

CONFERENCE COMMITTEE REPORT

SB 435

2020 Regular Session

Abraham

June 1, 2020

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 435 by Senator Abraham, recommend the following concerning the Engrossed bill:

1. That the set of House Floor Amendments proposed by Representative Stefanski and adopted by the House on May 27, 2020, be adopted.
2. That the following amendments to the engrossed bill be adopted:

AMENDMENT NO. 1

On page 2, delete lines 5 and 6, and insert "**A. Notwithstanding any other provision of law to the contrary, no natural or juridical person, state or local government, or political subdivision thereof,**"

AMENDMENT NO. 2

On page 2, at the end of line 8, delete "**such person**" and delete lines 9 through 12 and insert the following:

"the performance or provision of the person's, government's, or political subdivision's business operations unless the person, government, or political subdivision failed to substantially comply with the applicable COVID-19 procedures established by the federal, state, or local agency which governs the business operations and the injury or death was caused by the person's, government's, or political subdivision's gross negligence or wanton or reckless misconduct. If two or more sources of procedures are applicable to the business operations at the time of the actual or alleged exposure, the person, government, or political subdivision shall substantially comply with any one applicable set of procedures."

AMENDMENT NO. 3

On page 2, between lines 19 and 20, insert the following:

"Section 2. Due to the imminent threat posed by COVID-19 as provided in Proclamation Number 25 JBE 2020 and any subsequent proclamation, declaring the existence of a statewide public health emergency, Section 1 of this Act shall be retroactive to March 11, 2020."

AMENDMENT NO. 4

On page 2, line 20, change "Section 2." to "Section 3."

Respectfully submitted,

Senators:

Representatives:

Senator Mark Abraham

Representative Gregory A. Miller

Senator Barrow Peacock

Representative John M. Stefanski

Senator Patrick McMath

Representative Thomas Pressly, IV

The legislative instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Margaret M. Corley.

CONFERENCE COMMITTEE REPORT DIGEST

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Keyword and summary of the bill as proposed by the Conference Committee

LIABILITY Provides relative to certain immunity from civil liability during state of emergencies. (gov sig)

Report adopts House amendments to:

1. Make technical changes.
2. Removes "clear and convincing" as the threshold for evidence proving damages resulting from or related to COVID-19.

Report amends the bill to:

1. Provide relative to covered parties.
2. Provide that if two or more sources of procedures are applicable to the business operations at the time of the actual or alleged exposure, the person, government, or political subdivision shall substantially comply with any one applicable set of procedures.
3. Provide for an effective date of March 11, 2020.

Digest of the bill as proposed by the Conference Committee

Present law provides for the La. Homeland Security and Emergency Assistance and Disaster Act (Act).

Present law provides for certain powers of the state and political subdivisions during a declared state of emergency.

Proposed law retains present law.

Present law provides for certain immunity from civil liability for actions taken under the Act by state, political subdivisions, other agencies, agents, employees or representatives of any of them.

Proposed law provides such immunity for action taken under the Act by the state, political subdivision, other state agencies or employees or representatives of any of them.

Proposed law provides that notwithstanding any other provision of present law to the contrary, no person or entity, including any local or state governmental entity or employee thereof, shall be liable for damages or personal injury resulting from or related to an actual or alleged exposure to COVID-19 in the course of or through such person or entity's business services or while engaged in the performance of such person or entity's duties, provided that the person or entity was relying on and generally followed applicable government standards and guidance related to COVID-19 exposure.

Proposed law provides that if two or more sources of procedures are applicable to the business operations at the time of the actual or alleged exposure, the person, government, or political subdivision shall substantially comply with any one applicable set of procedures.

Proposed law provides that the limitation of liability shall not apply to any damages which resulted from or are related to the actual or alleged exposure to COVID-19 are shown by the

evidence to be the result of gross negligence, willful misconduct, or intentional criminal misconduct.

Proposed law provides that the right of any person to receive benefits to which he would otherwise be entitled under the workers' compensation law shall not be affected.

Proposed law is enforceable retroactive to March 11, 2020 due to the imminent threat posed by COVID-19 as provided in Proclamation Number 25 JBE 2020 and any subsequent proclamation, declaring the existence of a statewide public health emergency.

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

(Amends R.S. 29:735(A)(1), adds R.S. 29:773)

Report adopts House amendments to:

Report rejects House amendments which would have:

Report amends the bill to:

Digest of the bill as proposed by the Conference Committee