
DIGEST

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HB 558 Reengrossed

2016 Regular Session

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Abstract: Requires a contracting entity to submit information and documents to the legislative auditor prior to entering into a contract with a state agency. Prohibits contracting entities from receiving monies and prohibits state agencies paying monies to or entering into contracts with contracting entities unless requirements are met.

Proposed law requires each contracting entity, prior to entering into or renewing a contract with a state agency, to submit the following information to the legislative auditor in an electronic format designated by the legislative auditor:

- (1) If a legal entity, the official name and domicile address of the contracting entity as reflected in documentation submitted to the secretary of state's office or if a natural person, the full name and address of the contracting entity.
- (2) If a legal entity, a complete and accurate listing of the owners of the contracting entity, whether in title or beneficial (unless it is publicly traded), and a complete and accurate listing of the board of directors or equivalent governing body, if any, and officers, if any, of the contracting entity.
- (3) Information on the percentage of minority, women, veteran, and Louisiana-based ownership of the contracting entity (unless it is publicly traded).
- (4) A certification that all applicable federal, state, and payroll taxes owed by the contracting entity have been paid and are current.
- (5) If the contracting entity is a nonprofit organization, a certification that the contracting entity has filed a current Form 990 as required by the Internal Revenue Code along with a copy of its most recent Form 990.
- (6) Information indicating the type or nature of the contract with the state agency, including how the contract was let, the value of the contract, and the name of each state agency which is a party to the contract.
- (7) If the contracting entity is currently subject to the audit requirements of present law (R.S. 24:513), a certification that the contracting entity has submitted the required reports to the legislative auditor.

- (8) The names and addresses of all agents, registered lobbyists, and persons lobbying (as defined pursuant to the present law regarding executive branch and legislative branch lobbying) on behalf of the contracting entity relative to a contract or potential contract with the state or an appropriation or grant.

Proposed law requires the legislative auditor to compile the information submitted and determine whether the information submitted by a contracting entity is complete. Provides that if it is, he shall immediately place the name of the entity on the list of approved contracting entities and shall post and keep an updated list on his website. Provides that any changes shall be submitted by the contracting entity within 30 days after the change. Proposed law further requires the legislative auditor to develop recommended criteria to remove a contracting entity from the list of approved contracting entities and submit such to the Legislative Audit Advisory Council for approval, and if approved, to utilize it and post it on his website. Proposed law further authorizes a contracting entity that is removed of the list of approved contracting entities to appeal its removal at a public hearing of the Legislative Audit Advisory Council, and if council determines the entity was wrongfully removed, shall be added back to the list.

Proposed law provides that a contracting entity which appears on the list of approved contracting entities on the legislative auditor's website shall be eligible to request and receive state monies if in compliance with all other applicable regulations and laws and any entity which is not on the list is ineligible. Proposed law prohibits an agency from paying monies pursuant to a contract to a contracting entity unless the contracting entity is on the list of approved contracting entities on the legislative auditor's website. Further prohibits an agency from contracting with a contracting entity, unless the entity is on the list of approved contracting entities on the legislative auditor's website (provides a limited exception for certain contracts with the Dept. of Economic Development).

Proposed law prohibits a contracting entity or state entity from entering into separate or successive contracts valued at \$10,000 or less as a subterfuge to avoid disclosure requirements and prohibitions in proposed law.

Proposed law requires a contracting entity to resubmit the information required at least every two years. Further requires the legislative auditor to remove the contracting entity from the list of approved contracting entities if the entity does not resubmit the required information.

Proposed law defines "state agency", "contract", "contracting entity", "governmental entity", and "person" for its purposes. Specifically excludes governmental entities; any public, private, or parochial school, college, or university; and any electric power cooperative or provider or investor owned public utility that is regulated by the Public Service Commission (PSC) or by the governing authority of the city of New Orleans from the term "contracting entity". Specifically excludes from the term "contract" specified contracts entered into by the Dept. of Revenue and the Dept. of Economic Development and contracts valued at \$10,000 or less.

Proposed law requires the legislative auditor to maintain the information submitted pursuant to proposed law on his website and to provide for the ability for the public to easily obtain information regarding each contracting entity, including links to any relevant appropriation or capital outlay

information and relevant contract information maintained by the commissioner of administration's website pursuant to present law (R.S. 39:6). Further requires the legislative auditor to work with the commissioner of administration as necessary to ensure compliance with proposed law. Specifies nothing in proposed law (R.S. 24:525) shall be construed or interpreted as a limitation on any power or authority granted to the attorney general pursuant to present constitution (Article IV, Section 8 of the Constitution of Louisiana).

Effective July 1, 2016; except provides that the requirements on contracting entities contained in proposed law shall become effective on Jan. 1, 2017, and shall apply to contracts and renewals of contracts executed on or after Jan. 1, 2017; the prohibitions on contracting entities and state agencies contained in proposed law shall become effective on July 1, 2017. Provides that the legislative auditor, Legislative Audit Advisory Council, and the commissioner of administration shall take all actions necessary to provide for the orderly implementation of proposed law prior to Jan. 1, 2017.

(Adds R.S. 24:525 and R.S. 39:366.7)

Summary of Amendments Adopted by House

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

1. Change required content of submission to include a certification, rather than "document certifying", of information regarding the status of payment of taxes owed, of whether a current Form 990 has been filed, and of whether required reports to the legislative auditor have been submitted.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Exclude contracts valued at \$10,000 or less from the definition of "contracts".
2. Add prohibition on entering into separate or successive contracts valued at \$10,000 or less as a subterfuge to avoid requirements of proposed law.
3. Add requirement that the contracting entity submit updated information within 30 days of any change in required information.
4. Add authority of a contracting entity to appeal its removal from the list of approved contracting entities at a public hearing of the Legislative Audit Advisory Council.
5. Change required content of submission to information regarding, instead of documentation of, the percentage of minority, women, veteran, and Louisiana-based ownership.
6. Add requirement that a contracting entity shall resubmit the required information at least

once every two years and that an entity that fails to resubmit the required information shall be removed from the list of approved contracting entities.