A true copy:

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:42 is hereby enacted to read as follows:

§4.15. Water systems; iron and manganese control

The office of public health of the Department of Health and Hospitals shall promulgate and adopt rules in accordance with the Administrative Procedure Act to implement iron and manganese control requirements for water systems.

Approved by the Governor, June 23, 2014.

A true copy:

Tom Schedler
Secretary of State

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ACT No. 862

SENATE BILL NO. 447
BY SENATOR MORRELL
AN ACT

To enact R.S. 37:2156.3, relative to the Louisiana State Licensing Board for Contractors; to provide relative to solar energy equipment and systems; to provide for examinations; to provide for procedures, terms, and conditions; to provide for the adoption of rules; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:2156.3 is hereby enacted to read as follows:

§2156.3. Installation of solar energy equipment and systems

A. No licensed contractor shall install solar energy equipment or solar energy systems on or after February 1, 2015, unless he is in compliance with the provisions of this Section and any rules adopted by the board in accordance with the provisions of this Section.

B. (1) Notwithstanding any provision of law to the contrary, no later than January 1, 2015, the board shall adopt rules in accordance with the Administrative Procedure Act regulating the installation of solar energy equipment or solar energy systems by licensed contractors. Such rules shall, at a minimum, include the requirement of passage of a separate written examination that evidences the contractor’s knowledge and understanding of best practices as related to the installation and maintenance of solar energy equipment or solar energy systems by any contractor who does not hold a current Solar PV Installer certification for solar electric systems, or a current Solar Heating Installer certification for solar thermal hot water systems as issued by the North American Board of Certified Energy Practitioners.

(2) Any contractor licensed in this state as of August 1, 2014, holding the major classification of Building Construction, Electrical Work (Statewide), or Mechanical Work (Statewide), shall be deemed to have met the examination requirement pursuant to this Subsection.

C. Contractors applying for the classification of Solar Energy Equipment, shall, in addition to all other application or licensing requirements, meet the following requirements prior to issuance of this classification:

(1) Hold one or more of the following major classifications:

(a) Building Construction.

(b) Electrical Work.

(c) Mechanical Work.

(d) Residential Building Contractor.

(2) Complete training in the design of solar energy systems by an entity and course approved by the board.

D. Any work performed to connect piping or equipment for any solar thermal system wherein the system is of a value, including labor, materials, rentals, and all direct and indirect project expenses, of ten thousand dollars or more shall be performed only by a contractor or subcontractor who holds the classification of Electrical Work or who may perform electrical work pursuant to the provisions of R.S. 37:2156.2(B).

E. Any work performed to connect piping or equipment for any solar thermal system wherein the system is of a value, including labor, materials, rentals, and all direct and indirect project expenses, of ten thousand dollars or more shall be performed only by a contractor or subcontractor who holds the classification of Mechanical Work or who may perform mechanical work pursuant to the provisions of R.S. 37:2156.2(B).

F. The provisions of this Section shall be applicable to entities engaging in the business of selling, leasing, installing, servicing, or monitoring solar energy equipment or systems, or providing services related to solar energy projects, and shall be interpreted, administered, and enforced by the board.

Approved by the Governor, June 23, 2014.

A true copy:

Tom Schedler
Secretary of State

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ACT No. 863

SENATE BILL NO. 456
BY SENATOR ALLAIN
AN ACT

To amend and reenact R.S. 42:1119(B)(2)(b)(i), relative to the Code of Governmental Ethics; to provide for the applicability of the nepotism provisions to hospital service districts; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:1119(B)(2)(b)(i) is hereby amended and reenacted to read as follows:

§1119. Nepotism

B. (1) Notwithstanding the provisions of Paragraph (1) of this Subsection:

(b)(i) Any hospital service district with a population of one hundred thousand persons or less as of the most recent federal decennial census

THE ADVOCATE
PAGE 609

* As it appears in the enrolled bill
or hospital public trust authority located in such a district may enter into an initial recruiting contract with or employ as a health care provider, a licensed physician, a registered nurse, or allied health professional who is a member of the immediate family of any district board, authority, or parish governing authority member or of the chief executive of the district or authority provided that such family member is the only qualified applicant who has applied for the position after it has been advertised for at least thirty days in the official journal of the parish and in all newspapers of general circulation in the parish where the hospital is located. The chief executive and any member of a board of a hospital service district or hospital public trust authority which enters into an initial recruiting contract with or employs such physician, registered nurse, or allied health professional shall recuse himself from any decision involving the promotion, discipline, discharge, or assignment of any such employee who is a member of his immediate family.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

Approved by the Governor, June 23, 2014.

A true copy:
Tom Schedler
Secretary of State

ACT No. 864

SENATE BILL NO. 480
BY SENATOR WALSWORTH

AN ACT
To amend and reenact R.S. 36:4(B)(1)(b) and Chapter 17 of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:1551 through 1554.1, 1556 through 1558, 1561 through 1569.1, 1571 through 1572, 1581, 1586 through 1587, 1595 through 1598, 1600 through 1608, 1611 through 1617, 1621, 1627 through 1628, 1642 through 1646, 1649 through 1656, 1681 through 1682, 1671 through 1673, 1676 through 1679, 1681 through 1685, 1691 through 1695, 1696 through 1697, 1702 through 1710, 1716, 1731 through 1736, and 1751 through 1755, and to repeal Chapter 16 of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:1481 through 1526.

§1. Chapter 17 of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:1481 through 1526, relative to the procurement of construction and the selection of consultants shall apply to the procurement of construction and the selection of consultants for public trust authorities which enter into initial recruiting contracts with physicians, registered nurses, or allied health professionals, to the extent not otherwise provided for herein, under any contract for supplies, services, or major repairs, or personal, professional, consulting, or social services, defined herein, except that this Chapter shall not apply to any services provided by governmental bodies for personal, professional, consulting, or social services, or major repairs by the state except that the provisions of R.S. 38:2301 shall be applicable to major repairs.

C. Procurement by the governor. Notwithstanding any other provisions of this Chapter, the governor shall procure all materials, supplies, equipment, and contractual services required for the governor’s mansion, the cafeteria operated in the state capitol, and similar agencies. The procurement shall, insofar as practicable, be in accordance with the provisions of this Chapter.

D. Exclusions. (1) This Chapter shall not be construed to change, affect, increase, or reduce the requirements of R.S. 38:2301 through R.S. 38:2316.

(a) R.S. 42:1643 in order to lease residential living options for mentally retarded individuals who are blind.

(b) R.S. 38:2301 through R.S. 38:2306, and R.S. 39:1451 through R.S. 39:1526, regarding the procurement of personal, professional, consulting, and social services.

(c) R.S. 23:3023, as regarding the purchase of products or services from individuals who are blind.

(2) This Chapter shall not be applicable to the legislative and judicial branches of state government or to any agency within the legislative branch of state government.

(3) The office for citizens with developmental disabilities in the Department of Health and Hospitals shall be exempt from the requirements of R.S. 39:1643 in order to lease residential living options for totally or partially disabled or developmentally disabled individuals without carrying out the competitive sealed bidding requirement of this Chapter.

(4) This Chapter shall not be applicable to any hospital owned or operated by the Department of Health and Hospitals, through the qualified group purchasing organization if the Department of Health and Hospitals, with the concurrence of the division of administration, has determined that the cost is less than the state procurement threshold and that it is in the best interest of the state to purchase the supplies, materials, and equipment from the qualified group purchasing organization.

(5) This Chapter shall not be applicable to the purchase of any medical supplies or medical equipment from a qualified group purchasing organization if the Department of Health and Hospitals has determined that it is in the best interest of the state to purchase the medical supply or medical equipment from the qualified group purchasing organization. An annual report on the number, type, and volume of such purchases shall be made to the commissioner of administration, the speaker of the House of Representatives, and the president of the Senate.

(6) The provisions of this Chapter shall not be applicable to the State Bond Commission in the solicitation of bids for printing of financial documents. However, the State Bond Commission shall obtain a minimum of three

THE ADVOCATE

* As it appears in the enrolled bill

CODING: Words in struck through type are deletions from existing law; words underscored (House Bills) and underlined and boldfaced (Senate Bills) are additions.
Because the prison enterprise system operates under the constraints of
its political subdivisions or other governmental entities, or between higher
jurisdiction of the Department of Public Safety and Corrections, or its
facilities under contract with the department, shall operate only pursuant
to the Department of Transportation and Development.

(2) Grants or contracts or like business agreements between the state and
other governmental entities, or between higher education boards and institutions under their jurisdiction, except
this Chapter shall apply to interagency contracts as defined in R.S. 39:1460(C),
and to contracts or grants between the state and its political subdivisions to procure services performed by a co-owner of intellectual property when one co-owner
agreement between co-owners of intellectual property when one co-owner
purchasing
requests, which are additions.

§1554.1. Federal block grants
This Chapter shall not apply to any contract or like business agreement to purchase professional, personal, consulting, or contract services required or utilized by the Louisiana Agricultural Finance Authority authorized under the provisions of Chapter 3-B of Title 3 of the
Louisiana Revised Statutes of 1950.

§1482-D. Other limitations
This Chapter shall not apply to those services performed by an architectural firm licensed to operate as such as provided in R.S. 38:2310- through 38:2315, 38:2318, nor shall the provisions of this Chapter affect or otherwise limit the duties, functions, and jurisdiction of the Louisiana Architect Selection Board, the Louisiana Engineer Selection Board, or the Louisiana Landscape Architect Selection Board.

§1482-D. Foreign law
This Chapter shall not apply to any contract or like business agreement to purchase professional, personal, consulting, or contract services required or utilized by the Louisiana Agricultural Finance Authority authorized under the provisions of Chapter 3-B of Title 3 of the
Louisiana Revised Statutes of 1950.

§1482-D. D. (1) This Chapter shall not apply to those personal, professional, or social services provided to the clients of the Department of Health and Hospitals, the Department of Children and Family Services, the office of special education services within the Department of Education, provided that the expense for these special education services is five thousand dollars or less per child, corrections services within the Department of Public Safety and Corrections, or the office of juvenile justice, within the Department of Public Safety and Corrections, in the following circumstances:
(a) Services are performed by the office of state chief procurement officer for the purchase through the distribution of used equipment.
(b) The state chief procurement officer certifies in writing to the director of state chief procurement officer that there are no funds available to purchase through distribution of used equipment.
(c) The state chief procurement officer certifies in writing to the director of state chief procurement officer that the purchase is for the benefit of an industry, are exempt from the requirements of this Part of the Code.
(d) When social services are arranged on a case-by-case basis from a social service provider qualifying under R.S. 39:1600(D)(1),

§1555. Definitions

THE ADVOCATE
As used in this Chapter, the words defined in this Section shall have the meanings set forth below, unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular Part or provision.

