

2017 Regular Session

HOUSE BILL NO. 139

BY REPRESENTATIVE MCFARLAND

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC CONTRACTS: Requires prior approval of the Joint Legislative Committee on the Budget of requests for proposals, contracts, and cooperative endeavor agreements over a specified dollar amount

1 AN ACT

2 To amend and reenact R.S. 39:366.11(A)(1)(a)(i) and (3) and to enact R.S. 39:1603.1,  
3 relative to public contracts; to require prior approval of certain actions related to the  
4 procurement of professional, personal, consulting, and social services; to require  
5 prior approval of certain cooperative endeavor agreements; to provide for exceptions;  
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 39:366.11(A)(1)(a)(i) and (3) are hereby amended and reenacted and  
9 R.S. 39:1603.1 is hereby enacted to read as follows:

10 §366.11. ~~Reporting~~ Approval of and reporting on the progress and status of  
11 cooperative endeavors

12 A.(1)(a)(i) Prior to the confection of any cooperative endeavor agreement  
13 which would result or is expected to result in any nonpublic party to the agreement  
14 generating or expending revenue of one million dollars or more per year from the  
15 operation, management, or control of a state resource, the commissioner of  
16 administration shall be informed by the state agency seeking confection of the  
17 proposed agreement. When the commissioner has determined that the parties are  
18 sufficiently far enough along in negotiations that the essential elements of the  
19 proposed agreement have been worked out by the parties and can be explained to the

1 Joint Legislative Committee on the Budget, the commissioner shall instruct the state  
 2 agency to inform the committee of the proposed agreement not less than thirty  
 3 calendar days prior to the next regular meeting of the Joint Legislative Committee  
 4 on the Budget. For any cooperative endeavor agreement which would result or is  
 5 expected to result in any nonpublic party to the agreement generating or expending  
 6 revenue of fifteen million dollars or more per year, or which would result in the state  
 7 expending or appropriating fifteen million dollars or more, the state shall not enter  
 8 into the agreement unless it has had a hearing and been approved by the Joint  
 9 Legislative Committee on the Budget. ~~The~~ For all other cooperative endeavor  
 10 agreements, the Joint Legislative Committee on the Budget may hold a hearing on  
 11 the agreement any time prior to the official confection of the agreement. No  
 12 agreement shall be officially conected prior to the expiration of the time within  
 13 which the Joint Legislative Committee on the Budget may hold a hearing.

14 \* \* \*

15 (3)(a) The Joint Legislative Committee on the Budget by official action of  
 16 the committee communicated in writing by the chairperson of the committee to the  
 17 state agency may prohibit the state agency from entering into a cooperative endeavor  
 18 agreement for failure to provide the information required in Paragraph (2) of this  
 19 Subsection.

20 (b) The state shall be prohibited from entering into any cooperative endeavor  
 21 agreement which would result or is expected to result in any nonpublic party to the  
 22 agreement generating or expending revenue of more than fifteen million dollars per  
 23 year, or which would result in the state expending or appropriating fifteen million  
 24 dollars or more, unless it has been reviewed and approved by the Joint Legislative  
 25 Committee on the Budget. After August 1, 2017, the state shall be prohibited from  
 26 appropriating or expending fifteen million dollars or more pursuant to a cooperative  
 27 endeavor agreement unless the agreement has been reviewed and approved by the  
 28 Joint Legislative Committee on the Budget.

29 \* \* \*

1        §1603.1. Purchases of professional, personal, consulting, or social services; prior  
2                    approval required

3                    A.(1) Except as provided in Paragraph (2) of this Subsection, no request for  
4        proposals for professional, personal, consulting, or social services contracts with a  
5        total maximum compensation of fifteen million dollars or more shall be advertised  
6        unless the request has been reviewed and approved by the Joint Legislative  
7        Committee on the Budget prior to its advertisement.

8                    (2) No request for proposals for professional, personal, consulting, or social  
9        services contracts with a total maximum compensation of fifteen million dollars or  
10       more for which the resulting contract must be approved by the Department of Health  
11       and Human Services, Centers for Medicare and Medicaid Services, shall be  
12       advertised unless it has been reviewed by the Joint Legislative Committee on the  
13       Budget prior to the advertisement of the request for proposals.

14                   B. No professional, personal, consulting, or social services contract with a  
15       total maximum compensation of fifteen million dollars or more shall be entered into  
16       on or after August 1, 2017, unless it has been reviewed and approved by the Joint  
17       Legislative Committee on the Budget.

18                   C. No request for proposals or contracts for professional, personal,  
19       consulting, or social services shall be divided or otherwise separated into multiple  
20       proposals or contracts in order to circumvent the requirements of this Section.  
21       Accordingly, any subsequent or amended contract entered into with the same party  
22       for the same purpose as an existing contract which causes payment to the party for  
23       such purpose to exceed fifteen million dollars in a one-year period, regardless of the  
24       actual dollar value of the subsequent or amended contract, shall be subject to prior  
25       review or prior review and approval by the Joint Legislative Committee on the  
26       Budget in accordance with the requirements of this Section.

27                   D. No professional, personal, consulting, or social services contract with a  
28       total maximum compensation of fifteen million dollars or more shall be valid nor

1           shall the state be bound by the contract unless all requirements of this Section have  
2           been met.

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## 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)]

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HB 139 Original

2017 Regular Session

McFarland

**Abstract:** Requires prior actions of the Joint Legislative Committee on the Budget (JLCB) for certain requests for proposals (RFPs), contracts, and cooperative endeavor agreements over \$15 million.

Proposed law requires prior review and approval of the JLCB of (RFPs) for professional, personal, consulting, or social services contracts of more than \$15 million.

Proposed law requires prior review, but not approval, by the JLCB of RFPs for professional, personal, or consulting services contracts of more than \$15 million which must be approved by the U.S. Dept. of Health and Human Services, Centers for Medicare and Medicaid Services (CMS).

Proposed law prohibits the entering into of any professional, personal, consulting, or social services contract with a total maximum compensation of \$15 million after Aug. 1, 2017, unless it has been reviewed and approved by the JLCB.

Proposed law prohibits dividing or separating RFPs or contracts to circumvent the requirements of proposed law. Requires review and approval of the JLCB of any subsequent or amended contract with the same party for the same purpose as the existing contract which causes payment to the party to exceed \$15 million.

Present law (R.S. 39:366.11) provides for reporting to the JLCB for cooperative endeavor agreements expected to result in any nonpublic party to the agreement generating or expending revenue of \$1 million or more.

Present law requires the agency entering into the agreement to submit certain information to the JLCB. Further authorizes the JLCB to prohibit the state agency from entering into a cooperative endeavor agreement for failure to provide the information required in present law.

Proposed law retains present law and additionally requires JLCB approval for the state to enter into any cooperative endeavor agreement expected to result in any nonpublic party to the agreement generating or expending revenue of \$15 million or more, or which would result in the state expending or appropriating \$15 million or more. Further, after Aug. 1, 2017, the state is prohibited from appropriating or expending \$15 million or more for a cooperative endeavor agreement unless it has been reviewed and approved by the JLCB.

(Amends R.S. 39:366.11(A)(1)(a)(i) and (3); Adds R.S. 39:1603.1)