
DIGEST

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HB 841 Original

2016 Regular Session

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Abstract: Requires certain entities to follow the Public Bid Law.

PUBLIC BID LAW

Present law provides that all public work exceeding the contract limit as defined in present law, including labor and materials, to be done by a public entity shall be advertised and let by contract to the lowest responsible and responsive bidder who had bid according to the bidding documents as advertised.

Present law (R.S. 38:2211) defines "public work" as "the erection, construction, alteration, improvement, or repair of any public facility or immovable property owned, used, or leased by a public entity."

Present law provides that a "public entity" means and includes a public corporation of the state, created by the constitution or statute or pursuant thereto.

Present law (R.S. 38:2212) provides that the "contract limit" is equal to the sum of \$150,000 per project, including labor, materials, and equipment as per the rates in the latest edition of the Associated Equipment Dealers Rental Rate Book and administrative overhead not to exceed fifteen percent, provided that beginning Feb. 1, 2015.

Present law (R.S. 38:2212) provides that annually on Feb. first of each subsequent year, the office of facility planning and control within the division of administration is to adjust the "contract limit" by an amount not to exceed the annual percentage increase in the Consumer Price Index in the preceding year. The office of facility planning and control within the division of administration is required to publish the new contract limit for public works contracts in the Louisiana Register in Jan. of each year.

The office of facility planning and control within the division of administration published the new contract limit for public works contracts in the Jan. 2016 edition of the Louisiana Register. Such limit is now \$152,400.

Proposed law retains present law.

EDUCATIONAL COOPERATIVE LAW

Present law permits the creation of cooperative, nonprofit membership corporations for the purpose of conducting private elementary or secondary schools or education facilities.

Proposed law retains present law.

Present law authorizes a cooperative to construct, maintain and operate educational facilities.

Proposed law retains present law.

Proposed law requires any contract for a public work, as such term is defined in present law (R.S. 38:2211), between a cooperative created pursuant to present law and a third party to be subject to the advertisement and bid requirements of R.S. 38:2212.

PRIVATE NONPROFIT CORPORATIONS SUPPORTING PUBLIC HIGHER EDUCATION INSTITUTIONS

Present law provides that a nonprofit corporation, whose principal purpose is to support one or more programs, facilities, or research or educational opportunities offered by public institutions of higher education, including but not limited to any nonprofit corporation whose primary purpose is to finance the design, construction, renovation, or equipping of facilities to be leased to such public institutions of higher learning, is a private entity that is not deemed to be a public or quasi public corporation or an administrative unit, public servant, employee, or agent of any institution of higher education for any purpose whatsoever if it meets all of the following criteria:

- (1) The majority of the voting members of the corporation's board of directors are not members or employees of a higher education management board.
- (2) The corporation is under the management and control of a board of directors elected by the members or shareholders of the corporation.
- (3) The corporation reimburses, either directly or through in-kind services, the cost of housing, personnel, which personnel shall remain public servants for all purposes, and other support furnished to the corporation by any institution of higher education, if any such support is furnished.

Proposed law retains present law.

Present law provides that the receipt, investment, or expenditure of public funds does not affect the private status of any corporation meeting the criteria set forth in present law; however, books and records of any such corporation, to the extent that such books and records directly pertain to the receipt, investment, or expenditure of public funds, are subject to R.S. 44:1 et seq. No other books and records of any such corporation are subject to R.S. 44:1 et seq.

Proposed law retains present law.

Proposed law provides that any project to be constructed by a corporation described in present law shall be a public work as defined in present law (R.S. 38:2211) subject to Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950 if the public funds for the project meet or exceed the contract limit as described in present law (R.S. 38:2212(C)). "Public funds" as used in proposed law mean any legislatively appropriated funds or funds of federal, state, local, parish or municipal governments.

COMMUNITY AND TECHNICAL COLLEGES FACILITIES IMPROVEMENT AND ENHANCEMENT

Present law authorizes the board of the La. Community and Technical Colleges System (LCTCS) to approve a specific list of construction and improvement projects for facilities and properties in the LCTCS system to be funded through the issuance of bonds. Further provides for requirements and limitations with respect to the issuance of bonds such as the terms of the bonds, the interest rates, requirements for the actual sale of the bonds, and approval by the State Bond Commission.

Proposed law retains present law.

Present law provides that construction projects authorized to be approved by the board of the LCTCS are to be managed and administered by a nonprofit corporation established for such purposes, regardless of the source of revenues used to fund such construction projects.

