

2016 Regular Session

HOUSE BILL NO. 921

BY REPRESENTATIVES DAVIS AND JAY MORRIS

HIGHER EDUCATION: Provides relative to applicability of laws governing public entities to nonprofit corporations that support public postsecondary education

1 AN ACT

2 To amend and reenact R.S. 17:3390(C) and to enact R.S. 17:3390(B)(4) and 3394.4, relative
3 to corporations that support public postsecondary education; to recognize the public
4 nature of the work of such corporations and to provide for the applicability of certain
5 state laws to them; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 17:3390(C) is hereby amended and reenacted and R.S. 17:3390(B)(4)
8 and 3394.4 are hereby enacted to read as follows:

9 §3390. Private nonprofit corporations which support public higher education
10 institutions; findings; status; private funds

11 * * *

12 B. A nonprofit corporation whose principal purpose is to support one or
13 more programs, facilities, or research or educational opportunities offered by public
14 institutions of higher education, including but not limited to any nonprofit
15 corporation whose primary purpose is to finance the design, construction, renovation,
16 or equipping of facilities to be leased to such public institutions of higher learning,
17 shall be a private entity that shall not be deemed to be a public or quasi public
18 corporation or an administrative unit, public servant, employee, or agent of any
19 institution of higher education for any purpose whatsoever if it meets all of the
20 following criteria:

21 * * *

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)]

HB 921 Original

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Davis

Abstract: Provides that nonprofit corporations involved in financing and building facilities for community and technical colleges are subject to various laws that apply to public entities, e.g., Open Meetings Law and Public Records Law, and provides that such laws are also applicable to similar corporations supporting public higher education.

Present law provides that a nonprofit corporation that has as its principal purpose the support of public institutions of higher education, including a corporation to finance, design, construct, renovate, or equip facilities to be leased to such public institutions of higher learning, and that meets the following criteria is a private entity and not a public or quasi public corporation or an administrative unit, public servant, employee, or agent of any institution of higher education:

- (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 the cost of any housing, personnel, and other support furnished to the corporation by any institution of higher education.

Proposed law provides a fourth criterion that a corporation must meet to retain its private status:

- (4) Less than 10% of its income is from public sources.

Present law provides that receipt, investment, or expenditure of public funds by such a corporation does *not* affect its private status. Proposed law, consistent with the additional criterion, provides that the private status of such a corporation *is* affected by receipt, investment, or expenditure of public funds.

Present law authorizes the Bd. of Supervisors of Community and Technical Colleges (LCTCS bd.), operating through a nonprofit corporation established for the purpose, to incur debt to finance specific capital projects at specified amounts. Provides that such financing may be excluded from the state's comprehensive capital outlay budget. Provides relative to the financing of such projects through direct state appropriation; requires that each financing agreement for such projects include a provision that if the state fails to appropriate funds for the payment of sums due under a financing agreement, the agreement is terminated and the state is not liable for the payment of further sums due thereunder.

Proposed law retains present law and provides with respect to the nonprofit corporation established for its purpose or any similar corporation performing the responsibilities of the LCTCS bd. with respect to the design, construction, renovation, or equipping of facilities. Provides that such a corporation is subject to the Open Meetings Law, the Public Records Law, the La. Procurement Code, the authority of the legislative auditor, and the Code of Governmental Ethics. Further provides that the projects enumerated by present law are projects undertaken by the LCTCS bd., not by the corporation, and so are subject to present law with respect to public bid.

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

(Amends R.S. 17:3390(C); Adds R.S. 17:3390(B)(4) and 3394.4)