

Regular Session, 2014

HOUSE BILL NO. 874

BY REPRESENTATIVE STUART BISHOP

LEGISLATIVE OVERSIGHT: Requires annual and monthly reports to the legislature regarding litigation instituted by a state agency

1 AN ACT

2 To enact R.S. 36:8.1, relative to reporting requirements of various state agencies of the
3 executive branch; to require an annual report to the legislature of all civil, legal
4 actions filed by an agency; to provide for the content of such reports; to provide
5 exceptions thereto; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 36:8.1 is hereby enacted to read as follows:

8 §8.1. Litigation oversight; reports to the legislature

9 A.(1)(a) The head of each agency shall make and publish an annual report
10 to the legislature containing a list of all civil actions brought in a court of law by the
11 agency as a named party plaintiff.

12 (b) The attorney general shall make and publish an annual report to the
13 legislature containing a list of all civil actions brought in a court of law by the state
14 of Louisiana as a named party plaintiff.

15 (2) Each such report shall include all cases instituted, pending, or concluded
16 during the preceding calendar year and shall:

17 (a) Contain the names of all party plaintiffs and all named party defendants
18 as they appear on the pleadings, the court which has jurisdiction over the matter, the
19 docket number, the cause of action being averred, and the relief being sought.

20 (b) Indicate the current status of the case, including whether the case has
21 been heard on the merits, whether there is a final judgment therein and, if so, an

1 indication if the final judgment was determined on a procedural or substantive issue,
2 whether the case has settled prior to any final judgment, and whether an appeal has
3 been taken and, if so, if that appeal was initiated by the agency.

4 (c) List of the name or names of all outside counsel representing the agency
5 or the state and the agreement of the agency or the attorney general on behalf of the
6 agency or the state, including the hourly rate of pay for the attorney or attorneys and
7 paraprofessionals or the percentage of compensation or commission.

8 (3)(a) One week before the convening of each annual legislative session, a
9 copy of the report shall be submitted by the head of each agency and the attorney
10 general to the presiding officer of each house of the legislature and shall also be
11 submitted in accordance with the provisions of R.S. 24:772.

12 (b) The presiding officer shall refer the report to the appropriate committee
13 having jurisdiction of the subject matter as provided in the rules of the respective
14 house, and any legislative committee which receives a report may conduct a hearing
15 thereon.

16 B.(1) In addition to the report required in Subsection A of this Section, the
17 head of each agency and the attorney general shall submit a monthly report listing
18 every civil action instituted by the agency or the attorney general since the
19 submission of the last monthly report.

20 (2) The monthly report shall be submitted in the form of an e-mail and shall
21 be sent to the David R. Poynter Legislative Research Library on or before the fourth
22 Monday of every month. The e-mail shall be captioned in the subject line "Litigation
23 Disclosure" and shall include the name of the submitting agency. It shall also
24 contain a uniform resource locator (URL) link to a copy of the petition, or
25 amendment thereto, for each civil action listed. The e-mail shall clearly indicate the
26 applicable reporting period and list the name and contact information of the person
27 submitting the e-mail and the person responsible for maintaining the URL, which
28 URL shall be maintained by the agency or the attorney general for a minimum of one
29 year.

1 C. The provisions of this Section shall apply to any civil action filed by the
2 following departments or offices, including offices and agencies thereof, collectively
3 referred to in this Section as "agency":

4 (1) Department of Agriculture and Forestry.

5 (2) Department of State Civil Service.

6 (3) Department of Economic Development.

7 (4) Department of Education.

8 (5) Department of Children and Family Services, except cases brought
9 pursuant to the Children's Code and Title 46 of the Louisiana Revised Statutes of
10 1950.

11 (6) Department of Culture, Recreation and Tourism.

12 (7) Department of Environmental Quality.

13 (8) Department of Health and Hospitals, except Medicaid fraud and recovery
14 cases.

15 (9) Department of Insurance.

16 (10) Department of Justice.

17 (11) Department of Natural Resources.

18 (12) Department of Public Safety and Corrections, except cases involving
19 the Motor Vehicle Safety Responsibility Law.

20 (13) Department of Public Service.

21 (14) Department of State.

22 (15) Department of Transportation and Development.

23 (16) Department of the Treasury.

24 (17) Department of Veterans Affairs.

25 (18) Department of Revenue, except those cases brought to collect less than
26 ten thousand dollars of state taxes owed.

27 (19) Department of Wildlife and Fisheries, except cases brought for class
28 one violations under the provisions of R.S. 56:31.

1 (20) Louisiana Workforce Commission, except cases involving recovery of
2 unemployment insurance payments and workers' compensation fraud.

3 (21) Office of the governor, including the division of administration.

4 (22) Office of the lieutenant governor.

5 D. As used in this Section, the following words and phrases have the
6 following meanings ascribed to them unless the context clearly indicates otherwise:

7 (1) "Civil action" means any suit, action, or cause instituted in a court of law,
8 exclusive of criminal matters, matters involving interstate compacts, actions to make
9 executory a judgment or order of any adjudicatory body of this state, or an action
10 brought pursuant to the Enforcement of Foreign Judgments Act.