Proposed law retains present law.

Proposed law requires the construction projects authorized to be approved by the board of the LCTCS to be public works, as such term is defined in present law (R.S. 38:2211) subject to the advertisement and bid requirements of present law (R.S. 38:2212).

RESEARCH PARK CORPORATION

Present law authorizes the establishment of the Research Park Corporation as a public, nonprofit corporation authorized to create, develop, construct, operate, manage, and finance a research and development park in cooperation with the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Supervisors of Southern University and Agricultural and Mechanical College, and the governing authority of the appropriate municipality or parish.

Proposed law retains present law.

Proposed law requires that any contract for a public work, as such term is defined in present law (R.S. 38:2211) between the corporation authorized to be established in present law and a third party shall be subject to the advertisement and bid requirements of R.S. 38:2212.

REGIONAL RESEARCH AND DEVELOPMENT PARKS

Present law authorizes the establishment of regional research and development parks.

Present law authorizes regional research and development parks to create, develop, construct, operate, manage, and finance regional research and development parks, related facilities, and infrastructure, independently or in cooperation with other private or public entities, including one or more institutions of higher education.

Present law provides that in the exercise of the powers, functions, and activities authorized by present law, a regional research and development parks is not an instrumentality of the state, a state agency, board, or commission, or a political subdivision.

Proposed law retains present law.

Proposed law provides that any contract for a public work, as such term is defined in present law (R.S. 38:2211), between a regional research and development park authorized to be established pursuant to present law and a third party shall be subject to the advertisement and bid requirements of R.S. 38:2212.

LOUISIANA CITIZENS PROPERTY INSURANCE CORPORATION

Present law creates a nonprofit corporation to be known as the Louisiana Citizens Property Insurance Corporation to operate residual market insurance programs.

Proposed law retains present law.

Present law provides that the Louisiana Citizens Property Insurance Corporation is to adopt a plan of operation to be filed with and approved by the Louisiana Senate Committee on Insurance and House Committee on insurance, and filed with the commissioner of insurance.

Proposed law retains present law.

Present law requires the plan of operation to include the establishment of necessary facilities and operating procedures.

Proposed law provides that any contract for a public work, as such term is defined in present law (R.S. 38:2211), between a the Louisiana Citizens Property Insurance Corporation and a third party shall be subject to the advertisement and bid requirements of R.S. 38:2212.

LOUISIANA COMMUNITY ECONOMIC DEVELOPMENT ACT

Present law allows for the certification of a community development corporation by the Dept. of Economic Development.

Proposed law retains present law.

Present law defines a "community development corporation" is a nonprofit corporation which satisfies all of the following:

- (1) Is chartered pursuant to Chapter 2 of Title 12 of the Louisiana Revised Statutes of 1950.
- (2) Is tax exempt pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
- (3) Has a primary mission of developing and improving low-income communities and neighborhoods through economic and related development.
- (4) Has activities and decisions initiated, managed, and controlled by the constituents of the community served.
- (5) Has a primary function of developing projects and activities designed to enhance the economic opportunities of the people in the community served, including efforts to enable them to become owners and managers of small businesses, producers of affordable housing, and providers of jobs in the community served.
- (6) Does not provide credit, capital, or other assistance from public funds in an amount greater than twenty-five thousand dollars at one time or in one transaction.
- (7) Is not a nonprofit organization with the sole purpose of providing housing to neighborhoods or technical assistance to other nonprofit organizations.
- (8) Has been certified or recertified as a community development corporation as provided in present law.

Proposed law retains present law.

Proposed law provides that any contract for a public work, as such term is defined in present law (R.S. 38:2211) between a community development corporation and a third party shall be subject to the advertisement and bid requirements of R.S. 38:2212.

NONPROFIT ECONOMIC DEVELOPMENT CORPORATIONS

Present law authorizes in the state and each local governmental subdivision of the state the creation and organization of nonprofit economic development corporations.

Proposed law retains present law.

Proposed law provides that any contract for a public work, as such term is defined in present law (R.S. 38:2211) between a corporation created pursuant to the authority granted in this Chapter and a third party shall be subject to the advertisement and bid requirements of R.S. 38:2212.

(Amends R.S. 17:2804(intro. para.), 3390(C), 3394.3(A)(4), 3397.5(2), R.S. 22:2298(A)(1), and R.S. 33:9024(E)(1); Adds R.S. 17:2804(B) and 3396.8(D), and R.S. 33:130.755(E))