§1484(A)(1) “Agency” as used in this Part and in Part V of this Title Chapter shall have the same meaning ascribed to it as provided in R.S. 36:3(1).

§1484(A)(2) “Assembled” means the process of putting together all component parts of an item of equipment by the manufacturer where the assembly plant is located within the territorial borders of the state of Louisiana. “Assembled” shall not mean the reassembly of parts packed for shipping purposes.

§1484(A)(3) “Business” means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.

§1484(A)(4) “Central purchasing agency” means the office of state procurement.

§1484(A)(5) “Change order” means a written order signed by the procurement officer, directing the contractor to make changes which the change order contract authorizes the procurement officer to order without the consent of the contractor.

§1484(A)(6) “Chief procurement officer” means the state director of purchasing person holding the position created in R.S. 39:1562 and the directors purchasing of the purchasing departments exempt from central purchasing the office of state procurement by R.S. 39:1572.

§1484(A)(7) “Claims adjuster” means an individual engaged in the investigation, evaluation, and negotiation of property, casualty, and worker’s compensation insurance claims.

§1484(A)(8) “Competitive negotiation” means to negotiate for a contract through a Request for Proposal (RFP) request for proposals process or any other similar competitive selection process.

§1484(A)(9) “Sealed Competitive Request for Bidding” means the receipt of bids protected from inspection prior to bid opening. Bids may be received in any manner specified in the invitation for bids including receipt by mail, by direct delivery, or through any secure electronic interactive environment provided by the authority.

§1484(A)(10) “Consulting service” means work, other than professional, personal, or social service, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services, or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting, planning, data processing, information technology, and advertising contracts, etc.

§1484(A)(11) “Consulting service” means work, other than professional, personal, or social service, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services, or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting, planning, data processing, information technology, and advertising contracts, etc.

§1484(A)(12) “Contract” means all types of state agreements, regardless of what they are termed, and includes agreements purporting to represent grants, which are for the purchase or disposal of supplies, services, or major repairs, or any other item. It includes awards and notice of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive-type; contracts providing for the issuance of job or task orders; or later contracts and purchase orders. It also includes supplemental agreements with respect to any of the foregoing.

§1484(A)(13) “Contract modification” means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

§1484(A)(14) “Contractor” means any person having a contract with a governmental body.

§1484(A)(15) “Cooperative purchasing” means procurement conducted by or on behalf of more than one public procurement unit or by a public procurement unit with an external procurement activity or by a private procurement unit.

§1484(A)(16) “Cost-reimbursement contract” means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with cost principles as provided for in regulations, and a fee, if any.

§1484(A)(17) “Court” means the Nineteenth Judicial District located in Baton Rouge and, in the event of an appeal from such a court, the First Circuit Court of Appeal located in Baton Rouge.

§1484(A)(18) “Data” means recorded information, regardless of form or medium, from which meaningful information can be derived.

§1484(A)(19) “Designee” means a duly authorized representative of a person holding a superior position.

§1484(A)(20) “Electronic media” includes electrical, digital, magnetic, optical, electromagnet, or other similar technology.

§1484(A)(21) “Employee” means an individual drawing a salary from a governmental body, whether elected or not, and any nonsalaried individual performing personal services for any governmental body.

§1484(A)(22) “End product” means the price included in a catalog, price list, schedule, or other form that:

(a) Is regularly maintained by a manufacturer or contractor,

(b) Is either published or otherwise available for inspection by customers,

(c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for the supplies or services involved.

§1484(A)(23) “Encumberment” means activity any buying organization not located in this state which, if located in this state, would qualify as a public procurement unit. An agency of the United States government is an external encumberment activity.

§1484(A)(24) “Governmental body” means any department, office, division, commission, council, board, bureau, committee, institution, government corporation, or other establishment or official of the executive or judicial branches of state government. For purposes of procurement of personal, professional, consulting, and social services contracts, governmental body shall not include the judicial branch of state government.

§1484(A)(25) “Governmental entity” means any governmental unit which is not included in the definition of “governmental body” in R.S. 39:1544(11) this Section.

§1484(A)(26) “Grant” means the furnishing by the state of assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award whose primary purpose is to procure an end product, whether in the form of supplies, services, or major repairs; a contract resulting from such an award is not a grant but a procurement contract.

§1484(A)(27) “Information technology”, which includes telecommunications, means those commodities subject to the authority of the office of information technology in accordance with R.S. 39:153.

§1484(A)(28) “Intra-agency” or “Interagency” means a contract which is utilized to procure supplies or equipment from a contractor where payment for the supplies or equipment is made in a set of installment payments over a fixed period of time in accordance with the provisions of the contract, and in which the contractor agrees to deliver title of the property to the governmental body to be accounted for in the terms and conditions of the contract.

§1484(A)(29) “Invitation for bids” means all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in R.S. 39:1594.

§1484(A)(30) “Local public procurement unit” means any parish, city, town, governmental body, and any other subdivision of the state or public agency thereof, public charity, public service corporation, and public institution, and to the extent provided by law, any other entity which expends public funds for the acquisition or leasing of supplies, services, major repairs, and construction, and any nonprofit corporation operating a charitable hospital, clinic, or other institution, and to the extent provided by law, any other entity which expends public funds for the acquisition or leasing of supplies, services, major repairs, and construction, and any nonprofit corporation operating a charitable hospital, clinic, or other institution.

§1484(A)(31) “Major repairs” means those repairs payable with funds appropriated in the general appropriations act, except those funds transferred from the operating budget of one governmental body to supplement and complete a project under contract by the division of administrative management and control section.

§1484(A)(32) “May” denotes the permissive.

§1484(A)(33) “Negotiation” means the formulation of a contractual relationship by either of the methods set forth in Sections 1401, 1403, and 1406 through discussions as may be allowed under this Chapter.

§1484(A)(34) “Person” means any business, individual, union, committee, club, or other organization or group of individuals.

§1484(A)(35) “Performance-based energy efficiency contract” means a contract for energy efficiency services and equipment in which the payment obligation for each year of the contract is either:

(a) Set as a percentage of the annual energy cost savings attributable to the services or equipment under the contract.

(b) Guaranteed by the person under contract to be less than the annual energy cost savings attributable to the services or equipment under the contract.

§1484(A)(36) “Practicable” means that which can be done or put into practice; feasible.

§1484(A)(37) “Proposal” means work, other than professional, personal, or social service, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services, or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting, planning, data processing, information technology, and advertising contracts, etc.

§1484(A)(38) “Proposal” means work, other than professional, personal, or social service, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services, or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting, planning, data processing, information technology, and advertising contracts, etc.
"Procurement" means the buying, purchasing, renting, leasing, or otherwise obtaining any supplies, services, or major repairs. It also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. "Procurement officer" means any person authorized by a governmental body, in accordance with procedures prescribed by regulations, to enter into contracts and to have the power to be present at determinations and findings with respect thereto. The term also includes an authorized representative acting within the limits of authority.

"Delegation from the state director of purchasing" means any independent contractor who has a professed knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art based on it, which independent contractor shall include but not be limited to lawyers, doctors, dentists, psychologists, certified advanced practice nurses, veterinarians, architects, engineers, land surveyors, landscape architects, accountants, actuaries, and claims adjusters. A profession is a vocation founded upon prolonged and specialized intellectual training which enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skill. For contracts with a total amount of compensation of fifty thousand dollars or more, the definition of "professional service" shall be limited to lawyers, doctors, dentists, psychologists, certified advanced practice nurses, veterinarians, architects, engineers, land surveyors, landscape architects, accountants, actuaries, and claims adjusters. A profession is a vocation founded upon prolonged and specialized intellectual training which enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skill.

"Sealed bidding" means the receipt of bids protected from inspection by anyone except the person holding the position of state procurement officer and the staff of the Department of Administration. "Request for proposals" means all documents, whether oral or written, including any written specifications subsequent to the invitation for bids, including the specifications set forth in the invitation. For purposes of this Subpart, "reverse " means a competitive online solicitation process on the Internet for materials, supplies, services, products, or equipment in which vendors compete against each other online in real time in an open and interactive environment.

"Responsible bidder or offeror" means any person who has the capability in all respects to perform the contract requirements and the integrity and reliability which will assure good faith performance.

"Responsive bidder" means a person who has submitted a bid which is in all other respects acceptable to the requisites of the invitation for bids, including the specifications set forth in the invitation.

"Reverse " means a competitive online solicitation process on the Internet for materials, supplies, services, products, or equipment in which vendors compete against each other online in real time in an open and interactive environment.
shall not apply to the office of facility planning and control, and the office of procurement.

§1559. Determinations.
Written determinations and findings required by this Chapter shall be retained in an official contract file in the central purchasing agency or purchasing agency or by the governmental body administering the contract.

PART II. PURCHASING ORGANIZATION
SUBPART A. CENTRAL PROCUREMENT
§1561. Authority and duties of the commissioner of administration
A. Except as otherwise provided in this Chapter, the commissioner of administration, hereinafter referred to as "the commissioner," shall have the authority and responsibility to promulgate regulations, consistent with this Chapter, governing the procurement, management, and control of any and all supplies, services, and major repairs, and personal, professional, consulting, or social services required to be procured by the state. However, the commissioner shall not violate the rule of law which prohibits the board of management board of public higher education or any institution under their jurisdiction to prepare or submit a monthly report on items purchased from state contracts or on contract item usage to the Division of Administration in the Department of Revenue.

B. The commissioner or his designee shall serve as the central procurement officer of the state. The commissioner or his designee shall have the power to audit and review the implementation of the procurement regulations and the requirements of this Chapter.

SUBPART B. CENTRAL PURCHASING AGENCY
§1562. Central purchasing agency; creation
There is hereby created, within the division of administration, the Central Purchasing Agency, headed by the State Director of Purchasing, hereinafter referred to as "the director of purchasing chief procurement officer."

§1563. Appointment and qualifications
The director of purchasing chief procurement officer shall be in the classified service of the state and shall be appointed in accordance with the provisions of Article X, Section 7 of the Louisiana Constitution of 1974. The director of purchasing chief procurement officer shall have had a minimum of eight years experience in the large scale procurement of supplies, services, or construction, personal, professional, consulting, or social services, involving specification development, the preparation of bid proposals and bid evaluation and award, including at least three years of supervisory experience. Preference shall be given to such experience in governmental purchasing.

