

2017 Regular Session

HOUSE BILL NO. 307

BY REPRESENTATIVE LYONS

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

TAX RETURN: Requires a tax clearance from the Dept. of Revenue for certain licenses, permits, tax resale certificates, and state contracts

1 AN ACT

2 To enact R.S. 39:1624(A)(10) and R.S. 47:1508(B)(41) and 1678, relative to tax clearances
3 from the Department of Revenue; to require a tax clearance for the issuance or
4 renewal of a sales tax resale certificate; to require a tax clearance for approval of
5 certain state contracts; to provide for exceptions; to provide for an effective date; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 39:1624(A)(10) is hereby enacted to read as follows:

9 §1624. Approval of contract; penalties

10 A. Before approving a proposed contract for professional, personal,
11 consulting, or social services, the state chief procurement officer or an assistant shall
12 have determined that:

13 * * *

14 (10) The prospective contractor is current in the filing of all applicable tax
15 returns and reports, and in payment of all taxes, interest, penalties, and fees owed to
16 the state and collected by the Department of Revenue in accordance with R.S.
17 47:1678.

18 Section 2. R.S. 47:1508(B)(41) and 1678 are hereby enacted to read as follows:

19 §1508. Confidential character of tax records

20 * * *

1 B. Nothing herein contained shall be construed to prevent:

2 * * *

3 (41) Upon the request of the chief procurement officer, for purpose of the
4 requirements established under R.S. 47:1678, the secretary is authorized to disclose
5 to the Office of State Procurement information concerning whether a prospective
6 contractor for a contract with the state for the procurement of personal, professional,
7 consulting or social services or the purchasing of food, supplies, or major repairs that
8 requires the approval of the Office of State Procurement is current in the filing of all
9 applicable tax returns and reports and in the payment of all taxes, interest, penalties,
10 and fees owed to the state and collected by the Department of Revenue. The
11 information disclosed shall be used solely for the purpose of determining whether
12 the contract may be approved by the Office of State Procurement. The secretary shall
13 not disclose any data from returns or reports provided by the Internal Revenue
14 Service. Any information so furnished shall be considered and held as confidential
15 and privileged by the Office of State Procurement as is required under Subsection
16 A of this Section.

17 §1678. Tax clearances; resale certificates; certain procurement contracts

18 A. Notwithstanding any other provision of law to the contrary, no state sales
19 tax resale certificate shall be issued or renewed for any applicant unless the applicant
20 is current in filing all tax returns and in payment of all taxes, interest, penalties, and
21 fees owed to the state of Louisiana.

22 B. Notwithstanding any other provision of law to the contrary, no contract
23 that requires the review and approval of the Office of State Procurement for the
24 procurement of personal, professional, consulting or social services or the purchasing
25 of food, supplies or major repairs shall be approved unless the chief procurement
26 officer for the Office of State Purchasing has received a tax clearance from the
27 Department of Revenue indicating the proposed contractor is current in filing all tax
28 returns and in payment of all taxes, interest, penalties, and fees owed to the state of
29 Louisiana. The tax clearance required by this Section shall not be required for

1 purposes of bidding on or solicitation of a procurement contract. For purposes of
2 this Section, the tax clearance shall be required for the approval of all procurement
3 contracts with this state for purposes including but not limited to the following:

4 (1) For the purpose of capital construction.

5 (2) To provide any product, good, service, or repair.

6 (3) For the procurement of supplies, services, or major repairs, including but
7 not limited to high technology acquisitions or of complex services.

8 (4) For consulting, professional, personal, and social services.

9 (5) For purchase or lease of property as authorized by law.

10 (6) For the procurement of medical and laboratory supplies and medical
11 equipment required for the purpose of diagnosis or direct treatment of a patient by
12 a health care provider in a hospital or clinical setting, including procurement through
13 a group purchasing organization.

14 C. An exception to the requirements of this Section for a procurement
15 enumerated in Subsection B of this Section is authorized in either of the following
16 circumstances:

17 (1) The chief procurement officer or his designee if the designee is above the
18 level of procurement officer may make or authorize others to approve a contract for
19 emergency procurements when there exists an imminent threat to the public health,
20 welfare, safety, or public property under emergency conditions as defined in
21 accordance with regulations.

22 (2) The chief procurement officer or his designee if the designee is above the
23 level of procurement officer determines in writing that there is only one source for
24 the required product, service, or major repair item.

25 D. This Section shall not apply to any of the following:

26 (1) Contracts for construction, maintenance, or repair of highways and
27 streets or to contracts financed in whole or in part by contributions or loans from any
28 agency of the United States government.

1 (2) A procurement contract of an institution of higher education or other
2 agency of higher education if the state chief procurement officer has delegated
3 authority to procure the contracted services using private grant funds or federal funds
4 that are available specifically for purposes of the contract.

