

Regular Session, 2014

HOUSE BILL NO. 1261 (Substitute for House Bill No. 626 by Representative Abramson)

BY REPRESENTATIVE ABRAMSON

FISCAL CONTROLS: Establishes certain requirements regarding state contracts

1 AN ACT

2 To enact R.S. 39:9, relative to state contracts; to require contracting entities to submit certain
3 information to the commissioner of administration; to provide for the duties of the
4 commissioner of administration and agencies relative to such requirements; to
5 require the publication of certain information; to provide for certain restrictions and
6 contract prohibitions for failure to comply; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 39:9 is hereby enacted to read as follows:

9 §9. Contracting entities; documentation and approval; contract prohibition

10 A. For purposes of this Section, the following terms shall have the following
11 meanings unless the context clearly indicates otherwise:

12 (1) "State agency" shall have the same meaning as "agency" as defined in
13 R.S. 39:2.

14 (2) "Contract" shall mean an agreement by two or more parties whereby
15 obligations are created, modified, or extinguished. "Contract" shall not include a
16 provider agreement with the Department of Health and Hospitals under the state
17 medical assistance program or the early steps program or a provider agreement
18 contract entered into with any plan providing Medicaid services to Medicaid
19 recipients or with an early steps program provider.

1 (3) "Contracting entity" shall mean any person that enters into a contract
2 with a state agency. "Contracting entity" shall not include any public, private, or
3 parochial school, college, or university.

4 (4) "Governmental entity" shall mean the state or any political subdivision
5 of the state.

6 (5) "Person" means a natural person or legal entity other than a governmental
7 entity or an agency thereof.

8 B.(1) Prior to any contracting entity entering into a contract with a state
9 agency, the contracting entity shall submit the following information and documents
10 to the commissioner of administration:

11 (a)(i) If a legal entity, the official name and domicile address of the
12 contracting entity as reflected in documentation submitted to the secretary of state's
13 office.

14 (ii) If a natural person, the complete name and address of the contracting
15 entity.

16 (b) If a legal entity, a complete and accurate listing of the board of directors
17 or equivalent governing body, if any, and officers, if any, of the contracting entity.

18 (c) Documentation certifying that all applicable federal, state, and payroll
19 taxes owed by the contracting entity have been paid and are current.

20 (d) Financial statements for the most recent fiscal year of the contracting
21 entity that have been certified by a certified public accountant under oath before a
22 notary.

23 (2) A contracting entity may redact any confidential or proprietary financial
24 information from a financial statement required to be submitted pursuant to
25 Subparagraph (1)(d) of this Subsection.

26 C. A state agency contracting with a contracting entity shall certify that the
27 contracting entity is not on the noncompliance list posted on the website of the
28 legislative auditor at the time the contract is executed. This certification shall be
29 submitted to the commissioner of administration, in the manner determined by the

1 commissioner of administration, and posted on the website established pursuant to
2 R.S. 39:6 no later than three business days after the contract is executed.

3 D. No state agency shall contract with or pay monies to a contracting entity
4 unless the contracting entity and the state agency have complied with the
5 requirements of this Section.

6 E.(1) All submissions of information required of contracting entities by this
7 Section shall be made in an electronic format designated by the commissioner of
8 administration. The commissioner of administration shall post all requirements on
9 the website established pursuant to R.S. 39:6.

10 (2)(a) The commissioner of administration shall maintain the information
11 submitted pursuant to this Section on the website established pursuant to R.S. 39:6
12 and shall provide for the ability for the public to easily obtain information regarding
13 each contracting entity, including links to any relevant contract information
14 maintained by the commissioner of administration pursuant to R.S. 39:6.

15 (b) The commissioner of administration shall ensure that the information
16 submitted pursuant to this Section is available to the public on the website
17 established pursuant to R.S. 39:6 immediately upon submission.

18 (3) The commissioner of administration shall provide electronic notice to the
19 legislative auditor at the time information required by Subsection C of this Section
20 is submitted. The notice shall contain the name of the state agency, the contracting
21 entity, and identifying information regarding the contract.

22 (4) The legislative auditor shall work with the commissioner of
23 administration as necessary to ensure compliance with this Section.

24 Section 2.(A) The requirements for contracting entities contained in Section 1 of this
25 Act shall become effective on January 1, 2015, and shall apply to contracts and renewals of
26 contracts executed on or after January 1, 2015. The prohibitions on contracting entities and
27 state agencies contained in Section 1 of this Act shall become effective on July 1, 2015. The
28 commissioner of administration shall take all actions necessary to provide for the orderly

1 implementation of this Act prior to January 1, 2015, including but not limited to notice of
2 the requirements of this Act to each state agency.

3 (B) Except as otherwise provided in Subsection A of this Section, this Act shall
4 become effective on July 1, 2014.

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)]

Abramson

HB No. 1261

Abstract: Requires any contracting entity to submit information and documents to the commissioner of administration prior to entering into a contract with a state agency. Requires state agencies to certify that contracting entities are not on the legislative auditors noncompliance list. Prohibits state agencies from entering into contracts with contracting entities unless requirements are met.

Proposed law requires each contracting entity prior to entering into a contract with a state agency to submit the following information to the commissioner of administration:

- (1) If a legal entity, the official name and domicile address of the contracting entity as reflected in documentation submitted to the secretary of state's office; if a natural person, the complete name and address of the contracting entity.
- (2) If a legal entity, a complete and accurate listing of the board of directors, if any, and manager, if any, of the contracting entity.
- (3) Documentation certifying that all applicable federal, state, and payroll taxes have been paid and are current.
- (4) Financial statements for the most recent fiscal year certified by a CPA under oath. (Authorizes a contracting entity to redact any confidential or proprietary financial information).

Proposed law requires a state agency considering contracting with a contracting entity to certify that the entity is not on the legislative auditor's noncompliance list at the time the contract is executed and requires the certification to be submitted to and posted on the website of the commissioner within three business days after the contract is executed. Proposed law prohibits a state agency from contracting with or paying monies to a contracting entity unless the contracting entity and the state agency have complied with the requirements of proposed law.

Proposed law defines "state agency", "contract", "contracting entity", "governmental entity", and "person" for its purposes. Specifically excludes early steps program and state medical assistance program provider agreements and contracts from the term "contract". Specifically excludes any public, private, or parochial school, college, or university from the term "contracting entity", and further provides that "contracting entity" does not include governmental entities by excluding governmental entities from the term "person".

Proposed law provides that all submissions of information required by proposed law shall be made in an electronic format designated by the commissioner. Requires the commissioner to post all requirements on the website established by the commissioner pursuant to present

law (R.S. 39:6). Requires the commissioner to maintain the information on the website, to provide for the immediate availability of the information, and to provide for the ability for the public to easily obtain information regarding each contracting entity, including links to any relevant contract information maintained by the commissioner of administration pursuant to present law (R.S. 39:6). Requires the commissioner to provide electronic notice containing specified information to the legislative auditor at the time the certification of a state agency is submitted. Requires the legislative auditor to work with the commissioner as necessary to ensure compliance with proposed law.

Effective July 1, 2014; except provides that the requirements on contracting entities contained in proposed law shall become effective on January 1, 2015, and shall apply to contracts and renewals of contracts executed on or after January 1, 2015; The prohibitions on contracting entities and state agencies contained in proposed law shall become effective on July 1, 2015. Provides the commissioner of administration shall take all actions necessary to provide for the orderly implementation of proposed law prior to January 1, 2015.

(Adds R.S. 39:9)