§1564. Authority of the state director of purchasing chief procurement officer
A. Central procurement officer of the state. The director of purchasing chief procurement officer shall serve as the central procurement officer of the state.

B. Power to adopt rules. Consistent with the provisions of this Chapter, the director of purchasing chief procurement officer may adopt rules governing the internal procedures of the central purchasing agency.

C. Duties. Except as otherwise specifically provided in this Chapter, the director of purchasing chief procurement officer shall, within the limitations of regulations required by the commissioner, perform the following functions:
(1) Procure or supervise the procurement of all supplies, services, and major repairs, and personal, professional, consulting, and social services needed by the state.
(2) Exercise supervision over all inventories of purchased supplies belonging to the state.
(3) Establish and maintain programs for the inspection, testing, and acceptance of supplies, services, and major repairs.
(4) To provide for contractual forms and specifications to be used in the confection of all contracts provided for in this Chapter.

§1565. Duties of the attorney general
The attorney general shall be the chief legal adviser to the director of purchasing chief procurement officer.

§1566. Appointment of assistants and other employees; delegation of authority by the state director of purchasing chief procurement officer
Subject to the provisions of the Article X, Section 7 of the Louisiana Constitution of 1974, the director of purchasing chief procurement officer may employ such assistants and other persons as may be necessary and may delegate authority to such designees or to any governmental body as the director of purchasing chief procurement officer may deem appropriate within the limitations of state law and the state procurement regulations.

§1567. Reporting requirements
A. The director of purchasing chief procurement officer shall prepare any reports that the commissioner of administration may deem necessary and shall deliver such reports to such recipients as the commissioner may designate. As provided in R.S. 44:1 et seq., such reports shall be available to the public upon reasonable request. Furthermore, notice of the time and place such reports are to be consider shall be mailed to the president of the Senate and the speaker of the House of Representatives not later than January first of the year following the end of the fiscal year for which the report is prepared.

B. If for any reason collusion is suspected among any offerors or proposers, a written notice report of the facts giving rise to such suspicion shall be transmitted to the director of contract review state chief procurement officer and the attorney general.

§1568. All documents involved in any procurement in which collusion is suspected shall be retained until the office of state chief procurement gives notice that they may be destroyed. All retained documents shall be made available to the commissioner of administration or his designee upon request.

§1569. The using agencies shall cooperate with the office of contract review state chief procurement officer in the preparation of statistical data concerning the acquisition, use, and disposal of all professional, personal, consulting, and social services, and may employ trained personnel, as necessary, to carry out this function. All using agencies shall furnish such reports as the director of purchasing chief procurement officer may require concerning the purchase, use, and disposal of such services. Subsection B of this Section shall be grounds for debarment. It shall be the duty of the state chief procurement officer to prescribe forms to be used by the using agencies in the reporting of professional, personal, consulting, and social services. The provisions of this Section shall be mandatory information requirement for contracts let without competition under the authority of an executive order related to Hurricane Katrina or Rita.

A. The provisions of this Section shall apply to any contract for state procurement of goods or services which is subject to the provisions of this Chapter, hereinafter referred to as "state procurement law", which contract is let without competition pursuant to an executive order issued by authority granted under the Louisiana Homeland Security and Emergency Assistance and Disaster Act, which order grants exceptions to the requirements of state procurement law. Such provisions shall apply to contracts which have been or will be let without competition pursuant to executive orders related to Hurricane Katrina or Rita which granted exceptions to the requirements of state procurement law.

B.1. For any contract subject to the provisions of this Section, the information cited in Subparagraphs (a) through (d) of this Paragraph shall be submitted by the primary contractor to the office of state chief procurement. The following information shall be submitted, in a format to be determined by such agencies, no later than forty-five days after the effective date of the contract, or forty-five days after June 29, 2006, whichever is later:
(a) The name of the primary contractor.
(b) The amount of the contract.
(c) The name of each subcontractor.
(d) The dollar amount of contract subcontracts.

B.2. Any change in subcontractors, or in the amount of a subcontract which exceeds twenty-five percent in the aggregate of the original subcontracted amount, shall necessitate the submission of updated information as required in Paragraph (1) of this Subsection.

B.3. The primary contractor for each contract subject to the provisions of this Section shall be notified of the requirements of this Section by the contracting state agency. Such notification shall be made no later than ten days after June 29, 2006 for contracts which are currently in effect. Otherwise, the notification shall be made prior to execution of the contract.
C. The office of state procurement shall maintain a listing or registry of all information reported to it pursuant to the provisions of this Section.

D. Failure to submit all of the information required as provided in Subsection B of this Section shall be grounds for debarment. It shall be unlawful for any person to intentionally fail to submit such information, which failure is hereby deemed to be a violation of the duty to provide the mandatory information required, and, in the case of such failure, the provisions of Subsection B of this Section shall be fined in an amount not to exceed one-half of the contract amount and imprisoned for not more than six months, or both.

E. The provisions of this Section shall not be subject to suspension pursuant to the authority granted to the governor by R.S. 29:721 et seq., the Louisiana Homeland Security and Emergency Assistance and Disaster Act. Use of other types of contracts

Use of other types of contracts

Subject to the limitations of R.S. 39:1611 and R.S. 40:1612, any type of contract, including brand name and multiple award contracts, which will provide the services specified in the request for proposals, shall be considered. This Section shall not be construed to prohibit the use of state procurement as a method of procurement. An annual report on the number, type, and volume of such procurements shall be made to the cabinet or department head within ninety days after the end of the fiscal year.
SUBPART C. CENTRALIZATION OF PUBLIC PROCUREMENT
§1571. Centralization of procurement authority
Exempt as otherwise provided in this Subpart, all rights, powers, duties, and authority relating to the procurement of supplies, services, and major repairs now vested in or exercised by any state governmental body under the several statutes relating thereto are hereby transferred to the central purchasing agency.

§1571.1 Exemptions
A. Exemption from central purchasing agency and procurement regulations of commissioner. Procurement of the following items or by the following governmental bodies shall not be required to be conducted through the central purchasing agency:
(1) The Department of Transportation and Development, for procurement of materials, supplies, equipment, and services, subject to the provisions of R.S. 39:1554, exemptions from central purchasing do not apply to personal, consulting, or social service contracts.
B. Exemptions from central purchasing only. Unless otherwise provided in R.S. 39:1554, exemptions from central purchasing do not apply to personal, consulting, or social services contracts.

SUBPART D. STATE PROCUREMENT REGULATIONS
§1581. State procurement regulations
A. Regulations promulgated by the commissioner in accordance with the Administrative Procedure Act shall govern all procurements by all governmental bodies except for:
(1) Regulations promulgated by the secretary of the Department of Transportation and Development governing procurement by that department for procurements of material, supplies, and services that will become a component part of any road, highway, bridge, or appurtenance thereto.
(2) Regulations promulgated by the State Superintendent of Education governing the procurement of textbooks, scientific and laboratory equipment, teaching materials, and teaching supplies by the Department of Education.
(3) Board of Trustees of State Colleges and Universities of Louisiana
(4) The Louisiana Community and Technical College System.
(5) The Road Home Program; reporting on certain contract actions.
C. Use of central purchasing by exempt agencies. A governmental body exempted from centralized purchasing may use the central purchasing agency to perform the best interests of such governmental body and the state may be served.

SUBPART E. COORDINATION, TRAINING, AND EDUCATION
§1586. Relationship with using agencies
A. Regulations promulgated by the director shall maintain a close and cooperative relationship with the using agencies. The director shall afford each using agency reasonable opportunity to participate in and make recommendations with respect to matters affecting such using agency. Any using agency may at any time request an explanation of the reasons for a decision or approval made, in whole or in part, under these regulations.
time make recommendations to the commissioner or the director, state chief procurement officer, and the commissioner or director, state chief procurement officer, at any time make recommendations to any using agency.

§1587. Procurement advisory council; other advisory groups
A. Procurement advisory council. The commissioner may establish a Procurement Advisory Council. If created, such council, upon adequate public notice, shall meet at least once a year for the discussion of problems and recommendations for improvement in the procurement process. When requested by the commissioner, the procurement advisory council may conduct studies, research, and analyses and make such reports and recommendations with respect to such subjects or matters within the jurisdiction of the commissioner, or recommend improvements in the procurement process that may conduct studies, research, and analyses and make such reports and recommendations for improvement in the procurement process. The procurement advisory council shall consist of such qualified persons as the commissioner may deem desirable.
B. Other advisory groups. The director, state chief procurement officer may appoint advisory groups to assist with respect to specifications and procurement in specific areas and with respect to any other matters within the authority of the director, state chief procurement officer.
C. Drug procurement advisory council. The commissioner shall establish a Drug Procurement Advisory Council which shall be composed of persons from the division of administration and from using agencies of drugs procured by the division and persons qualified in the fields of medicine and pharmacy. The council shall advise the commissioner with respect to the procurement of drugs for any using agency by generic contract, as further provided in R.S. 29:1501-1506.

PART III. SOURCE SELECTION AND CONTRACT FORMATION

SUBPART A. DEFINITIONS

§1591. Definitions of terms used in this Part
1. “Cost reimbursement contract” means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with cost principles as provided for in regulations, and a fee, if any.
2. “Established catalog price” means the price included in a catalog, list, schedule, or other form that a regularly maintained manufacturer or contractor.
3. “In either published or otherwise available for inspection to customers.
4. “State prices at which sales are currently or were last made to state or state agencies, constituting the general buying public for the supplies or services involved.”
5. “Invitation for bids” means all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in R.S. 39:1594.
6. “Purchase description” means specifications or any other document describing the supplies, services, or major repairs to be procured.
8. “Resident business” means one authorized to do and doing business under the laws of this state which either:
   (a) Maintains its principal place of business in the state; or
   (b) Employing a minimum of two employees who are residents of the state.
9. “Responsible bidder or offeror” means a person who has the capability in all respects to perform the contract requirements and the integrity and reliability which will assure good faith performance.
10. “Responsive bidder” means a person who has submitted a bid under R.S. 39:1594 which conforms in all important respects to the invitation for bids, including the specifications set forth in the invitation.
11. “Assembly” means the process of putting together all component parts of a system of equipment by the manufacturer where the assembly plant is located within the territorial boundaries of the state of Louisiana.
12. “Assembled” means the process of putting together all component parts of an item of equipment by the manufacturer where the assembly plant is located within the territorial borders of the state of Louisiana. “Assembled” means the process of putting together all component parts of an item of equipment by the manufacturer where the assembly plant is located within the territorial boundaries of the state of Louisiana.
13. “Auction” means a procedure for the sale of property by which bidders purchase property competitively under written conditions, upon receipt of which property shall be awarded to the highest bidder.
14. “Auctioneer” means a person who executes an auction upon the request of a property owner.
15. “Auctioneer” means a person who executes an auction upon the request of a property owner.

