the estimated value of the required work, services, or supplies, and the
11 scope, complexity, and nature of such work, services, or supplies.

12 (11) Successful negotiation of contract with most advantageous proposer.
13 If compensation, contract requirements, and contract documents can be agreed
14 upon with the most advantageous proposer, the contract shall be awarded to
15 that proposer. Each contract entered into pursuant to this Subsection shall
16 contain at a minimum:

17 (a) The commencement date which is at least fourteen days after the
18 notice of award is issued.

19 (b) A description of the work to be performed or objectives to be met,
20 when applicable.

21 (c) The amount and time of payments to be made.

22 (d) A description of reports or other deliverables to be received, when
23 applicable.

24 (e) The date of reports or other deliverables to be received, when
25 applicable.

26 (f) Responsibility for payment of taxes, when applicable.

27 (g) Circumstances under which the contract can be terminated either
28 with or without cause.

29 (h) Remedies for default.

1 (i) A statement giving the legislative auditor the authority to audit
2 records of the individual or firm.

3 (j) Performance measurements.

4 (k) A monitoring plan.

5 (12)(a) Upon entering into a contract, the using agency shall have full
6 responsibility for the diligent administration and monitoring of the contract.
7 The state chief procurement officer may require the using agency to report at
8 any time on the status of any such outstanding contracts to which the using
9 agency is a party. After completion of performance under a contract, the using
10 agency shall evaluate the contract performance and the utility of the final
11 product. This evaluation shall be delivered to the state chief procurement
12 officer, or his designee, or the director of purchasing at a college or university,
13 as applicable, within one hundred twenty days after completion of performance
14 and shall be retained in the official contract file.

15 (b)(i) No contract shall be valid, nor shall the state be bound by the
16 contract, until it has first been executed by the head of the using agency, or his
17 designee, on behalf of the using agency, which is a party to the contract and the
18 contractor and has been approved in writing by the state chief procurement
19 officer, or his designee, or the director of purchasing at a college or university,
20 as applicable.

21 (ii) The head of the using agency may delegate authority to one or more
22 of his subordinates to sign contracts on behalf of the using agency in accordance
23 with and subject to regulations of the commissioner and shall be subject to the
24 approval of the state chief procurement officer.

25 (iii) Upon approval of the contract by the state chief procurement officer,
26 or his designee, the office of state procurement shall send written notice of the
27 award to the contractor and a copy of such notice to all other proposers.

28 (13) Failure to negotiate contract with most advantageous proposer.

29 (a) If compensation, contract requirements, or contract documents

1 cannot be agreed upon with the most advantageous proposer, a written record
2 stating the reasons therefore shall be placed in the contract file. The office of
3 state procurement shall advise such proposer of the termination of negotiations
4 and confirm the termination by written notice within three business days.

5 (b) Upon failure to negotiate a contract with the most advantageous
6 proposer, the using agency may enter into negotiations with the next most
7 advantageous proposer. If compensation, contract requirements, and contract
8 documents can be agreed upon, then the contract shall be awarded to that
9 proposer. If negotiations again fail, negotiations shall be terminated as provided
10 in Subparagraph (a) of this Paragraph and commenced with the next most
11 advantageous proposer.

12 (c) If the using agency is unable to negotiate a contract with any of the
13 proposers initially selected as the most advantageous to the state, additional
14 proposers may be selected based on original, acceptable submissions in the
15 order of their respective evaluation score and negotiations may continue in
16 accordance with this Paragraph until an agreement is reached and a contract
17 awarded.

18 (14) A request for proposals or other solicitation may be cancelled or all
19 proposals may be rejected if it is determined, based on reasons provided in
20 writing, that such action is taken in the best interest of the state. A copy of the
21 determination shall be maintained in the contract file.

22 ~~(12)~~(15) Requests for proposals shall not be required for "interagency
23 contracts" as defined in R.S. 39:1556.

24 ~~(13)~~(16) Notwithstanding the provisions of this Chapter, all relevant federal
25 statutes and regulations shall be followed by the using agency in procuring services.
26 The burden of complying with these federal statutes and regulations shall rest with
27 the using agency and shall be documented in the contract record submitted to the
28 office of state procurement.

