

2015 Regular Session

HOUSE BILL NO. 30

BY REPRESENTATIVES RICHARD, BERTHELOT, STUART BISHOP, GEYMANN, HARRIS, HARRISON, HAVARD, HENSGENS, HUVAL, JAY MORRIS, PEARSON, POPE, SCHEXNAYDER, SCHRODER, TALBOT, AND WILLMOTT

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

PUBLIC CONTRACTS: Provides for the Joint Legislative Committee on the Budget to review and take action on certain state professional, personal, and consulting service contracts and provides for deposit of certain funding from the contracts into the Higher Education Financing Fund

1 AN ACT

2 To amend and reenact R.S. 39:82(A) and 352 and to enact Subpart S of Part II-A of Chapter

3 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised

4 of R.S. 39:100.146, 1567(E), and Subpart F of Part I of Chapter 16 of Subtitle III of

5 Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:1590,

6 relative to professional, personal, and consulting services procurement; to require

7 consideration by the Joint Legislative Committee on the Budget of certain

8 professional, personal, and consulting service contracts; to provide for the

9 submission of periodic reports; to provide for exceptions; to establish the Higher

10 Education Financing Fund; to provide for the deposit, use, and investment of monies

11 in the fund; to provide for an effective date; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 39:82(A) and 352 are hereby amended and reenacted and Subpart S

14 of Part II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950,

15 comprised of R.S. 39:100.146, R.S. 39:1567(E), and Subpart F of Part I of Chapter 16 of

16 Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:1590,

17 are hereby enacted to read as follows:

1 §82. Remission of cash balances to the state treasurer; authorized withdrawals of  
2 state monies after the close of the fiscal year

3 A. All cash balances occurring from appropriations made by legislative act  
4 or by the Interim Emergency Board regardless of date of passage to any state agency  
5 for which no bona fide liability exists on the last day of each fiscal year shall be  
6 remitted to the state treasurer by the fifteenth day following the last day of the fiscal  
7 year. Any appropriations including those made by the Interim Emergency Board of  
8 the preceding fiscal year remaining at the end of the fiscal year against which bona  
9 fide liabilities existed as of the last day of the fiscal year may be withdrawn from the  
10 state treasury during the forty-five day period after the last day of the fiscal year only  
11 as such liabilities come due for payment. Prior to placing monies associated with  
12 such unexpended appropriations into the state general fund, the state treasurer shall  
13 transfer all cash balances identified and reported by the commissioner of  
14 administration as being from unexpended and unencumbered state general fund  
15 (direct) and Overcollections Fund appropriations for professional, personal, and  
16 consulting service contracts not approved by the Joint Legislative Committee on the  
17 Budget as provided in R.S. 39:1590 and remaining at the end of each fiscal year for  
18 deposit in and credit to the Higher Education Financing Fund as are necessary to  
19 satisfy the requirements of R.S. 39:100.146, and then shall make deposits to the  
20 Payments Towards the UAL Fund as are necessary to satisfy the requirements of  
21 R.S. 39:100.11.

22 \* \* \*

23 SUBPART S. HIGHER EDUCATION FINANCING FUND

24 §100.146. Higher Education Financing Fund

25 A. There is hereby established in the state treasury, as a special fund, the  
26 Higher Education Financing Fund, hereinafter referred to as the "fund".

27 B.(1) The state treasurer is directed to deposit into the fund an amount equal  
28 to cash balances identified and reported by the commissioner of administration as  
29 being from unexpended and unencumbered state general fund (direct) and

1       Overcollections Fund appropriations for contracts not approved by the Joint  
2       Legislative Committee on the Budget for professional, personal, and consulting  
3       services under the jurisdiction of the office of state procurement available at the end  
4       of each fiscal year as are necessary to satisfy the requirements of R.S. 39:1590. The  
5       commissioner of administration, in consultation with the state chief procurement  
6       officer, shall periodically determine the amount of monies appropriated for  
7       professional, personal, and consulting service contracts that remain unexpended and  
8       unencumbered as a result of implementation of R.S. 39:1590. Such determination  
9       shall take place on the following dates in fiscal years 2015-2016, 2016-2017, and  
10      2017-2018:

- 11               (a) September 30.
- 12               (b) December 31.
- 13               (c) March 31.
- 14               (d) June 30.

15               (2) All unexpended and unencumbered monies in the fund at the end of the  
16      fiscal year shall remain in the fund. The monies in the fund shall be invested by the  
17      state treasurer in the same manner as monies in the state general fund, and interest  
18      earned on the investment of monies shall be credited to the fund.

19               C. Monies in the fund shall be appropriated and used solely for public  
20      postsecondary education institutions.

