

Regular Session, 2013

SENATE BILL NO. 235

BY SENATOR THOMPSON

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

PUBLIC CONTRACTS. Provides relative to requirements for certain public-private partnerships. (gov sig)

1 AN ACT

2 To enact R.S. 17:1517.2 and 1519.19 and R.S. 39:366.12, relative to public-private

3 partnerships for certain health care institutions; to provide for the continued mission

4 of health care institutions that enter into public-private partnerships; to provide for

5 the review and approval by, and reporting to, the Joint Legislative Committee on the

6 Budget of contracts for certain public-private partnerships; to provide for an effective

7 date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 17:1517.2 and 1519.19 are hereby enacted to read as follows:

10 **§1517.2. Public-private partnerships; mission**

11 **Notwithstanding any provision of law to the contrary, any public-private**

12 **partnership, lease, cooperative endeavor agreement, memorandum of**

13 **understanding, or other contractual agreement which would result in or is**

14 **expected to result in a change or alteration in the management or operation of**

15 **a health care institution, or the programs and facilities thereof, owned or**

16 **operated as of January 1, 2013 by the Louisiana State University Health**

17 **Sciences Center at Shreveport, shall contain provisions which provide all of the**

1 **following:**

2 **(1) Continue the commitment to collaborate with and support rural**  
3 **physicians and rural hospitals in northeast Louisiana by sponsoring continuing**  
4 **medical education, furnishing medical consultation to and with physicians, and**  
5 **rendering other support as may be appropriate.**

6 **(2) Enhance the stability and competitiveness of Louisiana's academic**  
7 **and training programs so that Louisiana is positioned to attract the most**  
8 **talented faculty, students, residents and other medical professionals.**

9 **(3) Optimize the medical training resources available in Louisiana and**  
10 **ensure that sufficient numbers of qualified healthcare professionals exist to**  
11 **address the current and future healthcare needs of Louisiana.**

12 **(4) Continue the service of safety-net hospitals and their central role in**  
13 **providing healthcare services to the uninsured and high risk Medicaid**  
14 **populations.**

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16 **§1519.19. Public-private partnerships; mission**

17 **Notwithstanding any provision of law to the contrary, any public-private**  
18 **partnership, lease, cooperative endeavor agreement, memorandum of**  
19 **understanding, or other contractual agreement which would result in or is**  
20 **expected to result in a change or alteration in the management or operation of**  
21 **a health care institution, or the programs and facilities thereof, owned or**  
22 **operated as of January 1, 2013 by the Louisiana State University Health**  
23 **Sciences Center at New Orleans, shall contain provisions which provide all of**  
24 **the following:**

25 **(1) Continue the commitment to collaborate with and support rural**  
26 **physicians and rural hospitals in southern Louisiana by sponsoring continuing**  
27 **medical education, furnishing medical consultation to and with physicians, and**  
28 **rendering other support as may be appropriate.**

29 **(2) Enhance the stability and competitiveness of Louisiana's academic**

1 and training programs so that Louisiana is positioned to attract the most  
2 talented faculty, students, residents and other medical professionals.

3 (3) Optimize the medical training resources available in Louisiana and  
4 ensure that sufficient numbers of qualified healthcare professionals exist to  
5 address the current and future healthcare needs of Louisiana.

6 (4) Continue the service of safety-net hospitals and their central role in  
7 providing healthcare services to the uninsured and high risk Medicaid  
8 populations.

9 Section 2. R.S. 39:366.12 is hereby enacted to read as follows:

10 § 366.12. Approval of the Joint Legislative Committee on the Budget of public-  
11 private partnership agreements for certain health care  
12 institutions, programs or facilities thereof

13 A. Prior to the confection of any lease, cooperative endeavor agreement,  
14 public-private partnership, memorandum of understanding, or other  
15 contractual agreement which would result in or is expected to result in a change  
16 or alteration in the management or operation of a health care institution, or the  
17 programs and facilities thereof, owned or operated as of January 1, 2013 by the  
18 Louisiana State University Health Sciences Center at New Orleans or the  
19 Louisiana State University Health Sciences Center at Shreveport, hereafter  
20 referred to as contract, such contract shall be reviewed and approved by the  
21 Joint Legislative Committee on the Budget, as provided in this Section.

22 B. Such proposed contract shall contain provisions which provide all of  
23 the following:

24 (1) Continue the commitment of the health care institution, or the  
25 programs or facilities thereof, to collaborate with and support rural physicians  
26 and rural hospitals in Louisiana by sponsoring continuing medical education,  
27 furnishing medical consultation to and with physicians, and rendering other  
28 support as may be appropriate.

29 (2) Enhance the stability and competitiveness of Louisiana's academic

1 and training programs so that Louisiana is positioned to attract the most  
2 talented faculty, students, residents and other medical professionals.

3 (3) Optimize the medical training resources available in Louisiana and  
4 ensure that sufficient numbers of qualified healthcare professionals exist to  
5 address the current and future healthcare needs of Louisiana.

6 (4) Continue the service of safety-net hospitals and their central role in  
7 providing healthcare services to the uninsured and high risk Medicaid  
8 populations.