SUBPART A. METHODS OF SOURCE SELECTION

$1593. Methods of source selection
A. Unless otherwise authorized by law, all state contracts shall be awarded by competitive sealed bidding, pursuant to R.S. 39:1591, except as provided in R.S. 39:1591-1, R.S. 39:1596, and R.S. 39:1599 through 1598 one of the following methods:
   (1) R.S. 39:1594, competitive sealed bidding.
   (2) R.S. 39:1596, small purchases.
   (3) R.S. 39:1597, sole source.
   (4) R.S. 39:1598, emergency procurements.
   (5) R.S. 39:1599, other procurement methods:
      (i) Unstable market conditions.
      (ii) Group purchasing organizations.
      (iii) Used equipment.
      (iv) Reversing the order of noncompetitive contracts.
      (v) Negotiation of noncompetitive contracts.
B. Notwithstanding any other provisions of this Section to the contrary and in accordance with rules and regulations promulgated by the commissioner in accordance with the Administrative Procedure Act, the director of state purchasing or director of state purchasing at a college or university, with the approval of the commissioner, may procure by solicitation requesting written response from at least three bona fide bidders under the provisions of this Subsection, when it is determined that market conditions are unstable and the competitive bid process is not conducive for best pricing for products, supplies, and other materials. The provisions of this Subsection shall be applicable only if the value of the contract is fifty thousand dollars or less and only if the subject matter to be provided is not competitively procured as provided in the provided contract, until it has first been executed by the head of the using agency, the director, state chief procurement officer, or director, state chief procurement officer, as the case may be, and only after sufficient documentation is provided to the commissioner by the director, to substantiate the unstable market.
C. (1) Notwithstanding any other provision of this Section to the contrary, with the approval of the commissioner and the written determination by the director of state purchasing that the best interests of the state would be served by awarding the contract but not limited to the procurement of high technology acquisitions or of contracts having a total value in excess of two hundred thousand dollars, a request for proposals shall be conducted.

THE ADVOCATE CODING: Words in strike through type are deletions from existing law; words underscored (House Bills) and underlined and boldfaced (Senate Bills) are additions.

PAGE 616

* As it appears in the enrolled bill
the agency, this delegation shall be made in accordance with regulations of the commissioner and shall be subject to the approval of the director of state purchasing.

§1504. Competitive sealed bidding bids
A. Conditions for use. Contracts exceeding the amount provided by R.S. 39:1596 shall be awarded by competitive sealed bidding unless otherwise provided in this Chapter.

B. Process by the Department of Public Safety and Corrections, division of prison enterprises. Such contracts shall be awarded by competitive sealed bidding, unless otherwise provided in this Chapter.

1. Adequate public notice of the invitation for bids shall be given at least ten days prior to the date set forth therein for the opening of bids on all matters except those made for housing of state agencies, their personnel, operations, equipment, or activities pursuant to R.S. 39:1643, for which such notice shall be given at least twenty days prior to the opening of bids. Notice shall be in writing and to persons in a position to furnish the supplies, services, or major repairs required, as shown by its records, and by advertising if the amount of the purchase is twenty-five thousand dollars or more.

2. The advertisements or written notices shall contain general descriptions of the supplies, services, or major repairs for which bids are wanted and shall state all of the following:
(a) The names and locations of the departments or institutions for which the purchases are to be made.
(b) Where and how specifications and quotation forms may be obtained.
(c) The date and time not later than which bids must be received and will be opened.
(d) Each advertisement shall be published in the official journal of the state. In the case of any purchase to meet the needs of a single budget unit within the budget unit in which the budget unit is located, that which has a general circulation in the parish in which the budget unit is located.
(e) The signature on the bid is that of an authorized representative of the corporation, partnership, or other legal entity and the bid is accompanied by bidder submis or provides upon request a corporate resolution, certification as to the corporate principal, or other documents indicating authority which are acceptable to the public entity, including registration on an electronic Internet database maintained by the public entity.

(f) All bids shall be advertised by a contracting agency through a centralized electronic interactive environment administered by the division of administration as provided in this Section. The advertisement or written notice required by this Section shall contain the name and address of the using agency and shall establish the specific date, time, and place by which the bids must be received.

D. Bids opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and open for public inspection.

E. Bid evaluation.
1. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, and criteria affecting price such as life cycle or total ownership costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not specifically referred to in the invitation for bids.

2. For bids made for housing of state agencies, their personnel, operations, equipment, or activities pursuant to R.S. 39:1643, the criteria for evaluation shall be included in the invitation for bids and shall include, at a minimum, the following:
(a) Location of the proposed space.
(b) Condition of the proposed space.
(c) Suitability of the proposed space for the advertiser’s needs.
(d) Timeliness of availability of the proposed space.

F. Correction or withdrawal of bids. Patent errors in bids or errors in bids supported by clear and convincing evidence may be corrected, or bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders, and such actions may be taken only to the extent permitted under regulations.

G. Award. The contract shall be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder whose bid is determined (on an electronic Internet database maintained by the public entity) to be the lowest responsive and responsible bid in the case of bids. The award shall be made by unconditional acceptance of a bid without alteration or correction except as authorized in this Part Chapter.

H. Resident business preference. In state contracts awarded by competitive sealed bidding, advertisements shall be placed in those national trade journals which serve the particular state of Louisiana. The authority of the signature submitting the bid shall be deemed sufficient and acceptable in any of the following circumstances:
(a) For the procurement of supplies, services, or major repairs, including but not limited to the procurement of high technology acquisitions or other complex services.
(b) Through a contract with a group purchasing organization, for the procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(c) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(d) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(e) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(f) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
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(h) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(i) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(j) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(k) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(l) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(m) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(n) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(o) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(p) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(q) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(r) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(s) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(t) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(u) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(v) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(w) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(x) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(y) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.
(z) Procurement of medical and laboratory supplies and medical equipment required for the purpose of diagnosis or direct treatment of a patient in a hospital or clinical setting.

THE ADVOCATE
(3) For consulting service contracts entered into by the Department of Transportation and Development with a total maximum compensation of fifty thousand dollars or more, the requirements of the Request for Proposals shall be by advertising in the official journal of the state at least once. The first advertisement shall appear at least fifteen days before the last day that proposals will be accepted. In addition, written notice shall be provided to persons, firms, or corporations who are known to be in a position to furnish such services, at least fifteen days prior to the last day that proposals will be accepted.

(4) All requests for proposals shall be advertised by a using agency through a centralized electronic interactive environment administered by the division of administration as provided in this Section. The advertisement or written notice required by this Section shall contain the name and address of the using agency and shall establish the specific date, time, and place by which the request for proposals must be received.

§1502. The Request for Proposals.

(a) For consulting, social, and professional services not otherwise exempt by law or regulation shall indicate the relative importance of price and other evaluation factors, shall clearly define the task to be performed under the contract, the criteria to be used in evaluating the proposals and the time frames within which the work must be completed.

§1502(6). Written or oral discussions shall be conducted with all responsible offerers whose proposal is determined in writing to reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerers. Discussions need not be conducted:

(1) With respect to prices, where such prices are fixed by law or regulation, except that consideration shall be given to competitive terms and conditions.

(2) Where time of delivery or performance will not permit discussions.

(c) Where it can be clearly demonstrated and documented from the experience of adequate competition or accurate prior cost experience with the particular service that acceptance of an initial offer without discussion would result in failure to source the items in the local market.

§1502(g). Each contract entered into pursuant to this Subsection shall contain as a minimum:

(1) A statement of the work to be performed and/or objectives to be met, when applicable.

(2) Description of reports or other deliverables to be received, when applicable.

(3) Responsibility for payment of taxes, when applicable.

(4) Circumstances under which the contract can be terminated either with or without cause.

(5) Remedies for default.

§1502(h). A statement giving the legislative auditor the authority to audit records of the individual or firm.

§1502(i). Performance Measurements.


§1502(k). Upon entering into a contract, the using agency shall have full responsibility for the diligent administration and monitoring of the contract. The director of state purchasing shall have the authority to require the using agency to report at any time on the status of any such outstanding contracts to which the using agency is a party. After completion of performance under a contract, the using agency shall evaluate contract performance and the utility of the final product. This evaluation shall be delivered to the director of state purchasing state chief procurement officer or his designee or the director of purchasing at a college or university, as applicable, within one hundred twenty days after completion of performance and shall be retained in the official contract file.

§1502(l). No contract shall be valid, nor shall the state be bound by the contract, until it has first been executed by the head of the using agency, or his designee, which is a party to the contract and the contractor, and has been approved in writing by the director of state purchasing state chief procurement officer or his designee or the director of purchasing at a college or university, as applicable.

§1502(m). The head of the using agency wants to delegate authority to one or more of his subordinates to sign contracts on behalf of the agency, this delegation shall be made in accordance with regulations of the commissioner of the office of contractual review state chief procurement officer.

§1502(n). Notwithstanding the provisions of this Chapter, all relevant federal statutes and regulations shall be followed by the using agency in preparation for, award of, and performance under contracts. All federal statutes and regulations rest with the using agency and shall be documented in the contract record submitted to the office of contractual review state chief procurement officer.

§1502(o). Validity of professional, personal, consulting, and social service contracts.

A. No contract shall be valid, nor shall the state be bound by the contract, until it has first been executed by the head of the using agency, or his designee, which is a party to the contract and the contractor, and has been approved in writing by the director of state purchasing state chief procurement officer.

B. In cases where the head of the using agency wants to delegate authority to one or more of his subordinates to sign contracts on behalf of the agency, this delegation must be made in accordance with regulations of the office of contractual review state chief procurement officer.

§1502(p). Small purchases.

§1503. Procurements not exceeding the amount established by executive order of the governor are made in accordance with small purchase procedures prescribed by such executive order, except that procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section.

§1503(a). Sole source procurements.

A contract may be awarded for a required supply, service, or major repair without competition when, under regulations, the chief procurement officer or his designee above the level of procurement officer determines in writing that there is only one source for the required supply, service, or major repair item.

§1503(b). Small purchases.