29 * * *

1 §1621. Consulting service contracts

2 A. Contracts for consulting services which have a total maximum amount of
3 compensation less than ~~seventy-five~~ **one hundred fifty** thousand dollars for a
4 twelve-month period may be awarded without the necessity of competitive bidding
5 or competitive negotiation.

6 B. Contracts for consulting services which have a total maximum amount of
7 compensation of ~~seventy-five~~ **one hundred fifty** thousand dollars or more for a
8 twelve-month period shall be awarded through a request for proposal, ~~or reverse~~
9 auction process, **invitation to negotiate, or cooperative purchasing** under rules and
10 regulations issued by the office of state procurement. Service requirements shall not
11 be artificially divided so as to exempt contracts from the request for proposal
12 process.

13 C.(1) All contracts for consulting services ~~which have a total maximum~~
14 ~~amount of compensation of two hundred twenty-five thousand dollars or more~~ may
15 be entered into with the assistance of a procurement support team as provided herein,
16 and in accordance with guidelines promulgated and published by the office of state
17 procurement.

18 * * *

19 (3) Participation of the procurement support team ~~must~~ **may** include, at a
20 minimum, assistance in development or review of the request for proposals,
21 evaluation of responses received to the request for proposals, and formulation of
22 recommendations to be submitted to the state chief procurement officer concerning
23 the final contract.

24 * * *

25 §1630. Finality of determinations

26 The determinations required by R.S. 39:1568.1, R.S. 39:1597, R.S.
27 39:1598(C), R.S. 39:1605, R.S. 39:1606, R.S. 39:1608(C), R.S. 39:1612(A), ~~and~~ R.S.
28 39:1614, **and R.S. 39:1671(F)** are final and conclusive unless they are clearly
29 erroneous, arbitrary, capricious, or contrary to law.

* * *

§1641. Budget for acquisition of housing space and leases by budget units

A.~~(1)~~ Contracts and agreements by and in name of state agencies. All contracts and agreements for the lease or rental of space for the housing of state agencies, their personnel, operations, equipment, or activities shall be made in the name of and by the authorized representative or representative body of the state agency but shall be made and entered into only with the approval of the commissioner of administration. The cost of such housing shall be provided for in and defrayed from the budgets of the using agencies.

(2) All contracts and agreements for the lease or rental space of one thousand or less square feet of a storage unit shall not require the approval of the commissioner of administration.

* * *

§1643. Advertisement and award of lease bids

A. Every lease for the use of ~~five~~ **ten** thousand square feet or more of space in a privately owned building entered into by a state agency as lessee shall be awarded pursuant to R.S. 39:1594 in accordance with the conditions for use set forth in that Section and only after evaluation of the bids in accordance with the specific criteria contained in the invitation for bids as authorized by R.S. 39:1594(F)(2). No such lease shall extend beyond a period of ten years.

* * *

§1644. Amendment of leases

A.(1) An existing lease ~~for office or warehouse space~~ may be renegotiated with the present lessor, but only after the division of administration has entered into a competitive negotiation process involving discussions with at least three, unless there are less than three, proposers who submit written proposals. Such proposals shall be solicited by advertising as in R.S. 39:1594(C).

* * *

B. Any lease for ~~office or warehouse~~ space for under ~~five~~ **ten** thousand

1 square feet may be amended up to but not to exceed a maximum of ~~four~~ **nine**
2 thousand nine hundred ninety-nine square feet.

3 C. Existing leases ~~for office or warehouse space~~ between a single state
4 agency, a single lessor and affecting a single building or buildings immediately
5 adjacent to each other which leases have different termination dates, may be
6 renegotiated by the division of administration to perfect a single lease for the whole
7 of the ~~office or warehouse~~ space utilized under the existing leases. The renegotiated
8 lease shall not extend beyond the termination date of the latest existing lease, nor
9 shall the price per square foot paid under the new lease result in a total payment in
10 excess of the total of the combined payments under the preexisting leases.

