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

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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)