A. Conditions for use. The chief procurement officer or his designee above the level of procurement officer may make or authorize others to make the determinations specified in this Subsection where the market is unstable and the contractor is the only source.

B. Procurements not exceeding the amount established by executive order of the governor are made in accordance with small purchase procedures prescribed by such executive order, except that procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section.

§1503(c). Other procurement methods.

A. Unstable market conditions.

Notwithstanding any other provisions of this Section, the following conditions shall be applicable:

(1) The competitive bid process is not conducive for best pricing for products, supplies, and other materials. The provisions of this Subsection shall be applicable only if the value of the contract is fifty thousand dollars or less and only after sufficient documentation is provided to the commissioner by the using agency.

B. Group purchasing.

A(1). The Louisiana State University Health Sciences Center may contract with a group purchasing organization through a competitive request for proposal.

§1503(l). Procurement of services.

§1503(m). Procurement of supplies.

§1503(n). Procurement of equipment.

the total cost to be less than the state procurement prices, the Louisiana State University Health Sciences Center makes a written determination that prices from the group purchasing organization are fair market prices and that the compensation for the use of intellectual property interests or licenses is fair. The negotiation of such compensation shall be conducted pursuant to 30:1619(B).

§1594.3 Right to reject bids from Communist countries

In awarding contracts for supplies, any public entity is authorized to reject the lowest bid if received from a bidder domiciled in a Communist country, or if the supplies are manufactured in a Communist country, including but not limited to the Soviet Union, China, North Korea, and Vietnam, and to award the contract to the next lowest bidder, provided this Section shall not apply to any country having established trade relations agreements or approvals from the government of the United States.

§1601. Limitations on consultants competing for contracts

A. Any person contracting with an agency for the purposes of developing bidding documents, requests for proposals, or any other type of solicitation related to a specific procurement shall be prohibited from bidding, proposing, or otherwise competing for award of that procurement. Such person shall be further prohibited from participating as subcontractors related to the award of that procurement.

B. For the purposes of this Section, the following activities shall not be considered “developing bidding documents, requests for proposals, or any other type of solicitation”:

(1) Architectural and engineering programming.
(2) Master planning.
(3) Budgeting.
(4) Feasibility analysis.
(5) Constructability review.
(6) Furnishing specification data or other product information.
(7) Any other services that do not establish selection qualifications or evaluation criteria for the procurement of an architect or engineer.

§1601.3 Preference for all types of products produced, manufactured, assembled, grown, or harvested in Louisiana; exceptions

A. As used in this Section, the following terms shall have the following meanings ascribed to them:

(1) “Meat” and “meat product” means beef, veal, pork, mutton, poultry, and other meats, and products made from those meats.
(2) “Other products” includes “other meat”, “other meat products”, “other seafood”, and “other seafood products” and means products which are produced, manufactured, grown, processed, and harvested outside the state.
(3) “Seafood” means crawfish, catfish, other fish, shrimp, oysters, crabs, underutilized species, and other seafood and freshwater food.
(4) “Processed” means the alteration of any raw product altered from its original state to enhance its value or render it suitable for further refinement of a consumer product, in accordance with the applicable procedural regulations of the Louisiana Department of Health.

B. Notwithstanding any other provision of this Section to the contrary, each procurement officer, purchasing agent, or similar official who procures or purchases agricultural or forestry products, including meat, seafood, produce, eggs, paper or paper products under the provisions of this Chapter shall procure or purchase Louisiana products provided all of the following conditions are met:

(1) The bidder certifies in the bid submitted that the product meets the criteria of a Louisiana product.
(2) The product is equal to or better than equal in quality to other products.
(3) The cost of the Louisiana product shall not exceed the cost of other products by more than ten percent, except as otherwise provided in this Chapter as a specific exception.

C. In order to qualify as Louisiana products for the purpose of this Section, the following products shall meet the following requirements:

(1) Produce shall be produced in Louisiana and produce products shall be produced and processed in Louisiana.
(2) Eggs shall be laid in Louisiana and egg products shall be produced and processed in Louisiana.
(3) Seafood shall be produced in Louisiana from animals which are alive at the time they enter the processing plant.

(4) Seafood shall be:

(i) Harvested in Louisiana waters;
(ii) Harvested by a person who holds a valid appropriate commercial fishing license issued under R.S. 56:1 et seq.

(5) Products produced from such seafood shall be processed in Louisiana.

§1614. Negotiation of noncompetitive contracts

A. The head of the using agency or the agency procurement officer shall personally conduct the negotiation for all procurement contracts for emergency procurements or for professional, personal, or those consulting services for less than fifty thousand dollars, or those social services qualifying under R.S. 39:1619(A) at compensation which the head of the using agency determines in writing to be fair and reasonable to take into account, in the following order of importance, the professional or technical qualifications of the service provider, the technical merit of the service, and compensation for which the service is required.

§1614.1 Reverse auction

A. Notwithstanding the provisions of Subpart B of this Part, the award of the using agency for the purposes of developing bidding documents, requests for proposals, or any other type of solicitation related to a specific procurement shall be conducted by reverse auction. Such person shall be further prohibited from participating as subcontractors related to the award of that procurement.
§1604.1

A. Every governmental body shall give a preference in its purchasing practices to goods manufactured and services performed by severely handicapped individuals in state-operated and state-supported sheltered workshops.

B. The provisions of this Section shall not be construed to limit or otherwise affect the provisions of R.S. 23:3024 and 3025 regarding the sheltered industries program for individuals who are blind.

C. There is hereby created within the Department of Health and Hospitals a council whose function shall be to coordinate and facilitate the carrying out of provisions of this Section. The membership of this council shall be determined by the secretary of the Department of Health and Hospitals. It shall have authority to designate and contract with a central nonprofit agency to carry out the requirements of this Section. For the purpose of selecting suitable goods and services, to facilitate the allocation of orders among qualified sheltered workshops, and otherwise to assist the council in performing its functions.

D. The Department of Health and Hospitals may adopt, promulgate, and enforce such rules and regulations as are necessary and appropriate to implement the provisions of this Section. The regulations shall be promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

§1604.2

Preference in letting contracts for public work.

A.(1) In the letting of contracts for public work by any public entity, except contracts for public works performed in whole or in part by contributions or loans from any agency of the United States government, where both in-state and out-of-state vendors are bidding, in-state vendors shall be given a preference in the same manner and to the same extent that such preference may be granted in letting contracts for the same type of work by other public entities domiciled in the state of Louisiana.

(2) Contractors domiciled in the state of Louisiana are to be granted the same preference over contractors domiciled in such state favoring contractors domiciled therein with a preference over contractors domiciled in the state of Louisiana in the same manner and on the same basis as the same type of work by such other state to contractors domiciled therein under contracts for public work.

B. The provisions of this Section shall not be waived by any public entity.

§1604.3

Preference in awarding contracts for certain services.

In the awarding of contracts by any public entity, for services to organize or administer rodeos and livestock shows, where state-owned facilities will be used to house or contain such activities, and where both in-state and out-of-state contractors are bidding, in-state contractors shall be given preference that provided such services are equal in quality and do not exceed in cost by more than ten percent those services available from outside the state.

§1604.4

Preference for goods manufactured, or services performed, by sheltered workshops; definitions; coordinating council.

A. Every governmental body shall give a preference in its purchasing practices to goods manufactured and services performed by severely handicapped individuals in state-operated and state-supported sheltered workshops.

B. The provisions of this Section shall not be construed to limit or otherwise affect the provisions of R.S. 23:3024 and 3025 regarding the sheltered industries program for individuals who are blind.

C. There is hereby created within the Department of Health and Hospitals a council whose function shall be to coordinate and facilitate the carrying out of provisions of this Section. The membership of this council shall be determined by the secretary of the Department of Health and Hospitals. It shall have authority to designate and contract with a central nonprofit agency to carry out the requirements of this Section. For the purpose of selecting suitable goods and services, to facilitate the allocation of orders among qualified sheltered workshops, and otherwise to assist the council in performing its functions.

D. The Department of Health and Hospitals may adopt, promulgate, and enforce such rules and regulations as are necessary and appropriate to implement the provisions of this Section. The regulations shall be promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

E. For the purposes of this Section, the following terms are defined as follows:

1. “Direct labor” means all labor involved in the manufacture of goods or the performance of services except for supervision, instruction, administration, and shipping.

2. “Goods manufactured and services performed by severely handicapped individuals” means goods and services for which not less than seventy-five percent of the man-hours of direct labor required for manufacture or performance is provided by severely handicapped individuals.

3. “Central nonprofit agency for the severely handicapped” means an agency that:

   a. Is incorporated under the Louisiana Nonprofit Corporation Law and operated in the interests of severely handicapped individuals, and the services it performs for that purpose are carried out in part in the benefit of any shareholder or other private individual.

   b. Complies with any applicable occupational health and safety standards provided by the statutes or regulations of this state or of the United States.

THE ADVOCATE

As it appears in the enrolled bill
(4) “Severely handicapped individuals” means individuals with a physical, mental, or substance abuse disability which constitutes a substantial obstacle to gainful employment and is of such a nature as to prevent an individual from engaging in normal competitive employment.

(5) “Schooleder workshop” means a facility designed to provide gainful employment for severely handicapped individuals who cannot be absorbed into the competitive labor market or to provide interum employment for such individuals where employment opportunities for them in the competitive labor market do not exist.

(6) “State-operated sheltered workshop” means a sheltered workshop staffed by state agency personnel.

(7) “State-operated sheltered workshop” means a sheltered workshop funded in whole or in part by the state and staffed by personnel from a qualified nonprofit agency for the severely handicapped.

§1599.3 Preference for items purchased from Louisiana retailers

A. Preference for items purchased from Louisiana retailers. As used in paragraph a. of this section, every procurement officer under the provisions of this Chapter or other person acting as purchasing agent shall purchase items from a retail dealer located in the state of Louisiana which items are equal in quality to items purchased from a retail dealer located outside the state, provided the cost of items purchased from a retail dealer located in this state does not exceed by more than ten percent the cost of the items purchased from a retail dealer located outside the state.

B. A retail dealer shall qualify for the preference if the dealer can show that he has paid Louisiana corporate income, corporate franchise, and inventory taxes or any combination thereof during the previous twelve-month period.

C. Retailers domiciled in the state of Louisiana are to be granted the same preference over retailers domiciled in the state favoring retailers domiciled therein with a preference over retailers domiciled in the state of Louisiana in the same manner and on the same basis and to the same extent that such preference is granted to retailers domiciled by the state of Louisiana.