11 * * *

12 §1671. Authority to resolve protested solicitations and awards

13 * * *

14 F. ~~Stay of procurements during protests~~ **Protest bond to stay procurement**
15 **during protest.** ~~In the event of a timely protest under Subsection A of this Section,~~
16 ~~the state shall not proceed further with the solicitation or with the awarding of the~~
17 ~~contract unless the chief procurement officer makes a written determination that the~~
18 ~~awarding of the contract is necessary without delay to protect the substantial interests~~
19 ~~of the state. Upon such determination by the chief procurement officer, no court shall~~
20 ~~enjoin progress under the award except after notice and hearing~~ **(1) A protester who**
21 **has timely protested a solicitation or an award may only apply for a stay during**
22 **the time period provided in Subsection A of this Section to protest a solicitation**
23 **or an award.**

24 **(2) A protester may obtain a stay of an award upon posting a bond**
25 **during the protest period with a good and solvent surety authorized to do**
26 **business in this state or submit other security, in a form approved by the office**
27 **of state procurement by rule or regulation, to the office of state procurement,**
28 **who shall hold the bond or other security until a final determination is made on**
29 **the protest. A bond posted or other security submitted with a protest shall be**

1 in an amount equal to twenty-five percent of the maximum amount of the
 2 protested awarded contract. If the total value of the awarded contract cannot
 3 be determined because the total requirements for the contract are estimated as
 4 of the date of the award, a bond posted or other security submitted with a
 5 protest shall be in an amount equal to twenty-five percent of the estimated total
 6 value of the contract. Upon request, the state chief procurement officer shall
 7 provide the estimated total value of the contract or the method for determining
 8 the estimated total value of the contract, based on records of past experience
 9 and estimates of anticipated requirements furnished by the using agency.

10 (3) If the protest is upheld and the award is cancelled, the bond posted
 11 or other security submitted with the protest shall be returned to the person who
 12 posted the bond or submitted the security. If the protest is rejected and the
 13 award is upheld, a claim may be made against the bond or other security by the
 14 using agency to the office of state procurement in an amount equal to the
 15 expenses incurred and other monetary losses suffered by the state resulting
 16 from the unsuccessful protest. The state chief procurement officer shall hold an
 17 informal hearing on the claim. Any money not awarded by the state chief
 18 procurement officer shall be returned to the person who posted the bond or
 19 submitted the security.

20 * * *

21 §1672.3. Action on contract claims

22 This Section applies to a claim by or controversy between the state and a
 23 contractor arising out of a contract for professional, personal, consulting, or social
 24 services. If such a claim or controversy is not resolved by mutual agreement, the
 25 commissioner of administration, or his designee, shall promptly issue a decision in
 26 writing. A copy of that decision shall be mailed or otherwise furnished to the
 27 contractor, shall state the reasons for the action taken, and shall inform the contractor
 28 of his right to judicial relief as provided in this Subpart. The decision shall be final
 29 and conclusive unless fraudulent, or unless the contractor ~~institutes suit~~ appeals the

1 **decision** pursuant to this Subpart. If the commissioner of administration, or his
 2 designee, does not issue a written decision within one hundred twenty days after
 3 written request for a final decision, or within such longer period as may be
 4 established in writing by the parties to the contract, then the contractor may proceed
 5 as if an adverse decision had been received. **A final decision of the commissioner**
 6 **may be made executory by the Nineteenth Judicial District Court in accordance**
 7 **with Code of Civil Procedure Article 2782.**

8 §1672.4. Jurisdiction; actions in certain cases

9 A. The Nineteenth Judicial District Court, subject to appeal or review by the
 10 First Circuit Court of Appeal or by the supreme court, as otherwise permitted in civil
 11 cases by law and the state constitution, shall have **only appellate** jurisdiction over
 12 any claims arising out of a request for proposal or award of a contract, any
 13 controversies involving the state, or any other matters in connection with a petition
 14 for review of a decision made pursuant to this Chapter, following the exhaustion of
 15 administrative remedies as provided by law or regulation. **If the evidence, as**
 16 **reasonably interpreted, supports the commissioner's decision, then the**
 17 **commissioner of administration's decision is given great weight and shall not be**
 18 **reversed or modified in the absence of a clear showing that the decision was**
 19 **arbitrary or capricious.**

