
DIGEST

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HB 788 Original

2016 Regular Session

Jefferson

Abstract: Provides for optional participation by public postsecondary education institutions in the state's risk management program.

Present law (R.S. 39:1527 et seq.) provides for the creation of the office of risk management within the division of administration headed by the commissioner or administration. Further requires that public postsecondary education institutions participate in the state's risk management program.

Present law (R.S. 3139.5(B)(2)(e)) provides for exemption from participation in the state's risk management program. Further provides that exemption from participation in such program is pursuant to a determination by the division of administration that the institution or management board, as applicable, has the capacity to manage its own risk and a phased-in plan of implementation as determined by the institution in collaboration with the attorney general and the division of administration, subject to the prior review and approval of the Joint Legislative Committee on the Budget. Proposed law deletes present law in its entirety.

Proposed law provides that, notwithstanding any provision of present law to the contrary, and until July 1, 2020, any public postsecondary education institution may choose but shall not be required to participate in the state's risk management program established by present law.

Proposed law provides that nothing in proposed law shall abrogate, amend, or alter the authority of the attorney general or the Dept. of Justice under present law (Article IV, Sections 1 and 8 of the Constitution of Louisiana) or any other provision of present law to represent the state and all departments and agencies of state government in all litigation arising out of or involving tort or contract. Further provides that an institution shall enter into an interagency agreement with the attorney general and pay the attorney general reasonable attorney fees and expenses incurred in representing the institution.

Proposed law provides that nothing in proposed law shall be construed as creating any independent or separate cause of action against the state. The state shall continue to be sued only through the institution's management board and cannot be sued in addition to or separately from the institution's management board in any cause of action asserted against the institution. The office of risk management shall not be responsible for payment of any judgment against the institution's management board rendered subsequent to the transfer of the applicable line of coverage. The state's obligation to indemnify a covered individual as provided in present law (R.S. 13:5108.1) shall not be performed by the office of risk management.

Proposed law provides that any contract between the institution's management board and its insurer shall name the state as an additional insured. Any provision in any contract between the institution's management board and its insurer that conflicts with the provisions of proposed law shall be deemed null and void.

Proposed law provides that nothing in proposed law shall be construed to adversely affect any of the substantive and procedural provisions and limitations applicable to actions against the state, including but not limited to the provisions of present law (R.S. 13:5106, 5107, 5108.1, and 5112, and R.S. 9:2800) which would continue to apply equally to any institution. Those provisions that will not apply are those that are specifically excluded in proposed law. Upon transfer of each line of coverage to the institution under proposed law, the provisions of present law (R.S. 39:1527 et seq., R.S. 13:5106(B)(3)(c)) shall not apply to the line of coverage so transferred, nor to any claims asserted against the institution within the transferred line of coverage.

(Adds R.S. 17:3139.8; Repeals R.S. 3139.5(B)(2)(e))