11 (2) "Court" or "court of law" means any court authorized by Article V of the
12 Constitution of Louisiana.

13 (3) "Head of each agency" means the department secretary or chief
14 administrative officer of each department of the executive branch.

15 (4) "Outside counsel" means any attorney, other than in-house counsel, who
16 is being or has been paid by any agency or the state or who is entitled to or
17 potentially entitled to compensation or a commission as a result of the legal
18 proceeding. For purposes of this Paragraph, "in-house counsel" means any attorney
19 employed by an agency, including the Department of Justice, who is eligible to
20 participate in the Louisiana State Employees' Retirement System by virtue of such
21 employment.

22 Section 2. The initial annual report required by R.S. 36:8.1(A) shall be submitted to
23 the legislature at least one week prior to the convening of the 2015 Regular Session of the
24 Legislature and shall be for the reporting period of January 1, 2014, through December 31,
25 2014.

26 Section 3. The initial monthly report required by R.S. 36:8.1(B) shall be submitted
27 on July 28, 2014, and shall cover the period between July 1 and July 27, 2014. If, however,
28 no such civil action was filed during this period, the initial monthly report shall be submitted

1 on or before the fourth Monday of the month immediately following the filing of the first
2 civil action.

3 Section 4. This Act shall become effective on July 1, 2014; if vetoed by the governor
4 and subsequently approved by the legislature, this Act shall become effective on July 1,
5 2014, or on the day following such approval by the legislature, whichever is later.

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)]

Stuart Bishop

HB No. 874

Abstract: Requires the filing of annual and monthly reports with the legislature by each state agency of all civil actions initiated by the agency and by the attorney general for all civil actions initiated by the state.

Proposed law institutes a litigation reporting requirement for the state and all state departments and offices, including offices and agencies thereof, collectively referred to as "agency".

More specifically, proposed law requires the head of each agency to make and publish an annual report to the legislature containing a list of all civil actions brought in a court of law by the agency as a named party plaintiff. Also requires the attorney general to make and publish an annual report to the legislature containing a list of all civil actions initiated by the state.

Proposed law defines "civil action" as any suit, action, or cause instituted in a court of law, exclusive of criminal matters, matters involving interstate compacts, actions to make executory the judgment or order of an adjudicatory body, and actions brought pursuant to present law (Enforcement of Foreign Judgments Act). Defines "court" or "court of law" as any court authorized by present constitution (Art. V of the Const. of La.).

Proposed law requires the annual report cover all lawsuits instituted, pending, or concluded during the preceding calendar year and requires the report to be submitted to the legislature one week before the convening of each annual legislative session. Requires each report to contain the following:

- (1) The names of all plaintiffs and defendants, the court and docket number, the cause of action, and the relief sought.
- (2) The current status of the case, including whether the case has been heard, whether there is a final judgment therein, whether the case has settled, and whether an appeal has been taken.
- (3) The names of all outside counsel representing the agency or the state and the agreement with the agency or the state.

Proposed law also requires the filing of a monthly, electronic mail report to the David R. Poynter Legislative Research Library on or before the fourth Monday of every month. The monthly report must list all civil actions filed by an agency since the last report, must contain

a uniform resource locator (URL) link to the petition, and requires the agency to maintain the URL for a minimum of one year.

Proposed law generally applies to civil actions filed by the state or state agencies listed in proposed law, but provides exceptions for the following types of matters: lawsuits brought pursuant to the Louisiana Children's Code; Medicaid fraud and recovery cases; cases involving the Motor Vehicle Safety Responsibility Law (compulsory motor vehicle insurance); cases brought by the Dept. of Revenue to collect less than \$10,000 of state taxes owed; cases brought for wildlife and fisheries' class one violations; and cases involving recovery of unemployment insurance payments and workers' compensation fraud.

Effective July 1, 2014.

(Adds R.S. 36:8.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Adds the office of the lieutenant governor to the list of agencies covered by proposed law.
2. Adds provisions to define "court" or "court of law" as any court authorized by Article V of the Const. of La.
3. Removes provisions expressly excluding matters that come before an administrative law judge from the definition of "civil action".
4. Requires the agreement of the agency or the attorney general relative to representation by outside counsel to be included in the report instead of requiring the "monetary agreement" to be included.

House Floor Amendments to the engrossed bill.

1. Clarifies that the listed departments and offices include the department themselves and offices and agencies thereof.
2. Provides that the initial annual report must be submitted to the legislature one week prior to the 2015 R.S. and is to include the reporting period of all of 2014.
3. Adds a monthly reporting requirement and specifies that the monthly report is to be submitted. Further provides that the initial monthly report be submitted on July 28, 2014, and cover the reporting period of July 1, 2014, through July 27, 2014.
4. Adds an effective date of July 1, 2014.