20 * * *

21 §1683. Protest of solicitations or awards

22 * * *

23 E. Finality of decision. A decision under Subsection C of this Section shall
 24 be final and conclusive unless one of the following applies:

25 * * *

26 (2) The person adversely affected by the decision has timely appealed to the
 27 court in accordance with R.S. 39:1691(A). **If the evidence, as reasonably**
 28 **interpreted, supports the commissioner's decision, then the commissioner of**
 29 **administration's decision is given great weight and shall not be reversed or**

1 modified in the absence of a clear showing that the decision was arbitrary or
2 capricious.

3 * * *

4 §1685. Contract and breach of contract controversies

5 * * *

6 E. Finality of decision. A decision under Subsection C of this Section shall
7 be final and conclusive unless one of the following applies:

8 * * *

9 (2) The contractor has timely appealed an adverse decision of the
10 commissioner to the court in accordance with R.S. 39:1691(C). If the evidence, as
11 reasonably interpreted, supports the commissioner's decision, then the
12 commissioner of administration's decision is given great weight and shall not be
13 reversed or modified in the absence of a clear showing that the decision was
14 arbitrary or capricious.

15 §1691. ~~Actions~~ Venue of actions by or against the state in connection with contracts

16 A. Solicitation and award of contracts. The Nineteenth Judicial District Court
17 shall have exclusive venue over an action between the state and a **person**, bidder,
18 **proposer**, offerer, or contractor, prospective or actual, to determine whether a
19 solicitation or award of a contract is in accordance with the constitution, statutes,
20 regulations, and the terms and conditions of the solicitation. Such actions shall
21 ~~extend to all kinds of actions, whether for monetary damages or for declaratory,~~
22 ~~injunctive, or other equitable relief~~ invoke the appellate jurisdiction of the court.

23 * * *

24 C. Actions under contracts or for breach of contract. The Nineteenth Judicial
25 District Court shall have exclusive venue and only appellate jurisdiction over an
26 action between the state and a contractor who contracts with the state, for any cause
27 of action which arises under or by virtue of the contract, whether the action is on the
28 contract or for a breach of the contract ~~or whether the action is for declaratory,~~
29 ~~injunctive, or other equitable relief.~~

1 D. Limited finality for administrative determinations. In any judicial action
 2 under this Section, factual or legal determination by employees, agents, or other
 3 persons appointed by the state shall have no finality and shall not be conclusive,
 4 notwithstanding any contract provision, regulation, or rule of law to the contrary,
 5 except to the extent provided in: R.S. 39:1630, R.S. 39:1671(E), R.S. 39:1672(F),
 6 **R.S. 39:1672.3**, R.S. 39:1673(E), R.S. 39:1683(E), R.S. 39:1684(E), and R.S.
 7 39:1685(E).

* * *

8 §1692. Commencement of actions

9 * * *

10 C. Actions under contracts or for breach of contract controversies. Any action
 11 under R.S. 39:1691(C) shall be commenced within sixty days after receipt of the
 12 decision of the commissioner under R.S. 39:1685(C) **or R.S. 39:1672.3**.

13 * * *

14 §1702. Cooperative purchasing authorized; participation in federal General Services
 15 Administration vendor list

16 A.(1) Any public procurement unit may either participate in, sponsor,
 17 conduct, or administer a cooperative purchasing agreement for the acquisition of any
 18 supplies, services, **personal, professional, consulting, and social services**, major
 19 repairs, or construction with one or more public procurement units or external
 20 procurement activities or one or more private procurement units in accordance with
 21 an agreement entered into between the participants. Such cooperative purchasing
 22 may include but is not limited to joint or multi-party contracts between public
 23 procurement units and open-ended state public procurement unit contracts which are
 24 made available to local public procurement units.

