

2016 Regular Session

HOUSE BILL NO. 814

BY REPRESENTATIVE JAY MORRIS

EDUCATION: Provides relative to required governance of certain nonprofit corporations that receive funds from the state

1 AN ACT

2 To enact R.S. 39:366.7, relative to the governance and operations of certain nonprofit
3 corporations that enter into contracts with state agencies; to require such corporations
4 to meet specified requirements regarding governing board membership and
5 procedures; to provide for definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 39:366.7 is hereby enacted to read as follows:

8 §366.7. Contracting entities requesting or receiving state monies; corporate
9 governance; contract prohibition

10 A. For purposes of this Section, the following terms shall have the following
11 meanings unless the context clearly indicates otherwise:

12 (1) "Agency" shall have the same meaning as "agency" as defined in R.S.
13 39:2.

14 (2) "Contracting entity" means a nonprofit corporation that executes
15 responsibilities of a state agency with respect to the design, construction, renovation
16 or equipping of facilities and that receives more than ten percent of its income from
17 public sources including funds derived from the sale of bonds approved by the State
18 Bond Commission. The term shall include any facilities corporation or similar
19 entity.

1 B.(1) No contracting entity as defined by this Section shall receive or have
2 transferred to it any monies pursuant to a contract from any agency unless the
3 contracting entity meets the corporate governance requirements of this Section.

4 (2) No agency shall enter into a contract with or pay monies pursuant to a
5 contract to a contracting entity unless the contracting entity meets the corporate
6 governance requirements of this Section.

7 C. To be eligible to receive monies pursuant to a contract with an agency,
8 a contracting entity shall meet all of the following requirements:

9 (1) The governing board of the contracting entity shall include the following
10 along with any specific members otherwise required by law:

11 (a) One member appointed by the legislative auditor.

12 (b) One member appointed by the governor, subject to confirmation by the
13 Louisiana Senate.

14 (c) One member appointed by the lieutenant governor, subject to
15 confirmation by the Louisiana Senate.

16 (d) One member appointed by the Society of Louisiana Certified Public
17 Accountants.

18 (e) One member appointed by the Louisiana State Law Institute.

19 (2) The members of the governing board of the contracting entity shall not
20 receive anything of economic value from the corporation or the corporation's
21 contractors, agents, subcontractors, or sub-agents or anything of economic value
22 derived from projects undertaken or funded by the corporation, except compensation
23 or reimbursement specifically authorized by law

24 (3) All meetings of the board at which discussions of or decisions regarding
25 the receipt, investment, or expenditure of public funds shall be held in accordance
26 with the Open Meetings Law.

27 (4) All members of the governing board of the contracting entity file
28 personal financial disclosure forms in accordance with R.S. 42:1124.2.1.

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 814 Original

2016 Regular Session

Jay Morris

Abstract: Requires certain nonprofit corporations to meet specified corporate governance requirements.

Present law provides for the "Accountability for State Resources Act", which has the following purposes and goal:

- (1) Purposes: To ensure that the elected leaders of state government are informed and accountable for the use made of state resources that are obligated, dedicated, or otherwise committed to the operation, management, or control of or are necessary to the confection of agreements with nonpublic persons that are entered into pursuant to a public purpose or to ensure the protection of the interests of the state.
- (2) Goal: To establish a process by which such information can be provided, accountability can be ensured, and the best interests of the state are protected.

Proposed law retains proposed law and provides the following prohibitions:

- (1) Prohibits a contracting entity from receiving or having transferred to it any monies pursuant to a contract from any agency unless the contracting entity meets the corporate governance requirements of proposed law.
- (2) Prohibits an agency from entering into a contract with or paying monies pursuant to a contract to a contracting entity unless the contracting entity meets the corporate governance requirements of proposed law.

Proposed law, in specifying such corporate governance requirements, provides that to be eligible to receive monies pursuant to a contract with an agency, a contracting entity shall meet all of the following requirements:

- (1) Its governing board shall include one member appointed by the following with any specific members otherwise required by law:
 - (a) Legislative auditor
 - (b) Governor, subject to La. Senate confirmation
 - (c) Lt. governor, subject to La. Senate confirmation
 - (d) Society of La. Certified Public Accountants
 - (e) La. State Law Institute
- (2) Its governing board members shall not receive anything of economic value from the corporation or the corporation's contractors, agents, subcontractors, or sub-agents or anything of economic value derived from projects undertaken or funded by the corporation, except compensation or reimbursement specifically authorized by law.
- (3) All board meetings at which discussions of or decisions regarding the receipt, investment, or expenditure of public funds shall be held in accordance with the Open Meetings Law.

- (4) All members of the governing board of the contracting entity file personal financial disclosure forms in accordance with present law applicable to boards and commissions.

Proposed law provides the following definitions:

- (1) "Agency": Same meaning as "agency" as defined in present law (R.S. 39:2), which is any state office, department, board, commission, institution, division, officer or other person, or functional group, heretofore existing or hereafter created, that is authorized to exercise, or that does exercise, any functions of the government of the state in the executive branch, but not any governing body or officer of any local government or subdivision of the state, or any parochial officer who exercises functions coterminous with the municipality in which he performs those functions.
- (2) "Contracting entity": A nonprofit corporation that executes responsibilities of a state agency with respect to the design, construction, renovation or equipping of facilities and that receives more than ten percent of its income from public sources including funds derived from the sale of bonds approved by the State Bond Commission; includes any facilities corporation or similar entity.

(Adds R.S. 39:366.7)