

2016 Regular Session

SENATE BILL NO. 462

BY SENATOR WARD

CIVIL PROCEDURE. Provides relative to the state or a state agency as a party plaintiff.
(gov sig)

1 AN ACT
2 To enact R.S. 13:3420, relative to courts and judicial procedure; to provide relative to the
3 state or state office as a party plaintiff; to provide for the real and proper party in
4 interest for standing and legal purposes; to provide certain terms, procedures,
5 conditions, requirements and effects; and to provide for related matters.
6 Be it enacted by the Legislature of Louisiana:
7 Section 1. R.S. 13:3420 is hereby enacted to read as follows:
8 **§3420. State, state departments, agencies, or offices as a party plaintiff**
9 **A. In any matter where the state or one of its departments, agencies, or**
10 **offices is a plaintiff in a legal action seeking monetary damages or any other**
11 **remedy, the state of Louisiana shall be deemed to be the real and proper party**
12 **in interest for standing and prescription purposes. This shall include actions**
13 **seeking contract damages, liquidated damages, or restitution, directly or**
14 **indirectly related to state or federal funds appropriated to the department,**
15 **agency, or office by the legislature, or monetary damages, equitable relief, fines,**
16 **penalties, or any other legal remedy related to a program funded in whole or in**
17 **part by the state or funds granted to the state by the federal government.**

1 **B. To the extent a political subdivision of the state, including but not**
 2 **limited to a state board, commission, or a levee district, asserts an action on**
 3 **behalf of the state where it is claimed that the state is the real party in interest,**
 4 **the attorney general must approve the action prior to the filing of the matter.**

5 **C. The provisions of this Section shall be given retroactive application**
 6 **and shall apply to pending actions that have not been fully adjudicated through**
 7 **the Louisiana Supreme Court at the time of the effective date of this Section.**

8 Section 2. This Act shall become effective upon signature by the governor or, if not
 9 signed by the governor, upon expiration of the time for bills to become law without signature
 10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 12 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Ben Huxen.

DIGEST

SB 462 Original

2016 Regular Session

Ward

Present law provides that prescription shall not run against the state in any civil matter, unless otherwise provided in the constitution or expressly by law. Present law further provides that if a particular state department, agency, or office, is a body politic and corporate and is given the power to sue and be sued, it cannot claim the constitutional immunity from prescription, since it could not be characterized as the state for that purpose.

Proposed law provides that in any matter where the state or one of its departments, agencies, or offices is a plaintiff in a legal action seeking monetary damages or any other remedy, including but not limited to contract damages, liquidated damages, or restitution, directly or indirectly related to state or federal funds appropriated to the department, agency, or office by the legislature, or is seeking monetary damages, equitable relief, fines, penalties, or any other legal remedy related to a program funded in whole or in part by the state or funds granted to the state by the federal government, the state of Louisiana shall be deemed to be the real and proper party in interest for standing and prescription purposes.

Proposed law further provides that, to the extent a political subdivision of the state, including but not limited to a state board, commission, or a levee district, asserts an action on behalf of the state where it is asserted that the state is the real party in interest, the attorney general must approve the action prior to the filing of the matter.

Proposed law would apply retroactively, inclusive of pending actions that have not been fully adjudicated through the Louisiana Supreme Court at the time of the effective date.

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

(Adds R.S. 13:3420)