25 * * *

26 Section 2. R.S. 39:1600.2(B) is repealed in its entirety.

27 Section 3. This Act shall become effective upon signature by the governor or, if not
 28 signed by the governor, upon expiration of the time for bills to become law without signature
 29

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 3 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 Senate Legislative Services. The keyword, summary, 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)]

DIGEST

SB 151 Engrossed

2025 Regular Session

Mizell

Present law establishes the La. Procurement Code (R.S. 39:1551, et seq.) to provide for procurement by public bodies, including provisions for procurement regulations, source selection for items to be purchased and methods for such purchases, bid procedures, types of contracts, specifications, contract modification, termination and contract clauses, legal and contractual remedies, administrative appeals, and cooperative purchasing. Proposed law modifies the La. Procurement Code as detailed below:

Advertisement Requirements

Present law requires adequate public notice of an invitation for bids for small purchases at least 10 days prior to the date set for the opening of bids. Proposed law reduces the time for adequate public notice from 10 days to five days and otherwise retains present law.

Present law requires notice and advertising for small purchases in excess of \$25,000. Proposed law eliminates the \$25,000 threshold for small purchases and authorizes the monetary threshold for small purchases to be set by executive order.

Present law requires public notice and advertising for competitive sealed bid procurement methods in the official journal of the state. Proposed law removes this requirement and instead authorizes advertisement in the official journal of the state.

Present law requires competitive sealed proposals to be advertised in the official journal of the state at least 30 days before the last day proposals will be accepted. Proposed law instead requires advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids. Proposed law allows the agency to also advertise in the official journal of the state and other print media, depending upon the type of service being procured.

Present law requires the agency to provide written notice of certain competitive sealed proposals to persons, firms, or corporations in a position to furnish the required services at least 30 days before the last day proposals will be accepted. Proposed law allows this contact to be made electronically.

Present law requires advertisements for requests for proposals (RFP) for applicable consulting service contracts to be placed in national trade journals which serve the particular contract for consulting services. Proposed law removes this requirement and instead permits this method of advertisement and further requires advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids.

Present law requires certain social services contracts not qualifying under present law to be advertised in the official journal of the state, in the official journal of the parish in which the services are to be performed and other media as appropriate in the circumstance at least once

30 days before the last day proposals will be accepted. Proposed law instead requires advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids, and allows the agency to also advertise in the official journal of the state, in the official journal of the parish in which the services are to be performed, and other media as appropriate.

Present law requires consulting contracts entered into outside of DOTD with a maximum compensation of \$50,000 or more to be advertised in the official journal of the state and in one or more newspapers of general circulation in the state 30 days before the last day proposals will be accepted. Proposed law increases this threshold to \$150,000 or more and instead requires advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids.

Present law requires consulting contracts entered into by DOTD with a maximum compensation of \$50,000 or more to be advertised in the official journal of the state, with the first notice appearing at least 15 days before the last day proposals will be accepted. Proposed law increases this threshold to \$150,000 or more and instead requires advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids.

Competitive Sealed Bid Process

Present law authorizes competitive sealed proposal procurement to be utilized in certain circumstances with the approval of the commissioner of administration and written determination by the state chief procurement officer. Proposed law removes requirement of the approval of the commissioner of administration to proceed with competitive sealed proposal procurement and otherwise retains present law.

Present law requires RFP for all consulting, social, and professional services contracts not otherwise exempt by law or regulation to indicate relative importance of price and other evaluation factors and to clearly define the tasks to be performed under the contract and the criteria to be used in evaluating the proposals and the time frames within the work must be completed. Present law further requires all other RFP to clearly state the technological or other outcome desired from the procurement of supplies, services, or major repairs, if applicable. Proposed law makes these requirements uniform for all RFP by removing the requirement that certain requests clearly state the technological or other outcome desired from the procurement of supplies, services, or major repairs, if applicable.

Present law provides for a procedure in the negotiating and awarding of contracts.

Proposed law allows contract bid proposals to be modified or withdrawn at any time prior to the conclusion of negotiations.

Proposed law requires the using agency to negotiate a contract with the responsible proposer whose proposal is determined in writing by the using agency to be the most advantageous to the state, taking into consideration review of price and the evaluation factors set forth in the RFP.