§1601 Preference for steel rolled in Louisiana

A. Preference for steel rolled in Louisiana. As used in paragraph a. of this section, every person acting as purchasing agent for any agency, board, commission, department, or other instrumentality of the state or of a parish, municipality, or other unit of local government, including a levee board, drainage district, school board, or special district, shall purchase steel rolled in this state which is equal in quality to steel rolled outside the state, provided the cost of steel rolled in this state does not exceed by more than ten percent the cost of steel which is rolled outside the state.

B. The provisions of this Section shall not apply when sufficient quantities of steel available in Louisiana are not available.

§1604.7 Prequalification of offerers

A. This Section may be cited as the “Procurement of Domestic Products Act.”

B. As used in this Section, the following definitions shall apply:

(1) “Manufactured in the United States” means produced by a process in which the manufacturing, final assembly, processing, packaging, testing, and any other process that adds value, quality, or reliability to assembled articles, materials, or supplies occurs in the United States.

(2) “United States” means the United States and any place subject to the jurisdiction of the United States.

C. In the event a contract is not entered into for products purchased under the Bids or Requests for Proposals procedures when contract prices are set by law or Regulation or to contracts for domestic products, the Office of Contractual Review may promulgate rules and regulations that such contract is likely to be less costly to the state than any other type of contract or that it is impracticable to obtain supplies, services, or major repairs of the kind or quality required except under such a contract or that such products have been determined by an analysis established by an analysis of commercial items sold in substantial quantities to the general public.

§1511 Cost or pricing data

A. Contractor certification. A contractor shall submit cost or pricing data and all certifications that, to the best of its knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually determined specified date prior to the date of:

(1) Pricing of any contract awarded by other than competitive sealed bidding, as provided in R.S. 39:3949; or

(2) Pricing of any contract awarded by competitive sealed bidding or small purchase procedures, as provided in R.S. 39:1506, where the total contract price is expected to exceed an amount established by regulations; or

(2) Pricing of any contract awarded by competitive sealed bidding or small purchase procedures, as provided in R.S. 39:1506, where the total contract price is expected to exceed an amount established by regulations.

B. Cost or pricing data not required. The requirements of this Section need not be applied to contracts:

(1) Where the contract price is based on adequate price competition;

(2) Where the contract price is based on an established catalog price or market prices established by an analysis of commercial items sold in substantial quantities to the general public.

(3) Where contract prices are set by law or Regulation;

(4) In exceptional cases where it is determined in writing in accordance with regulations that the requirements of this Section may be waived, and the reasons for such waiver are stated in writing.

§1612. Cost-reimbursement contracts

The cost-plus-a-percentage-of-cost contracts shall not be used.

§1611. Cost plus a percentage-of-cost contracts

The cost-plus-a-percentage-of-cost system of contracting shall not be used.

§1612. Cost-reimbursement contracts

A. Determination required prior to use. No cost-reimbursement prime contract may be made unless it is determined in writing in accordance with regulations that such contract is likely to be less costly to the state than any other type of contract or that it is impracticable to obtain supplies, services, or major repairs of the kind or quality required except under such a contract.

B. Reimbursement of costs. All cost-reimbursement contracts shall contain a provision that only costs recognized as allowable in accordance with cost principles set forth in rules and regulations, issued pursuant to Part IV hereof of this Chapter will be reimbursable.
B. Payments may be made to the contractor for professional, personal, consulting and social services contracts in advance of services being performed if the following conditions are met:

(1) The using agency has submitted, in writing, to the Division of Administration, a certification that an advance is necessary in order to provide the services at the lowest total cost and that there is no other cost-effective alternative for procuring such advance funding. The certification shall include a narrative setting out the facts which necessitate the advance funding.

(2) The advance is approved by the Director of the Office of Contractual Review.

(3) A written resume of the supportive underlying facts for the foregoing determinations shall be included in the determination, and the resume shall be available to obtain the estimated savings to be obtained by entering into a multiyear contract.

C. Termination due to unavailability of funds in succeeding years. When funds are not appropriated to support continuation of performance in a subsequent year of a multiyear contract for supplies, services, or major repairs, the contract for such subsequent year shall be terminated. When a contract is terminated under these conditions, no additional funds shall be paid to the contractor as a result of such action.

D. Educational institutions. (1) An educational institution may enter into a contract not to exceed ten years, with a vendor who has a lease agreement with the institution of equipment utilized for promoting products and university activities at a cost to the vendor in excess of fifty thousand dollars. Further, for this exception to be applicable, the contract shall cover products for resale within the institution.

(2) The state superintendent of education may enter into a multiyear contract, not to exceed ten years, with any public or private agency to act as the purchasing agent for products, supplies, or services for resale within the institution.

E. With respect to all multiyear contracts for supplies, services, or major repairs, the contract for such subsequent year shall be terminated. When a contract is terminated under these conditions, no additional funds shall be paid to the contractor as a result of such action.

F. The Department of Environmental Quality may enter into a multiyear contract, not to exceed ten years, for the operation of privately operated vehicle emission inspection facilities pursuant to R.S. 30:2054(B)(8). The contract for such subsequent year shall be cancelled and the contractor shall be reimbursed in accordance with the terms of the contract for the reasonable cost of the services delivered under the contract. The cost of cancellation shall be paid from (1) appropriations currently available for performance of the contract; (2) appropriations currently available for procurement of similar services and not otherwise obligated, or (3) appropriations made specifically for the payment of such cancellation costs.

G. Except for those contracts provided in Subparagraph (A)(1)(a) through (e) of this Section, any contract for professional, personal, consulting, or social services entered into for a period of not more than five years but for more than one fiscal year in excess of time periods authorized in this Section shall be subject to prior approval of the Joint Legislative Committee on the Budget.

§1514. Installment-purchase contract

The central purchasing agency may, on behalf of any governmental body, enter into installment-purchase agreements for the procurement of supplies or equipment, including but not limited to data processing equipment and telecommunications equipment, procured under the Louisiana Procurement Code this Chapter and any other applicable laws on the procurement of supplies or equipment, in accordance with the following provisions:

(1) The term of such contract shall not exceed the economic life of the item being procured, which shall be established by the central purchasing agency and shall be set forth in the invitation to bid or request for proposal, but in no case shall the term of the contract exceed five years.

(2) Each contract shall contain an annual appropriation dependency clause which shall provide that the continuation of the contract is contingent upon Louisiana being in compliance with federal ambient air quality standards and meeting EPA required program standards.

§1515. Multiyear contracts

A. Consultation and approval. Unless otherwise provided by law, a contract for supplies or services may be entered into for periods of not more than five years, if funds for the first fiscal year of the contemplated contract are available at the time of contracting. Payment and performance obligations for succeeding fiscal years shall be subject to the availability and appropriation of funds therefor. No contract shall be entered into for more than one year unless the length of the contract was clearly stated in the specifications. Any lease or similar agreement affecting the allocation of space in the state capitol shall have the prior approval of the Legislative Budget Committee.

B. Determination prior to use. Prior to the utilization of a multiyear contract for supplies, services, or major repairs, it shall be determined in writing:

(1) That estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(2) That such a contract will serve the best interests of the state by ensuring cost-effective competition or otherwise bringing economies in state procurement.

A written resume of the supportive underlying facts for the foregoing determinations shall be included in the determination, and the resume shall be available to the estimated savings to be obtained by entering into a multiyear contract.

C. Termination due to unavailability of funds in succeeding years. When funds are not appropriated to support continuation of performance in a subsequent year of a multiyear contract for supplies, services, or major repairs, the contract for such subsequent year shall be terminated. When a contract is terminated under these conditions, no additional funds shall be paid to the contractor as a result of such action.

D. Educational institutions. (1) An educational institution may enter into a contract not to exceed ten years, with a vendor who has a lease agreement with the institution of equipment utilized for promoting products and university activities at a cost to the vendor in excess of fifty thousand dollars. Further, for this exception to be applicable, the contract shall cover products for resale within the institution.

(2) The state superintendent of education may enter into a multiyear contract, not to exceed ten years, with any public or private agency to act as the purchasing agent for products, supplies, or services for resale within the institution.

E. With respect to all multiyear contracts for supplies, services, or major repairs, the contract for such subsequent year shall be terminated. When a contract is terminated under these conditions, no additional funds shall be paid to the contractor as a result of such action.

F. The Department of Environmental Quality may enter into a multiyear contract, not to exceed ten years, for the operation of privately operated vehicle emission inspection facilities pursuant to R.S. 30:2054(B)(8). The contract for such subsequent year shall be cancelled and the contractor shall be reimbursed in accordance with the terms of the contract for the reasonable cost of the services delivered under the contract. The cost of cancellation shall be paid from (1) appropriations currently available for performance of the contract; (2) appropriations currently available for procurement of similar services and not otherwise obligated, or (3) appropriations made specifically for the payment of such cancellation costs.

G. Except for those contracts provided in Subparagraph (A)(1)(a) through (e) of this Section, any contract for professional, personal, consulting, or social services entered into for a period of not more than five years but for more than one fiscal year in excess of time periods authorized in this Section shall be subject to prior approval of the Joint Legislative Committee on the Budget.

§1614. Approval of accounting system

A. Approval of accounting system. Except with respect to firm fixed-price contracts, no contract type shall be used unless it has been determined in writing by the chief procurement officer or his designee that:

(1) The proposed contractor’s accounting system will permit timely development of all necessary cost data in the form required by the specific contract; and

(2) The contractor’s accounting system is adequate to allocate costs in accordance with generally accepted accounting principles.

§1615. Multiyear contracts

A. Consultation and approval. Unless otherwise provided by law, a contract for supplies or services may be entered into for periods of not more than five years, if funds for the first fiscal year of the contemplated contract are available at the time of contracting. Payment and performance obligations for succeeding fiscal years shall be subject to the availability and appropriation of funds therefor. No contract shall be entered into for more than one year unless the length of the contract was clearly stated in the specifications. Any lease or similar agreement affecting the allocation of space in the state capitol shall have the prior approval of the Legislative Budgetary Control Council if it extends for more than one year. A report of all multiyear contracts shall be provided to the Joint Legislative Committee on the Budget no later than ninety days after the end of each fiscal year.

B. Determination prior to use. Prior to the utilization of a multiyear contract for supplies, services, or major repairs, it shall be determined in writing:

(1) That estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(2) That such a contract will serve the best interests of the state by ensuring cost-effective competition or otherwise bringing economies in state procurement.

A written resume of the supportive underlying facts for the foregoing determinations shall be included in the determination, and the resume shall be available to the estimated savings to be obtained by entering into a multiyear contract.

