

2019 Regular Session

HOUSE BILL NO. 565

BY REPRESENTATIVE JAY MORRIS

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

PROCUREMENT: Provides relative to public contracts with design professional services for local projects

1 AN ACT

2 To enact R.S. 38:2201 through 2203, relative to local public contracts; to require that local
3 government agencies advertise proposed local projects; to establish an application
4 process for selection of design professionals; to require that a public hearing occur
5 prior to selecting a licensed design professional for a proposed local project; to
6 provide for definitions; to establish prohibitions and penalties; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 38:2201 through 2203 are hereby enacted to read as follows:

10 §2201. Design professional services for local projects

11 A. Any local government agency intending to contract for design
12 professional services in connection with a proposed local project, shall advertise the
13 project, accept applications from licensed design professionals, and hold a public
14 hearing where interested parties have an opportunity to be heard.

15 B. Preference shall be given to applicants domiciled and licensed in the state,
16 quality being equal to those applicants outside of the state.

17 C. For purposes of this Part, unless the context clearly indicates otherwise,
18 the following terms shall have the meanings ascribed to them:

19 (1) "Local government agency" or "agency" means any parish, municipality,
20 department, office, agency, board, commission, council, district, governing authority,

1 committee, subcommittee, advisory board, task force, instrumentality of a political
2 subdivision, or any other unit of local government with authority to select a licensed
3 design professional for a proposed local project.

4 (2) "Municipality" means any city, town, or village.

5 §2202. Advertisement; application; public hearing

6 A. A local government agency seeking design professional services shall
7 advertise on two separate days in the local newspaper where the local project is
8 located. The notice shall include the following information:

9 (1) The professional service required.

10 (2) The name, location, and user agency for which the professional service
11 is required.

12 (3) The deadline, which shall be at least thirty days after the advertisement
13 is made public, and instructions for the design professional to submit applications.

14 (4) A general description of the proposed project and the availability of
15 details upon request.

16 (5) The time frame for desired completion.

17 (6) The project budget.

18 (7) The application fee, which shall be determined by the local government
19 agency.

20 B.(1) In addition to the application, any interested licensed design
21 professional may submit, to the appropriate agency, any additional relevant
22 information or data that may not be contained in the application, including but not
23 limited to the following:

24 (a) Experience.

25 (b) Previous projects undertaken.

26 (c) Present projects being performed by him or his firm for an agency.

27 (d) Scope and amount of work on hand.

28 (e) Names of key personnel who may be assigned to the project.

1 (f) Any other information that may be appropriate in selecting a person for
2 the proposed project under consideration.

3 (2) The agency may create standard forms for submission of such data.

4 C. The agency shall conduct a public hearing to receive any additional
5 information, hear public comment, and vote to select the desired licensed design
6 professional for the project. Notice of the hearing shall be published in the local
7 newspaper not less than fifteen days prior to the set hearing date and shall include
8 the date, time, and place fixed for the hearing.

9 D. The agency shall promulgate rules and regulations as are necessary, in
10 conjunction with the Louisiana Chapter of the American Institute of Architects, to
11 implement the provisions of this Section.

12 §2203. Prohibitions, penalties

13 A. Each contract entered into by an agency for design professional services
14 shall contain a prohibition against contingent fees that read: "The person performing
15 the professional services warrants that he has not employed or retained by any
16 company or person, other than a bona fide employee working solely for him, to
17 solicit or secure this agreement, and that he has not paid or agreed to pay any person,
18 company, corporation, individual, or firm, other than a bona fide employee working
19 solely for him, any fee, commission, percentage, gift, or any other consideration,
20 contingent upon or resulting from the award or making of this agreement. For a
21 breach or violation of this provision, the agency shall have the right to terminate the
22 agreement without liability and, at its discretion, deduct from the contract price, or
23 otherwise recover, the full amount of such fee, commission, percentage, gift, or
24 consideration."

25 B. No contract for professional services shall be granted to any person,
26 corporation, firm, association, or other organization refusing to execute the affidavit
27 required by R.S. 38:2224.

28 C. Any individual, corporation, partnership, firm, or company, other than a
29 bona fide employee of the person performing the professional service, acting on

1 behalf of his employer, who offers, agrees, or contracts to solicit or secure agency
2 contracts for professional services for any other individual, company, corporation,
3 partnership, or firm and to be paid, or is paid, any fee, commission, percentage, gift,
4 or any other consideration contingent upon or resulting from the award or the making
5 of a contract for professional services, shall be fined not more than ten thousand
6 dollars, or imprisoned for not more than one year, or both. Any such person or any
7 group, association, company, corporation, firm, or partnership thereof, who shall
8 offer to pay, or pay, any fee, commission, percentage, gift, or any other consideration
9 contingent upon, or resulting from, the award or making of any agency contract for
10 professional services, shall be fined not more than ten thousand dollars, or
11 imprisoned for not more than one year, or both.