5 E. The chief procurement officer for the Office of State Procurement shall
6 provide the secretary a list of the prospective contractors that require a tax clearance
7 for approval of a procurement contract. Such list shall be submitted to the secretary
8 in the manner and form prescribed by the secretary. The secretary, upon receipt, shall
9 provide the chief procurement officer with a signed tax clearance for each applicant
10 indicating whether the proposed contractor is current in filing all tax returns and in
11 payment of all taxes, interest, penalties, and fees owed to the state of Louisiana,
12 excluding items under formal appeal pursuant to applicable statutes or being paid in
13 compliance with the terms of an installment agreement. Where an assessment against
14 a proposed contractor has become final and collectible by distrant and sale, such
15 proposed contractor shall not be approved for a procurement contract until such time
16 as the proposed contractor has filed the applicable tax returns and paid or made
17 arrangements to pay the delinquent tax liability and the secretary notifies the state
18 chief procurement officer of the payment or arrangement to pay.

19 F. The secretary is authorized to promulgate rules and regulations in
20 accordance with the Administrative Procedure Act as may be necessary to implement
21 the provisions of this Section.

22 Section 3. The provisions of this Act shall apply to any request for issuance
23 or renewal of a resale certificate submitted to the Department and to any approval
24 or request for approval of a contract submitted to the Office of State Procurement on
25 or after October 1, 2017.

26 Section 4. This Act shall become effective upon signature of the governor
27 or, if not signed by the governor, upon expiration of the time for bills to become law without
28 signature by the governor, as provided in Article III, Section 18 of the Constitution of

- 1 Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act
2 shall become effective on the day following such approval.
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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)]

HB 307 Engrossed

2017 Regular Session

Lyons

Abstract: Requires a tax clearance from the Dept. of Revenue for the issuance or renewal of a tax resale certificate and the approval of certain state procurement contracts.

Proposed law provides that in order for a person to receive a sales tax resale certificate from the Dept. of Revenue, a tax clearance certificate shall be required to confirm that the applicant is current in the filing of all applicable tax returns and reports, and in payment of all taxes, interest, penalties, and fees owed to the state and collected by the Dept. of Revenue.

Present law establishes requirements for the approval of procurement contracts by the Office of State Procurement.

Proposed law changes present law by adding a requirement that before the office of state procurement can approve a contract for professional, consulting, or social services, or for the purchase of food, supplies, or major repairs, a tax clearance certificate shall be required to confirm that the proposed contractor is current in the filing of all applicable tax returns and reports, and in payment of all taxes, interest, penalties, and fees owed to the state and collected by the Dept. of Revenue.

Proposed law provides that a tax clearance certificate shall not be required for purposes of bidding or the solicitation of a procurement contract.

Proposed law requires that the chief procurement officer provide the secretary of the Dept. of Revenue (secretary) a list of the prospective contractors that require a tax clearance for approval of a procurement contract. The secretary is then required to provide the chief procurement officer with a signed tax clearance for each applicant indicating whether the proposed contractor is current in filing all tax returns and in payment of all taxes, interest, penalties, and fees owed to the state of La., excluding items either under formal appeal pursuant to present law or being paid in compliance with the terms of an installment agreement.

Proposed law provides that in instances where an assessment against a proposed contractor has become final and collectible by distraint and sale, such proposed contractor shall not be approved for a procurement contract until such time as the proposed contractor has filed the applicable tax returns and paid or made arrangements to pay the delinquent tax liability and the secretary notifies the chief procurement officer of the payment or arrangement to pay.

Present law provides for the circumstances under which the secretary may disclose certain taxpayer information to other state agencies.

Proposed law changes present law by adding an exception for a request made by the chief procurement officer, for purpose of the proposed law, specifically concerning whether a prospective contractor is, as required by proposed law, current in the filing of all applicable tax returns and reports and in the payment of all taxes, interest, penalties, and fees owed to

the state and collected by the Dept. of Revenue. The information disclosed shall be used solely for the purpose of determining whether the contract may be approved by the Office of State Procurement.

Proposed law exempts from the requirements of proposed law procurements in the following circumstances:

- (1) A contract approved by the Office of State Procurement that involves an emergency or a sole source procurement.
- (2) A contract for construction, maintenance, or repair of highways, or a contract financed by the U.S. government.
- (3) A contract for an institution of higher education or other agency of higher education if the chief procurement officer has delegated authority to procure contracted services using private grant funds or federal funds.

Proposed law authorizes the secretary to promulgate rules and regulations in accordance with the Administrative Procedure Act as may be necessary to implement the provisions of proposed law.

Proposed law applies prospectively only.

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

(Adds R.S. 39:1624(A)(10), and R.S. 47:1508(B)(41) and 1678)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Restrict applicability of proposed law to applications for sales tax resale certificates and certain state procurement contracts which require the approval of the Office of State Procurement.
2. Add an exception to the confidentiality provisions of present law concerning the disclosure of certain taxpayer information by the secretary of the Dept. of Revenue to the chief procurement officer for purposes of proposed law.
3. Establish the procedure for the exchange of information between the chief procurement officer and the secretary of the Dept. of Revenue regarding proposed contractors and tax clearance certificates.
4. Provide that a tax clearance certificate shall not be required for purposes of bidding or solicitation of a procurement contract.
5. Authorize rulemaking.