9 C. Such proposed contract shall contain a resolatory condition that such  
10 agreement shall not be effective unless it is approved by the Joint Legislative  
11 Committee on the Budget.

12 D. Such proposed contract shall be submitted to the commissioner of  
13 administration, the Joint Legislative Committee on the Budget, and the  
14 Legislative Fiscal Office, a minimum of sixteen working days prior to  
15 consideration by the Joint Legislative Committee on the Budget. Each  
16 submission shall include an analysis of the proposed transaction, including the  
17 estimated financial and economic impact of the transaction to the state and the  
18 local health care community, the expected duration of the agreement, and the  
19 obligations of the parties to the agreement. Transactions not submitted in  
20 accordance with the provisions of this Section shall only be considered by the  
21 Joint Legislative Committee on the Budget when extreme circumstances  
22 requiring immediate action exist.

23 E. (1) The parties to any lease, cooperative endeavor agreement, public-  
24 private partnership, memorandum of understanding, or other contractual  
25 agreement which would result in or is expected to result in a change or  
26 alteration in the management or operation of a health care institution, or the  
27 programs and facilities thereof, owned or operated as of January 1, 2013 by the  
28 Louisiana State University Health Sciences Center at New Orleans or the  
29 Louisiana State University Health Sciences Center at Shreveport, hereafter

1 referred to as contract, shall annually report to the commissioner of  
2 administration at a time and in a form established by the commissioner by rule  
3 adopted pursuant to the Administrative Procedure Act all of the following:

4 (a) Verification regarding all of the following:

5 (i) The collaboration with and support of rural physicians and rural  
6 hospitals in northeast or southern Louisiana by sponsoring continuing medical  
7 education, furnishing medical consultation to and with physicians, and  
8 rendering other support as may be appropriate.

9 (ii) Enhancement of the stability and competitiveness of Louisiana's  
10 academic and training programs so that Louisiana is positioned to attract the  
11 most talented faculty, students, residents and other medical professionals.

12 (iii) Optimization of the medical training resources available in  
13 Louisiana and ensuring that sufficient numbers of qualified healthcare  
14 professionals exist to address the current and future healthcare needs of  
15 Louisiana.

16 (iv) Continue the service of safety-net hospitals and their central role in  
17 providing healthcare services to the uninsured and high risk Medicaid  
18 populations.

19 (b) The amount of revenue, including but not limited to federal matching  
20 funds, by month and by year and as compared to all prior years of the  
21 agreement generated as a result of the contract.

22 (c) The total expenditures for patient care by payor source, budgeted and  
23 actual expenditure of revenue thusly generated, including the costs of  
24 professional services, pharmacy, durable medical equipment and other costs for  
25 care to indigent and prisoner care patients.

26 (d) Any and all changes in the agreement since the last report.

27 (2)(a) Using this information, the commissioner shall annually inform the  
28 members of the Joint Legislative Committee on the Budget of the status of each  
29 contract, including changes in the cost of providing services under these

1 contracts as compared to when such services were provided directly by the  
2 Louisiana State University Health Sciences Centers, and any other information  
3 regarding the matter which the commissioner determines is significant to the  
4 goal of this Section.

5 (b) In response to the annual report required by this Paragraph, the  
6 Joint Legislative Committee on the Budget may hold a meeting with the  
7 commissioner of administration and/or the parties to any cooperative endeavor  
8 agreement to clarify matters of concern.

9 (3) In adopting the rules and in reporting to the Joint Legislative  
10 Committee on the Budget, the commissioner of administration shall provide for  
11 the protection of propriety, confidential, and competitive information regarding  
12 any non-public party to a contract which is excepted by any provision of law,  
13 other than this Section, from being public record or from public disclosure.

14 F.(1) Without altering the private nature of a non-public person  
15 participating in a contract, such person shall, as a condition of participation in  
16 the contract, maintain all of its books and records with respect to the receipt,  
17 use, or expenditure of the revenue generated as a result of the contract, as  
18 public documents and make them available for inspection and copying pursuant  
19 to the provisions of the Public Records Law, R.S. 44:1 et seq.

20 (2) This Subsection shall not be interpreted to require the disclosure of  
21 the names or other identifying personal information of individual donors who  
22 make contributions to nonprofit corporations which support public institutions  
23 of postsecondary education as provided in R.S. 17:3390 or the names or other  
24 identifying personal information of individual consumers of services or  
25 products which may form a portion of the revenue generated or expended. The  
26 receipt, use, or expenditure of such amounts may be recorded in the books and  
27 records and, if so recorded, shall be reported and be publicly available in globo.

28 Section 2. This Act shall become effective upon signature by the governor or, if not  
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
3 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Martha S. Hess.

