

FOR OFFICE USE ONLY	

HOUSE FLOOR AMENDMENTS

Amendments proposed by Representative Gaines to Engrossed House Bill No. 523 by Representative Gaines

1 AMENDMENT NO. 1

2 On page 1, line 2, after "3601(A)" and before the comma, insert "and to repeal R.S. 13:4062"

3 AMENDMENT NO. 2

4 On page 1, line 4, after "subdivisions;" and before "to" insert the following:

5 "to provide for filing and notice of an affidavit; to provide for waiver of
6 certain requirements; to provide for hearings by certain legislative
7 committees; to provide for hearings on injunctions under certain
8 circumstances;"

9 AMENDMENT NO. 3

10 On page 1, delete lines 11 through 20 in their entirety and on page 2, delete lines 1 through
11 14 in their entirety and insert the following:

12 "A.(1) An injunction shall be issued in cases where irreparable injury, loss,
13 or damage may otherwise result to the applicant, or in other cases specifically
14 provided by law; ~~provided, however, that.~~

15 (2)(a) Notwithstanding the provisions of Subparagraph (1) of this Paragraph,
16 no court shall have jurisdiction to issue, or cause to be issued, any temporary
17 restraining order, preliminary injunction, or permanent injunction against any state
18 department, board, or agency, or any officer, administrator, or head thereof, or any
19 officer of the state of Louisiana in any suit involving the expenditure of public funds
20 under any statute or law of this state to compel the expenditure of state funds when
21 the ~~director~~ officer, administrator, or head of such department, board, or agency or
22 the governor shall certify by affidavit that the expenditure of such funds would have
23 the effect of creating a deficit in the funds of ~~said agency~~ the department, board, or
24 ~~agency~~, or be in violation of the requirements placed upon the expenditure of such
25 funds by the legislature. Notice of the filing and a copy of the affidavit shall be
26 served on all parties and on the clerk of the House of Representatives and the
27 secretary of the Senate.

28 (b)(i) The provisions of Subsubparagraph (a) of this Subparagraph shall also
29 apply to a petition for injunction only if the Joint Legislative Committee on the
30 Budget reviews and approves the affidavit prior to filing the affidavit or at its next
31 regularly scheduled meeting after filing the affidavit.

32 (ii) Within five days of filing of the petition for injunction, the court may
33 waive the requirement of approval of the affidavit by the Joint Legislative
34 Committee on the Budget and deem the affidavit as approved if it determines from
35 the filed pleadings that the petition for injunction is frivolous or without merit.

36 (iii) If the next regularly scheduled meeting of the Joint Legislative
37 Committee on the Budget is more than fifteen days after the date of filing of the
38 affidavit, the litigation subcommittee of the Joint Legislative Committee on the
39 Budget shall call itself into a special meeting within fifteen days from the filing of
40 the affidavit in order to review and approve the affidavit.

1
2
3
4
5
6
7
8
9
10
11
12
13
14

(c)(i) Unless the court finds that the petition is frivolous or without merit, or unless the affidavit is approved within the delays required by Subsubparagraph (b) of this Subparagraph, the court shall set a hearing for the petition for the preliminary injunction or permanent injunction pursuant to Article 3602.

(ii) At the hearing for the preliminary or permanent injunction, the state department, board, or agency shall have the burden of proving by a preponderance of the evidence that the injunction sought would have the effect of creating a deficit in the funds of the department, board, or agency, or be in violation of the requirements placed upon the expenditure of such funds by the legislature.

(iii) An adverse party may traverse the facts alleged in the affidavit and may present evidence to controvert the affidavit. The court shall give equal consideration to all evidence submitted.

* * *

Section 2. R.S. 13:4062 is hereby repealed in its entirety."

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.