C. Termination due to unavailability of funds in succeeding years. When funds are not appropriated to support continuation of performance in a subsequent year of a multiyear contract for supplies, services, or major repairs, the contract for such subsequent year shall be terminated. When a contract is terminated under these conditions, no additional funds shall be paid to the contractor as a result of such action.

D. Educational institutions. (1) An educational institution may enter into a contract not to exceed ten years, with a vendor who has a lease agreement with the institution of equipment utilized for promoting products and university activities at a cost to the vendor in excess of fifty thousand dollars. Further, for this exception to be applicable, the contract shall cover products for resale within the institution.

(2) The state superintendent of education may enter into a multiyear contract, not to exceed ten years, with any public or private agency to act as the purchasing agent for products, supplies, or services for resale within the institution.

E. With respect to all multiyear contracts for supplies, services, or major repairs, the contract for such subsequent year shall be terminated. When a contract is terminated under these conditions, no additional funds shall be paid to the contractor as a result of such action.

F. The Department of Environmental Quality may enter into a multiyear contract, not to exceed ten years, for the operation of privately operated vehicle emission inspection facilities pursuant to R.S. 30:2054(B)(8). The contract for such subsequent year shall be cancelled and the contractor shall be reimbursed in accordance with the terms of the contract for the reasonable cost of the services delivered under the contract. The cost of cancellation shall be paid from (1) appropriations currently available for performance of the contract; (2) appropriations currently available for procurement of similar services and not otherwise obligated, or (3) appropriations made specifically for the payment of such cancellation costs.

G. Except for those contracts provided in Subparagraph (A)(1)(a) through (e) of this Section, any contract for professional, personal, consulting, or social services entered into for a period of not more than five years but for more than one fiscal year in excess of time periods authorized in this Section shall be subject to prior approval of the Joint Legislative Committee on the Budget.

§1616. Installment-purchase contract

The central purchasing agency may, on behalf of any governmental body, enter into installment-purchase agreements for the procurement of supplies or equipment, including but not limited to data processing equipment and telecommunications equipment, procured under the Louisiana Procurement Code this Chapter and any other applicable laws on the procurement of supplies or equipment, in accordance with the following provisions:

(1) The term of such contract shall not exceed the economic life to the item being procured, which shall be established by the central purchasing agency and shall be set forth in the invitation to bid or request for proposal, but in no case shall the term of the contract exceed five years.

(2) Each contract shall contain an annual appropriation dependency clause which shall provide that the continuation of the contract is contingent upon

THE ADVOCATE CODING: Words in square through type are deletions from existing law; words underscored (House Bills) and boldfaced (Senate Bills) are additions.

PAGE 622 As it appears in the enrolled bill
the continuation of an appropriation of funds by the legislature to fulfill the requirements of the contract. If the legislature fails to provide sufficient monies to provide for the continuation of the contract or if a veto or suspension of appropriation of funds necessitates the discontinuance of the contract, the contract shall terminate on the last day of the fiscal year for which funds were appropriated, in accordance with R.S. 39:1615(C).

(4) Such contracts shall also conform to any other requirements which may be established by the agency through rules and regulations, promulgated in accordance with law.

§1494.1A.B. Contracts for social services may be awarded without the necessity of competitive bidding or competitive negotiation only if the director of the office of contractual review determines that any one of the following conditions is present. The director of the office of contractual review shall document the condition present and such documentation shall be part of the contract record submitted to the office of contractual review.

(1) The social service contracts are available only from a single, sole, or source source. Sole source procurement shall be determined by the director of the office of contractual review. A contract shall also be considered as sole source if a request for proposals is issued in accordance with R.S. 39:1595 and only one or no proposals are received.

(2) The state legislature has made an appropriation for that particular contractor or contractors via the appropriation bill or other statutes.

(3) A quasi-public and/or nonprofit corporation, such as a parish voluntary council on aging, an area agency on aging, an association of mentally disabled citizens or equivalent, an organization serving children, youth, and/or, families, or an organization promoting independence from public assistance has been established in coordination with the state to provide the particular service involved in the contract.

(4) The awarding of a contract would be justified for the safety and/or the health of mentally handicapped individuals.

(5) The cost of socialized social services has been established in coordination with the state to assist individuals to attain or maintain favorable conditions in which to live. Such emergency shall be determined by the director of the office of contractual review.

(6) The contract is with a social service contractor who supplies services under a contract in existence as of November 30, 1985, as long as such contractor continues to supply substantially the same services and the using agency certifies:

(a) The services are satisfactory.

(b) They intend to continue contracting with that contractor.

§1494.1B.C. If none of the conditions given in R.S. 39:1494.1A are met, the director of the office of contractual review shall determine in a request for proposals process in accordance with R.S. 39:1595(B) under rules and regulations issued by the office of contractual review.

§1496. The contract is with a social service contractor who supplies services under a contract in existence as of November 30, 1985, as long as such contractor continues to supply substantially the same services and the using agency certifies:

(a) The services are satisfactory.

(b) They intend to continue contracting with that contractor.
(a) The office of contractual review state procurement.
(b) The using agency initiating the contract.
(c) The office of the attorney general.
(d) The Legislative Fiscal Office legislative fiscal office.

(3) Participation of the procurement support team must include, at a minimum, assistance in development or review of the request for proposals, evaluation of responses received to the request for proposals, and formulation of recommendations to be submitted to the commissioner of administration and the recommendations of the Energy Efficiency Procurement Support Team energy efficiency procurement support team and the recommendation of the Energy Efficiency Procurement Support Team energy efficiency procurement support team shall submit its recommendation to the commissioner of administration. The commissioner of administration shall evaluate such recommendation and the recommendation of the Energy Efficiency Procurement Support Team energy efficiency procurement support team and shall notify the agency as to whether it may proceed with negotiation of the contract in accordance with paragraph (4) or whether it may not proceed with negotiation of the contract. If the commissioner of administration approves the contract then the contract shall be submitted by the commissioner of administration to the Joint Legislative Committee on the Budget for review and approval.

(4) Negotiating and consummation of this contract, no proposer shall be selected pursuant to this Section nor shall any contract be awarded pursuant to this Section, except by the approval of both the commissioner of administration and the Joint Legislative Committee on the Budget.

(5) A independent third-party evaluation consultant shall have no direct conflict of interest as to the agency, the proposals which the consultant is to evaluate, or to any proposer. Prior to the selection of such consultant, the legislative auditor shall certify that the consultant has no direct conflict of interest as to the agency, the proposals which the consultant is to evaluate, or to any proposer.

(c) The provisions of Subparagraphs (a) through (d) of this Paragraph shall not be applicable when the requests for proposals or the proposed contract was received by the division of administration prior to January 1, 2004.

(2) The legislative auditor shall conduct performance audits of performance-based energy efficiency contracts entered into in accordance with this Section. The legislative auditor shall establish a written schedule for execution of such performance audits, and the schedule shall be posted on the website of the legislative auditor no later than February first of each year. Such schedule shall provide for a new evaluation to be conducted on each performance-based energy efficiency contract at the time that a contract is executed by that proposer.

(i) Notwithstanding the provisions of Item (i) of this Paragraph, where a request for proposal or a proposed contract is exempt from the application of Subparagraphs (a) through (d) of Paragraph (1) of this Subsection, the proposer shall be required to pay a sum not to exceed two and one-half percent of the total value of the performance-based energy efficiency contract at the time that a contract is executed by that proposer.

(ii) Notwithstanding the provisions of Item (i) of this Paragraph, the amount of such contract shall be evaluated as follows:

(a) In order to fund the cost of the evaluation, review, approval, oversight, payment of performance audits as provided in this Section, the request for proposal for the award of a performance-based energy efficiency contract shall require the proposer to pay a sum not to exceed two and one-half percent of the total value of the performance-based energy efficiency contract at the time that a contract is executed by that proposer.

(b) The determination of the sum to be paid shall be made by the commissioner of administration according to the rules and regulations adopted by the commissioner of administration.

(c) The "Energy Performance Contract Fund", hereinafter referred to as the "fund", is hereby created in the state treasury. After compliance with the provisions of Article VII, Section 9(D) of the Constitution of Louisiana 1898, and the provisions of this Section, the revenue of monies in the Energy Performance Contract Fund, the treasury shall deposit into the fund an amount equal to the amount collected pursuant to Subparagraphs (a) and (b) of this Paragraph.

(d) The monies in the fund shall be used only to fund the requirements of this Section and the rules promulgated pursuant thereto. Monies in the fund shall be invested in the same manner as monies in the state general fund and any interest earned on the investment of monies in the fund shall be credited to the fund. Unexpended and unnumbered monies in the fund at the end of the fiscal year shall remain in the fund.

(e) For the purposes of this Section, the Energy Efficiency Procurement Support Team energy efficiency procurement support team shall consist of an attorney chosen jointly by the speaker of the House of Representatives and the president of the Senate from the legislative services staff of the House of Representatives and the Senate, respectively, and one other member of the Legislative auditor shall conduct a review of each performance-based energy efficiency contract on or after January 1, 2010, unless and until such contract has been approved in accordance with the provisions of this Section.

(f) Any proposal received by the Legislative auditor shall certify that the consultant has no direct conflict of interest as to the agency, the proposals which the consultant is to evaluate, or to any proposer.

(g) The Energy Efficiency Procurement Support Team energy efficiency procurement support team shall submit its recommendation to the commissioner of administration. The commissioner of administration shall evaluate such recommendation and the recommendation of the Energy Efficiency Procurement Support Team energy efficiency procurement support team and shall notify the agency as to whether it may proceed with negotiation of the contract in accordance with paragraph (4) or whether it may not proceed with negotiation of the contract. If the commissioner of administration approves the contract then the contract shall be submitted by the commissioner of administration to the Joint Legislative Committee on the Budget for review and approval.
A.  Upon seeking approval to enter into a proposed professional, personal, consulting, or social service contract, any governmental body as defined in R.S. 39:1597 shall be required to notify the state chief procurement officer that:
(1) Either no employee of that agency is both competent and available to perform the tasks involved in the services called for by the proposed contract or the services called for are not the type readily susceptible of being performed by persons who are employed by the state on a continuing basis.
(2) The services are not available as a product of a prior or existing professional, personal, consulting, or social service contract.
(3) The requirement for consultant and social services contracts, when applicable, have been publicized pursuant to R.S. 39:1556(10).
(4) The using agency has developed and fully intends to implement a written plan for the monitoring of the contract.
(5) The services are not available as a product of a prior or existing professional, personal, consulting, or social service contract.
(6) Any corporation which fails to make complete disclosure of ownership, control, or management interests or activities of the state directly from insurers or underwriters, without the necessity for signature or countersignature of the insurer or underwriter.
(7) The provisions of R.S. 39:1603(10) to the contrary, the state shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books and records relate to such cost or pricing data.
(8) The state shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be retained by the contractor for a period of five years from the date of final payment under the prime contract and by the subcontractor for a period of five years from the date of final payment under the subcontract.