21   \*       \*       \*

22      §352. Cancellation of unexpended portions of appropriations; exceptions

23               Whenever any specific appropriation is made to meet any item of expenditure

24      which occurs annually by provision of law or for contingent expense, and any

25      portion of it remains unexpended at the end of the year for which the specific

26      appropriation was made, after all legal claims against it for the year have been paid,

27      the commissioner of administration shall cancel any balance of the appropriation,

28      and each succeeding year he shall open a new account for the appropriation which

29      may be made for that particular year, without carrying forward any unexpended

1 balance of appropriation made for any previous year. This provision shall not apply  
 2 to appropriations made to pay the debt of the state, principal and interest. Prior to  
 3 placing monies associated with such unexpended appropriations into the state general  
 4 fund, the state treasurer shall transfer all cash balances identified and reported by the  
 5 commissioner of administration as being from unexpended and unencumbered state  
 6 general fund (direct) and Overcollections Fund appropriations for professional,  
 7 personal, and consulting service contracts not approved by the Joint Legislative  
 8 Committee on the Budget as provided in R.S. 39:1590 remaining at the end of each  
 9 fiscal year for deposit in and credit to the Higher Education Financing Fund as is  
 10 necessary to satisfy the requirements of R.S. 39:100.146 and then shall make  
 11 deposits to the Payments Towards the UAL Fund as are necessary to satisfy the  
 12 requirements of R.S. 39:100.11.

13 \* \* \*

14 §1567. Reporting requirements

15 \* \* \*

16 E. The state chief procurement officer shall submit a report at the end of each  
 17 month to the Joint Legislative Committee on the Budget summarizing each contract,  
 18 including the dollar value of each contract awarded that month over which the office  
 19 of state procurement has power and authority. The report shall also indicate if each  
 20 contract is for discretionary purposes or if it is for nondiscretionary purposes.

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22 SUBPART F. APPROVAL OF CERTAIN PROFESSIONAL,  
 23 PERSONAL, AND CONSULTING SERVICES CONTRACTS  
 24 FOR FISCAL YEAR 2015-2016 THROUGH FISCAL YEAR 2017-2018

25 §1590. Approval of Certain Professional, Personal, and Consulting Services  
 26 Contracts for Fiscal Year 2015-2016 Through Fiscal Year 2017-2018

27 A. In Fiscal Year 2015-2016 through 2017-2018, the commissioner of  
 28 administration, in consultation with the state chief procurement officer, shall report  
 29 each contract for professional, personal, and consulting services with a total dollar

1 amount of forty thousand dollars or more per year that is funded solely with state  
2 general fund (direct) or the Overcollections Fund and is for discretionary purposes  
3 to the Joint Legislative Committee on the Budget for review and approval prior to  
4 the effectiveness of the contract.

5 (1) If within thirty days of receipt of the contract, the Joint Legislative  
6 Committee on the Budget does not place the contract on its agenda for review and  
7 approval, the contract shall be deemed to be approved.

8 (2) If within thirty days of receipt of the contract, the contract is placed on  
9 the agenda for review, the Joint Legislative Committee on the Budget may take the  
10 following action:

11 (a) Approve the contract.

12 (b) Reject the contract and notify the commissioner of administration that  
13 such funds otherwise proposed for this purpose shall be deposited into the Higher  
14 Education Financing Fund as provided in R.S. 39:100.146.

15 (c) Recommend revisions to the contract. If the Joint Legislative Committee  
16 on the Budget recommends revisions to the contract, the contract shall not become  
17 effective until it is revised, resubmitted to the Joint Legislative Committee on the  
18 Budget, and acted upon again by the committee. If the commissioner of  
19 administration, in consultation with the state chief procurement officer, does not  
20 resubmit the contract to the Joint Legislative Committee on the Budget within thirty  
21 days after the committee recommends revisions to the contract, the contract shall be  
22 deemed to be rejected and funds otherwise proposed for this purpose shall be  
23 deposited into the Higher Education Financing Fund as provided in R.S. 39:100.146.

24 B.(1) The commissioner of administration, in consultation with the state  
25 chief procurement officer, shall periodically determine the amount of monies  
26 appropriated for professional, personal, and consulting service contracts that are not  
27 approved by the Joint Legislative Committee on the Budget and remain unexpended  
28 and unencumbered as a result of implementation of this Section. Such determination

1 shall take place on the following dates in fiscal years 2015-2016, 2016-2017, and  
2 2017-2018:

3 (a) September 30.

4 (b) December 31.

5 (c) March 31.

6 (d) June 30.

7 (2) Following each determination required pursuant to the provisions of this  
8 Subsection, the commissioner of administration shall report to the state treasurer the  
9 amount of state general fund (direct) and Overcollections Fund monies appropriated  
10 for professional, personal, and consulting service contracts that are expected to  
11 remain unexpended and unencumbered at the end of the fiscal year as a result of  
12 implementation of this Section. These monies shall be available for deposit in and  
13 credit to the Higher Education Financing Fund as provided for in R.S. 39:100.146.

14 C. Notwithstanding any provision of law to the contrary, this Section shall  
15 not apply to the following professional, personal, or consulting service contracts:

16 (1) Contracts of the secretary of state necessary to perform any constitutional  
17 or statutory function of the office.

18 (2) All contracts to implement the programs of the Department of Health and  
19 Hospitals funded pursuant to Title XIX, Title XX and Title XXI of the Social  
20 Security Act or funded fully or partially by federal funds.