12 D. Any agency official or board member or employee of either who offers
13 to solicit or secure, or solicits or secures, a contract for professional services and is
14 to be paid, or is paid, any fee, commission, percentage, gift, or any other
15 consideration, contingent upon the award or making of such a contract for
16 professional services between an agency and any individual person, company, firm,
17 partnership, or corporation, shall be guilty of public bribery as provided by R.S.
18 14:118.

19 E. In addition to the penalties provided in this Section, any person who is in
20 violation of any of the prohibitions listed in this Section and who is licensed by any
21 regulatory or professional board to practice his trade, profession, or vocation in this
22 state, shall have his license suspended for not less than one year, nor more than ten
23 years, by the licensing authority.

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 565 Original

2019 Regular Session

Jay Morris

Abstract: Creates a selection process for licensed design professionals to secure proposed local projects.

Proposed law requires that any local government agency intending to contract design professional services for a proposed local project advertise the project, accept applications, and hold a public hearing prior to selection.

Proposed law requires that preference be given to applicants domiciled and licensed in the state, quality being equal to those applicants outside of the state.

Proposed law defines "local government agency" or "agency" as any parish, municipality, department, office, agency, board, commission, council, district, governing authority, committee, subcommittee, advisory board, task force, instrumentality of a political subdivision, or any other unit of local government with authority to select a licensed design professional for a proposed local project.

Proposed law defines "municipality" as any city, town, or village.

Proposed law requires that a local government agency seeking design professional services advertise on two separate days in the local newspaper where the local project is located. The notice must include the following information:

- (1) The professional service required.
- (2) The name, location, and user agency for which the professional service is required.
- (3) The deadline, which shall be at least 30 days after the advertisement is made public, and instructions for the design professional to submit applications.
- (4) A general description of the proposed project and the availability of details upon request.
- (5) The time frame for desired completion.
- (6) The project budget.
- (7) The application fee, which shall be determined by the local government agency.

Proposed law authorizes any interested licensed design professional to submit, to the appropriate agency, in addition to the application, additional relevant information or data that may not be contained in the application, including but not limited to the following:

- (1) Experience.
- (2) Previous projects undertaken.
- (3) Present projects being performed by him or his firm for an agency.
- (4) Scope and amount of work on hand.
- (5) Names of key personnel who may be assigned to the project.
- (6) Any other information that may be appropriate in selecting a person for the proposed project under consideration.

Proposed law authorizes the agency to create standard forms for submission of such data.

Proposed law requires the agency conduct a public hearing to receive any additional information, hear public comment, and vote to select the desired licensed design professional for the project and requires that notice of the hearing be published in the local newspaper not

less than 15 days prior to the set hearing date and include the date, time, and place fixed for the hearing.

Proposed law requires that the agency promulgate rules and regulations as are necessary, in conjunction with the La. Chapter of the American Institute of Architects, to implement the provisions of proposed law.

Proposed law requires each contract entered into by an agency for design professional services contain a prohibition against contingent fees that reads: "The person performing the professional services warrants that he has not employed or retained by any company or person, other than a bona fide employee working solely for him, to solicit or secure this agreement, and that he has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for him, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement. If a breach or violation of this provision occurs then the agency has the right to terminate the agreement without liability and, at its discretion, deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration."

Proposed law prohibits a contract for professional services from being granted to any person, corporation, firm, association, or other organization refusing to execute the affidavit required by present law.

Proposed law establishes that any individual, corporation, partnership, firm, or company, other than a bona fide employee of the person performing the professional service, acting on behalf of his employer, who offers, agrees, or contracts to solicit or secure agency contracts for professional services for any other individual, company, corporation, partnership, or firm and to be paid, or is paid, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or the making of a contract for professional services, will be fined not more than \$10,000, or imprisoned for not more than one year, or both. Any such person or any group, association, company, corporation, firm, or partnership thereof, who offers to pay, or pay, any fee, commission, percentage, gift, or any other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services, will be fined not more than \$10,000, or imprisoned for not more than one year, or both.

Proposed law establishes that any agency official or board member or employee of either who offers to solicit or secure, or solicits or secures, a contract for professional services and is to be paid, or is paid, any fee, commission, percentage, gift, or any other consideration, contingent upon the award or making of such a contract for professional services between an agency and any individual person, company, firm, partnership, or corporation, will be guilty of public bribery as provided in present law.

Proposed law specifies that in addition to the penalties provided in proposed law, any person who is in violation of any of the prohibitions listed in proposed law and who is licensed by any regulatory or professional board to practice his trade, profession, or vocation in this state, will have his license suspended for not less than one year, nor more than 10 years, by the licensing authority.

(Adds R.S. 38:2201-2203)