Proposed law requires contract negotiations be directed toward making certain the proposer has a clear understanding of the scope of work and the essential requirements involved in providing the required work, service, or supply, determining that the proposer will make available the necessary personnel and facilities to perform the services in the required time, and agreeing upon fair and reasonable compensation for the services rendered.

Proposed law requires the contract to be awarded to the proposer if the contract can be agreed upon with the most advantageous proposer.

Present law requires certain elements to be included in contracts entered into through RFP. Proposed law adds a requirement that the commencement date of the contract must be at least 14 days after the notice of award is issued.

Present law assigns full responsibility of administration and monitoring of the contract to the using agency and provides requirements on reporting the performance of the contract. Proposed law retains present law.

Present law provides that no contract shall be valid until executed by the head of the using agency, or his designee, and the contractor, and has been approved in writing by the state chief procurement officer, or his designee, or the director of purchasing at a college or university, if applicable. Proposed law retains present law.

Present law provides for a procedure for the head of a using agency to delegate authority to a subordinate to sign contracts on behalf of the agency. Proposed law retains present law.

Proposed law requires the office of state procurement to send written notice of an award to the contractor and a copy of such notice to all other proposers upon approval of the contract by the state chief procurement officer.

Proposed law provides a procedure for failure to negotiate a contract with an advantageous proposer that allows the using agency to enter into negotiations with the next most advantageous proposer.

Proposed law further authorizes using agencies to select additional proposers to continue negotiations in certain circumstances.

Proposed law authorizes proposals or other solicitations to be cancelled or other all proposals to be rejected if it is determined, based on the reasons provided in writing, that such action is in the best interest of the state. Proposed law further requires reasons for the cancellation to be included in the contract file.

Present law requires a determination from the state chief procurement officer that other contract procurement methods are not practicable before issuing an invitation to negotiate procurement method. Proposed law repeals present law.

Present law authorizes consulting services contracts valued less than \$75,000 for a 12-month period to be awarded without the necessity of competitive bidding or competitive negotiation. Proposed law increases this threshold to \$150,000 over a 12-month period and adds invitation to negotiate and cooperative purchasing as additional procurement methods available to use for consulting contracts.

Present law authorizes consulting services contracts valued at \$250,000 or more to be entered into with the assistance of a procurement support team provided in law and in accordance with guidelines created by the office of state procurement. Proposed law removes the floor of \$250,000 and otherwise retains present law.

Advertisement and Award of Lease Bids

Present law requires all contracts and agreements for lease or rental space be made in the name of and by the authorized representative or representative body of the agency and requires commissioner of administration approval on any such agreement. Proposed law retains present law but removes the requirement of commissioner approval for leases or rental space of a storage unit that is 1,000 square feet or less.

Present law requires every lease for the use of 5,000 square feet or more of space in a privately owned building in which the state is a lessee be awarded by competitive sealed bid with certain requirements. Proposed law increases this threshold to leases of 10,000 square

feet or more.

Present law authorizes leases of less than 5,000 square feet or less to be amended up to 4,999 square feet. Proposed law increases this threshold to allow leases of less than 10,000 square feet to be amended up to 9,999 square feet.

Present law authorizes existing leases for office or warehouse space to be renegotiated with the present lessor in certain circumstances. Proposed law retains present law but expands the authority to renegotiate with lessors to any existing lease.

Contract Controversies and Protests

Present law prohibits the state from proceeding with solicitation or awarding of a contract under timely protest unless the state chief procurement officer makes a determination the contract award is needed without delay.

Proposed law repeals present law and instead allows a protestor to obtain a stay of a contract solicitation or award if the following conditions are met:

- (1) The protestor has timely protested the solicitation or award during the applicable protest period of the contract solicitation or award.
- (2) The protestor posts a bond with a good and solvent surety or submits other security approved by the office of state procurement valued at 25% the estimated value of the contract.