21 (3) Contracts with state or local providers of indigent defender services  
22 necessary to perform any constitutional or statutory function.

23 (4) Contracts of a district attorney necessary to perform any constitutional,  
24 discretionary, or statutory function of the office, or to perform services under the  
25 child support enforcement program administered by the Department of Children and  
26 Family Services in accordance with the federal requirements of Title IV-D of the  
27 Social Security Act and corresponding state laws and regulations.

28 Section 2. The provisions of Section 1 of this Act shall become null, void, and of no  
29 effect on July 1, 2018.

1 Section 3. This Act shall become effective on July 1, 2015; if vetoed by the governor  
2 and subsequently approved by the legislature, this Act shall become effective on July 1,  
3 2015, or on the day following such approval by the legislature, whichever is later.

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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 30 Engrossed

2015 Regular Session

Richard

**Abstract:** Provides for reporting, review, and approval by the Joint Legislative Committee on the Budget (JLCB) of all contracts for professional, personal, and consulting services totaling \$40,000 or more per year which are funded solely with state general fund (direct) or Overcollections Fund.

Proposed law creates the Higher Education Financing Fund and deposits into the fund all cash balances identified and reported by the commissioner of administration on a quarterly basis as being from unexpended and unencumbered state general fund (direct) or Overcollections Fund appropriations for contracts for professional, personal, and consulting services under the jurisdiction of the office of contractual review not approved by the JLCB at the end of each fiscal year to satisfy the requirements of proposed law. Monies in the fund shall be appropriated and used solely for public postsecondary education institutions.

Present law requires all cash balances from appropriations to state agencies for which no bona fide obligation exists at the end of the fiscal year to be remitted to the state treasury by the 15th day following the last day of the fiscal year. Present law further provides that prior to depositing the unexpended appropriations into the state general fund, the treasurer shall make deposits into the Payments Towards the UAL Fund as is necessary to satisfy present law.

Proposed law requires the treasurer to transfer all cash balances identified and reported by the commissioner of administration as being from unexpended and unencumbered state general fund (direct) or Overcollections Fund appropriations for professional, personal, and consulting service contracts not approved by the JLCB at the end of each fiscal year into the Higher Education Financing Fund as are necessary to satisfy the requirements of proposed law and then make deposits into the Payments Towards the UAL Fund as required by present law.

Present law provides that if any portion of an appropriation for an annual expenditure required by present law or for a contingent expense remains unexpended at the end of the fiscal year in which the appropriation was made, the commissioner of administration shall cancel the balance of the appropriation, and in each succeeding year shall open a new account for the appropriation without carrying forward any unexpended balance from the previous fiscal year. Present law further provides that prior to depositing the unexpended appropriations into the state general fund, the treasurer shall make deposits into the Payments Towards the UAL Fund as are necessary to satisfy present law.

Proposed law requires the treasurer to transfer all cash balances identified and reported by the commissioner of administration as being from unexpended and unencumbered state general fund (Direct) or Overcollections Fund appropriations for professional, personal, and consulting service contracts at the end of each fiscal year into the Higher Education Financing Fund as are necessary to satisfy the requirements of proposed law and then make the deposits into the Payments Towards the UAL Fund as required by present law.

Proposed law for FY 14-15 through FY 16-17, establishes a process that all contracts for professional, personal, and consulting services totaling \$40,000 or more per year which are funded solely with the state general fund (direct) or the Overcollections Fund and are for discretionary purposes are reported, reviewed, and approved by the JLCB.

Proposed law provides that if within 30 days of receipt of the contract, the JLCB does not place the contract on its agenda for review and approval, the contract shall be deemed to be approved. If the contract is placed on the agenda for review and approval within 30 days of receipt, the JLCB may either approve the contract, recommend revisions to the contract, or reject the contract and notify the commissioner of administration that such funds shall be deposited into the Higher Education Financing Fund.

Proposed law provides that if the JLCB recommends revisions to the contract, the contract shall not become effective until it is revised, resubmitted to the JLCB, and acted upon by the committee. If the contract is not resubmitted within 30 days after the committee recommends revisions, the contract shall be deemed to be rejected.

Proposed law exempts the following professional, personal, or consulting service contracts from the provisions of proposed law:

- (1) Contracts of the secretary of state necessary to perform any constitutional or statutory function of the office.
- (2) Contracts to implement programs of the Dept. of Health and Hospitals that are funded pursuant to Titles 19, 20, and 21 of the Social Security Act or funded fully or partially by federal funds.
- (3) Contracts with state or local providers of indigent defender services necessary to perform any constitutional or statutory function.
- (4) Contracts of a district attorney necessary to perform any constitutional, discretionary, or statutory function of the office, or to perform services under the child support enforcement program administered by the Department of Children and Family Services.

The provisions of proposed law shall become null, void, and of no effect on July 1, 2018.

Effective July 1, 2015.

(Amends R.S. 39:82(A) and 352; Adds R.S. 39:100.146, 1567(E), and 1590)