
DIGEST

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Richard

HB No. 865

Abstract: Provides for the content of cooperative endeavor agreements and requires all cooperative endeavor agreements of executive department agencies requiring the expenditure of public funds to be reviewed and approved by the Office of Contractual Review. Provides for the content of cooperative endeavor agreements or contracts issued to a nongovernmental recipient of a line item appropriation and requires such agreements to be reviewed and approved by the Office of Contractual Review prior to disbursement of funds.

Present constitution authorizes, for a public purpose, the state and its political subdivisions or political corporations to engage in cooperative endeavors with each other, with the U.S. or its agencies, or with any public or private association, corporation, or individual.

Present law defines "governmental body" as any department, commission, council, board, office, bureau, committee, institution, agency, government, corporation, or other establishment of the executive branch of this state.

Proposed law requires each governmental body to submit all cooperative endeavor agreements (agreements) which require the expenditure of public funds to the Office of Contractual Review for review and approval. Provides an exemption by written delegation of authority granted by the director of contractual review with the approval of the commissioner of administration.

Proposed law requires all agreements to be submitted for review at least 45 days prior to the effective date of the agreement. Agreements not submitted within 45 days prior to the effective date of the agreement shall be accompanied by a written explanation of the reasons for the delay.

Proposed law requires that agreements contain a plan to monitor compliance with the terms of the agreement and written reports at least every six months concerning the use of funds and the specific goals and objectives for the use of the funds.

Requires agreements to contain a provision that conditions the agreement on the availability of sufficient funds to fulfill the obligations of the governmental body under the agreement and the approval of the director of contractual review or the commissioner of administration, unless exempt by written delegation of authority.

Proposed law requires agreements with nongovernmental entities for economic development purposes to contain the entity's specific goals and methods for reimbursement to the state if those

goals are not met. Requires a nongovernmental entity which defaults on the agreement, breaches the terms of the agreement, or ceases to do business, to repay the state. Exempts a nongovernmental entity participating in a business incubator program, the Quality Jobs Program, or the Enterprise Zone Program from this provision of proposed law.

Proposed law requires agreements in which the state provides a guarantee or credit enhancement for a private for-profit entity and which do not contemplate the issuance of bonds to be submitted to the State Bond Commission for approval prior to execution.

Proposed law requires that agreements based on legislative appropriation to a public or quasi-public agency or entity which is not a state budget include a comprehensive budget showing all anticipated uses of the appropriation, an estimate of the duration of the project, and a plan showing specific goals and objectives, including measures of performance.

Proposed law directs all departments, commissions, boards, agencies, and officers of the state, or any political subdivision to cooperate in implementing the provisions of proposed law.

Proposed law requires the following information in addition to any information required pursuant to present law and the Act containing the appropriation:

- (1) A copy of any supplemental form submitted by a nongovernmental entity pursuant to present law.
- (2) The legal name and mailing address of the recipient entity, and, if applicable, a description of the legal status of the entity. Private entities required to register with the secretary of state shall show evidence of good standing.
- (3) The names and addresses of all officers and directors of any nonpublic recipient entity and the names and addresses of certain officers responsible for the day-to-day operations of the entity and for the program or functions funded through the line item appropriation.
- (4) A listing of any person receiving anything of economic value from any recipient entity if that person is a state elected or appointed official or a member of the immediate family of such official. If the listing indicates any relationship which may be a possible violation of the Code of Governmental Ethics, the state agency shall seek an opinion from the Board of Ethics as to the propriety of proceeding with the agreement.
- (5) A detailed description of the public purpose sought to be achieved through the line item appropriation which shall conform to the program described in the Act making the appropriation.
- (6) A comprehensive budget showing all anticipated uses of the line item appropriation, other sources of revenue and expenditures funded by the appropriation, an estimate of the duration of the project, and a plan showing specific goals and objectives.

- (7) A plan to monitor compliance with the terms of the cooperative endeavor agreement and reports written quarterly concerning the use of the line item appropriation and the specific goals and objectives for the use of the appropriation.
- (8) Certification that the entity has no outstanding audit issues or findings or that the entity is working to resolve any issues or findings.
- (9) Certification that the entity's bylaws require compliance with the Open Meetings Law and the Public Records Law regarding the expenditure of any appropriated funds.
- (10) Certification that the entity agrees to audits regarding the expenditure of any appropriated funds.

Proposed law prohibits governmental bodies from making disbursements pursuant to line item appropriations until the cooperative endeavor agreement or contract has received final approval of the Office of Contractual Review. Final approval shall not be granted unless all of the information required pursuant to proposed law has been provided.

Proposed law requires governmental bodies entering into a cooperative endeavor agreement to monitor disbursements pursuant to line item appropriations on a quarterly basis. Further provides for the discontinuance of disbursements under certain circumstances.

Proposed law provides that if the transferring governmental body determines that the recipient failed to use the line item appropriation within the estimated duration of the project or failed to reasonably achieve its specific goals and objectives without sufficient justification, the governmental body shall demand that unexpended funds be returned to the state treasury unless the division of administration and the Joint Legislative Committee on the Budget approve the entity to retain the unexpended funds.

Proposed law directs all departments, commissions, boards, offices, entities, agencies, and officers of the state, or any political subdivision, to cooperate in implementing the provisions of proposed law.

Proposed law provides for the applicability of proposed law including specific appropriations exempt from the provisions of proposed law.

Proposed law authorizes the commissioner of administration to develop guidelines to assist the governmental bodies, the Office of Contractual Review, and recipients of line item appropriations in complying with the provisions of proposed law.

(Adds R.S. 39:1493.1 and 1493.2)