Proposed law requires the bond posted or other security to be returned to the person who posted the bond or security if the protest is upheld and the award is cancelled. Proposed law requires the state chief procurement officer to hold an informal hearing on the claim to determine the amount owed. Proposed law further provides that if the protest is rejected and the award is upheld, the using agency may file a claim against the bond or security for the expenses incurred and other monetary losses suffered by the using agency resulting from the unsuccessful protest. Proposed law further requires any money not awarded by the state chief procurement officer to be returned to the person who posted the bond or submitted the security.

Present law requires the commissioner of administration or his designee to immediately render decisions on claims by or controversies between the state and a contractor arising out of a contract for professional, personal, consulting or social services. Present law renders this decision final and conclusive unless the contractor institutes suit. Proposed law retains present law but specifies that a final decision of the commissioner may be made executory by the 19th JDC in accordance with present law (C.C.P. Art. 2782).

Present law provides the 19th JDC jurisdiction over claims arising from RFP or awards of contract or other legal disputes surrounding contracts, given all administrative avenues have been exhausted. Proposed law modifies this jurisdiction to having only appellate jurisdiction in these matters. Proposed law further asserts that if the evidence, as reasonably interpreted, supports the commissioner of administration's initial decision, that his decision shall have great weight and not be reversed or modified unless there is clear showing that the decision was arbitrary or capricious.

Present law provides a timeline in which filing appeals in protests to solicitations or awards of contracts can be made to the commissioner. Present law establishes the commissioner's decision to be final unless either the decision is fraudulent or an appeal is filed in court. Proposed law adds that if an appeal is filed in court, that if the evidence, as reasonably interpreted, supports the commissioner of administration's initial decision, the commissioner's decision shall have great weight and not be reversed or modified unless there is clear showing that the decision was arbitrary or capricious.

Present law provides a procedure to appeal decisions on contracts and breach of contract controversies to the commissioner of administration for contracts other than professional, personal, consulting, and social services contracts. Present law establishes the commissioner's decision to be final unless either the decision is fraudulent or an appeal is filed in court. Proposed law adds that if an appeal is filed in court, that if the evidence, as reasonably interpreted, supports the commissioner of administration's initial decision, that the commissioner's decision shall have great weight and not be reversed or modified unless there is clear showing that the decision was arbitrary or capricious.

Present law establishes the 19th JDC as the exclusive venue over an action between the state and a bidder, offerer, or contractor to determine if a solicitation or award of a contract is legal and provides for types of actions this entails. Proposed law adds actions between the state and a person or proposer to the venue's exclusive jurisdiction. Proposed law further limits jurisdiction of the 19th JDC to be appellate jurisdiction in such matters.

Present law requires any action to be commenced within sixty days after receipt of the commissioner in decisions regarding contract controversies for contracts other than professional, personal, consulting, or social services contracts. Proposed law adds controversies between the state and a contractor arising out of professional, personal, consulting, or social services contracts to the requirement of action to be commenced within 60 days and otherwise retains present law.

Cooperative Purchasing

Present law allows public procurement units to participate, sponsor, conduct, or administer cooperative purchasing agreements with other entities to purchase of any supplies, services, major repairs, or construction services. Proposed law adds personal services, professional services, consulting services, and social services contracts to this list.

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

(Amends R.S. 39:1594(C)(1) and (3), 1595, 1621(A)-(C)(1) and (3), 1630, 1641(A), 1643(A), 1644(A)(1), (B), and (C), 1671(F), 1672.3, 1672.4(A), 1683(E)(2), 1685(E)(2), 1691 (heading), (A), (C), and (D), 1692(C), and 1702(A)(1); repeals R.S. 39:1600.2(B))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Finance to the original bill

1. Change the provision on advertisements on competitive sealed bids from being required to be published in the official journal of the state to being authorized to be published in the official journal of the state.
2. Increase the maximum threshold RFP's for consulting services contracts except for those entered into by DOTD that are exempt from public notice requirements from \$100,000 to \$150,000.
3. Change the entity required to notify failed negotiations in the invitation to negotiate procurement procedure from the using agency to the office of state procurement.
4. Add restrictions in which to timely apply for a stay of a contract in which a vendor has protested the solicitation.
5. Make technical changes.