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#### DIGEST

Proposed law provides that notwithstanding any provision of law to the contrary, any public-private partnership, lease, cooperative endeavor agreement, memorandum of understanding, or other contractual agreement which would result in or is expected to result in a change or alteration in the management or operation of a health care institution, or the programs and facilities thereof, owned or operated as of 1/1/13 by either the LSUHSC-Shreveport or the LSUHSC-New Orleans, shall contain provisions which provides all of the following:

- (1) Continue the commitment to collaborate with and support rural physicians and rural hospitals in northeast or southern Louisiana by sponsoring continuing medical education, furnishing medical consultation to and with physicians, and rendering other support as may be appropriate.
- (2) Enhance the stability and competitiveness of Louisiana's academic and training programs so that Louisiana is positioned to attract the most talented faculty, students, residents and other medical professionals.
- (3) Optimize the medical training resources available in Louisiana and ensure that sufficient numbers of qualified healthcare professionals exist to address the current and future healthcare needs of Louisiana.
- (4) Continue the service of safety-net hospitals and their central role in providing healthcare services to the uninsured and high risk Medicaid populations.

Proposed law further provides that prior to the confection of any lease, cooperative endeavor agreement, public-private partnership, memorandum of understanding, or other contractual agreement which would result in or is expected to result in a change or alteration in the management or operation of a health care institution, or the programs and facilities thereof, owned or operated as of 1/1/13 by the LSUHSC-Shreveport or the LSUHSC-New Orleans, hereafter referred to as contract, such contract shall be reviewed and approved by the Joint Legislative Committee on the Budget, as provided in proposed law.

Proposed law requires such proposed contract to contain provisions which provides all of the following:

- (1) Continue the commitment of the health care institution, or the programs or facilities thereof, to collaborate with and support rural physicians and rural hospitals in Louisiana by sponsoring continuing medical education, furnishing medical consultation to and with physicians, and rendering other support as may be appropriate.
- (2) Enhance the stability and competitiveness of Louisiana's academic and training programs so that Louisiana is positioned to attract the most talented faculty, students, residents and other medical professionals.
- (3) Optimize the medical training resources available in Louisiana and ensure that

sufficient numbers of qualified healthcare professionals exist to address the current and future healthcare needs of Louisiana.

- (4) Continue the service of safety-net hospitals and their central role in providing healthcare services to the uninsured and high risk Medicaid populations.

Proposed law further requires such proposed contract to contain a resolatory condition that such agreement shall not be effective unless it is approved by the Joint Legislative Committee on the Budget.

Proposed law provides that the proposed contract shall be submitted to the commissioner of administration, the Joint Legislative Committee on the Budget, and the Legislative Fiscal Office, a minimum of 16 working days prior to consideration by the Joint Legislative Committee on the Budget and that each submission shall include an analysis of the proposed transaction, including the estimated financial and economic impact of the transaction to the state and the local health care community, the expected duration of the agreement, and the obligations of the parties to the agreement.

Proposed law further provides that the parties to the contract shall annually report to the commissioner of administration at a time and in a form established by the commissioner by rule adopted pursuant to the Administrative Procedures Act all of the following:

- (1) Verification regarding all of the following:
  - (a) The collaboration with and support of rural physicians and rural hospitals in northeast or southern Louisiana by sponsoring continuing medical education, furnishing medical consultation to and with physicians, and rendering other support as may be appropriate.
  - (b) Enhancement of the stability and competitiveness of Louisiana's academic and training programs so that Louisiana is positioned to attract the most talented faculty, students, residents and other medical professionals.
  - (c) Optimization of the medical training resources available in Louisiana and ensuring that sufficient numbers of qualified healthcare professionals exist to address the current and future healthcare needs of Louisiana.
  - (d) Continue the service of safety-net hospitals and their central role in providing healthcare services to the uninsured and high risk Medicaid populations.
- (2) The amount of revenue, including but not limited to federal matching funds, by month and by year and as compared to all prior years of the agreement generated as a result of the contract.
- (3) The total expenditures for patient care by payor source, budgeted and actual expenditure of revenue thusly generated, including the costs of professional services, pharmacy, durable medical equipment and other costs for care to indigent and prisoner care patients.
- (4) Any and all changes in the agreement since the last report.

Proposed law provides that in adopting the rules and in reporting to the Joint Legislative Committee on the Budget, the commissioner of administration shall provide for the protection of propriety, confidential, and competitive information regarding any non-public party to a contract which is excepted by any provision of law, other than proposed law, from being public record or from public disclosure.

Proposed law requires that non-public persons participating in a contract, shall, as a



condition of participation in the contract, maintain all of its books and records with respect to the receipt, use, or expenditure of the revenue generated as a result of the contract, as public documents and make them available for inspection and copying pursuant to the provisions of the public records law, R.S. 44:1 et seq.

Proposed law provides that it shall not be interpreted to require the disclosure of the names or other identifying personal information of individual donors who make contributions to nonprofit corporations which support public institutions of postsecondary education as provided in R.S. 17:3390 or the names or other identifying personal information of individual consumers of services or products which may form a portion of the revenue generated or expended. The receipt, use, or expenditure of such amounts may be recorded in the books and records and, if so recorded, shall be reported and be publicly available in globo.

Effective upon signature of the governor.

(Adds R.S. 17:1517.2 and 1519.19 and R.S. 39:366.12)