SUBPART G. DETERMINATIONS AND REPORTS
$1498.2$1626. Professional, personal, and consulting service contracts with state employees
A. State agency personnel in the medical, nursing or allied health fields, state employees who are qualified to serve as interpreters for the deaf, university and public institutions of higher education, and state employees selected to serve as instructors in the paralegal studies course of the division of continuing education at a state college or university may be employed by other state agencies through a contract for professional, personal, consulting, or social services in accordance with rules and regulations adopted by the office of contractual review state procurement. No such faculty member, except those who are also employed by private firms, may contract for the design or rendering of state-owned facility in which the services involved will be rendered to an architect or engineer, or both, are required.
B. Additionally, each professional, personal, consulting, and social service agreement between a governmental body as defined in R.S. 39:1597(C), R.S. 39:1598(C) and a faculty member of any state college or state university shall be subject to the written approval of the president of the college or university who employs the faculty member, and written notification of agreement and approval shall be given to the appropriate management board.

§1498.2$1627. Modification of contracts
The office of contractual review state procurement may adopt and promulgate rules and regulations permitting or requiring the insertion in contracts for professional, personal, consulting, and social services contracts with an employer of the school to provide sign language and interpreting services which are independent of the employee’s assigned duties and regular work hours, and for which compensation may be paid.

D. Notwithstanding any other provisions of law to the contrary, the Louisiana School for the Deaf is hereby authorized to enter into professional, personal, consulting, and social services contracts with an employee of the school to provide sign language and interpreting services which are independent of the employee’s assigned duties and regular work hours, and for which compensation may be paid.

E. Notwithstanding any other provisions of law to the contrary, the Louisiana School for the Deaf is hereby authorized to enter into professional, personal, consulting, and social services contracts with an employee of the commission to provide sign language and interpreting services which are independent of the employee’s assigned duties and regular work hours, and for which compensation may be paid.

F. Notwithstanding any other provisions of law to the contrary, the Louisiana School for the Deaf is hereby authorized to enter into professional, personal, consulting, and social services contracts with an employee of the school to provide sign language and interpreting services which are independent of the employee’s assigned duties and regular work hours, and for which compensation may be paid.
§1632. Splitting of commissions prohibited

It shall be unlawful for an agent to split, pass on, or share with any person, group, commission, corporation, other than the state agency, any portion of the commission derived from the sale of insurance to the state; except that on policies involving properties or exposure in more than one geographic area of the state, said commission may be split, shared, or passed on if authorized in writing by the commissioner of administration. In any such instance, the sharing of the commission of state insurance is authorized, it shall be only with a bona fide insurance agent. Whoever violates the provisions of this Section shall, upon conviction, be fined not less than one thousand dollars nor more than five thousand dollars and shall be imprisoned for not more than two years.

§1633. Authorization constitutes public record

Such written authorization as required by R.S. 39:1632 above shall constitute a public record as defined in Chapter 1 of Title 44 of the Louisiana Revised Statutes of 1950.

SUBPART I. ACQUISITION OF HOUSING SPACE

§1641. Budget for acquisition of housing space and leases by budget units

A. Contracts and agreements by and in name of state agencies. All contracts and agreements for the lease or rental of space for the housing of state agencies, their personnel, operations, equipment, or activities, shall be made in the name of and by the authorized representative or representative body of the state agency but shall be made and entered into only with the approval of the commissioner of administration. The cost of such housing shall be provided in the budget of the state agency but shall be made and entered into only with the approval of the commissioner of administration. The cost of such housing shall be provided in and defrayed from the budgets of the using agencies.

B. Contracts and agreements by and in name of the state, executed by the commissioner.

(1) When a contract or agreement for the lease or rental of space for the housing of state agencies, their personnel, operations, equipment, or activities, shall pertain to more than one building or facility or shall pertain to a building or facility which is to house more than one state agency, their personnel, operation, equipment, or activities, such contract or agreement may be made in the name of the state and executed by the commissioner of administration; provided that the state shall be represented by a representative or a representative body of the state agency or agencies to be housed in such building or buildings or facility or facilities.

(2) The commissioner of administration shall allocate space to one or more state agencies, their personnel, operations, equipment, or activities, on which such contract or agreement pertains and shall allocate the cost of such housing to or among such using agencies, or which cost shall be provided for in and defrayed from the budgets of the using agency or agencies. The commissioner shall determine the amount of the allocations of space to each such agency or agencies, provided that the form method of measuring square footage or other measurements used as the basis for lease payments or other charges.

C. Definition of “agency.” The definition of “agency” stated in R.S. 39:2(2) and R.S. 39:2(3) shall mean the sole definition of the term “state agency” applied in connection with the acquisition of housing space in this and following Sections, and the fact that an agency is supported by fees or taxes collected by, or dedicated to, the agency or which otherwise receives its operating funds through means other than direct appropriations, shall not be a test as to whether this Section shall be applicable to an agency of the state.

D. Applicability. The provisions of this Subpart shall be applicable to all agencies meeting the definition of R.S. 39:2(2) and R.S. 39:2(3) established by the laws of Louisiana.

§1642. Uniform space standards; inventory and evaluation of budget unit space utilization

A. Uniform space standards. The division of administration shall prepare and utilize a uniform set of standards for determining space needs for state agencies. These standards shall be the sole definition of the term “space agency” for the purposes of measuring space need and development of a requirement for space.

B. Inventory of state space. The division of administration shall conduct and maintain a complete inventory of state space, both owned and leased, to which such contract or agreement pertains and shall allocate the cost of such housing to or among such using agencies, or which cost shall be provided for in and defrayed from the budgets of the using agency or agencies. The commissioner of administration shall determine the amount of the allocations of space to each such agency or agencies, provided that the form method of measuring square footage or other measurements used as the basis for lease payments or other charges.

C. Evaluation of space utilization. The division of administration shall evaluate the utilization of all leased space on a continuing basis to determine the feasibility of locating state agencies in buildings to be purchased and/or constructed by the state.

§1643. Amendment of leases

A. Any lease for office or warehouse space for under five thousand square feet may be amended up to but not to exceed a maximum of four thousand nine hundred ninety-nine square feet.

B. Existing leases for office or warehouse space under five thousand square feet may be amended up to but not to exceed a maximum of four thousand nine hundred ninety-nine square feet.

C. Any lease for office or warehouse space under five thousand square feet may be amended up to but not to exceed a maximum of four thousand nine hundred ninety-nine square feet.

D. In the event alterations or modifications of space currently under lease are required to meet changed operating requirements, a lease may be amended. Such lease amendment may, with approval of the division of administration, provide for an adjustment in monthly lease payments not to exceed twenty-five percent of the original annual lease price per square foot, sufficient to reimburse the lessor for paying for the leasehold improvements; provided, however, that any adjustment in monthly lease payments shall also require the approval of the Joint Legislative Committee on the Budget and the continuance of an adjustment in excess of the current lease shall be contingent on the appropriation of funds therefor in the following fiscal year.

E. A lease may be amended, with approval of the division of administration, to provide an adjustment in monthly lease payments not to exceed ten percent of the original annual lease price per square foot and not to exceed ten thousand dollars per year.

SUBPART III ACQUISITION OF MOTOR VEHICLES

§1646. Acquisition of motor vehicles; minimum requirements for fuel efficiency; exceptions

A. Any purchase or lease of a motor vehicle by an agency which is covered by this Chapter shall be made in accordance with the provisions of this Subpart. Such vehicles shall have, at the time of acquisition, a fuel efficiency ratio of no less than eighteen miles per gallon for city driving and no less than twenty-eight miles per gallon for highway driving, or a combined city/highway efficiency rating of no less than eighteen miles per gallon for city driving and no less than twenty-eight miles per gallon for highway driving, or a combined city/highway highway average of twenty-four miles per gallon.

B. For purposes of this Subpart, “motor vehicle” shall include the following vehicles as they are specified or defined in administrative rule or regulation promulgated by the commissioner of administration pursuant to Part XII of Chapter 1 of Title 39 of the Louisiana Revised Statutes of 1950: alternative fuel vehicle, sedan, and station wagon.

C. For purposes of this Subpart, “motor vehicle” shall not include the following:

1. A vehicle to be used by law enforcement personnel, certified first responders and emergency personnel when required for the performance of their duties, or a vehicle used in the conduct of military activities.

2. A vehicle to be used by any state employee when written authorization for the use of such vehicle has been procured, or when the decision to purchase or lease such vehicle has been made by the commissioner of administration and approved by him, or a vehicle to be used by an employee of a political subdivision of the state when the governing authority of the political subdivision authorizes such purchase.

D. The commissioner of administration shall have the power to determine the type of motor vehicle to be purchased or leased.

E. The commissioner shall promulgate regulations governing the preparation, maintenance, and content of specifications for supplies, services, and major repairs required by the state.

§1651. Duties of the commissioner of administration

A. The commissioner shall promulgate regulations governing the preparation, maintenance, and content of specifications for supplies, services, and major repairs required by the state.

B. The requirements of this Subpart shall not be interpreted so as to require the purchase or lease of a motor vehicle pursuant to Part XII of Chapter 1 of Title 39 of the Louisiana Revised Statutes of 1950: alternative fuel vehicle, sedan, and station wagon.

C. For purposes of this Subpart, “motor vehicle” shall not include the following:

1. A vehicle to be used by law enforcement personnel, certified first responders and emergency personnel when required for the performance of their duties, or a vehicle used in the conduct of military activities.

2. A vehicle to be used by any state employee when written authorization for the use of such vehicle has been procured, or when the decision to purchase or lease such vehicle has been made by the commissioner of administration and approved by him, or a vehicle to be used by an employee of a political subdivision of the state when the governing authority of the political subdivision authorizes such purchase.

D. The commissioner of administration shall have the power to determine the type of motor vehicle to be purchased or leased.

E. The commissioner shall promulgate regulations governing the preparation, maintenance, and content of specifications for supplies, services, and major repairs required by the state.

F. The requirements of this Subpart shall not be interpreted so as to require the purchase or lease of a motor vehicle pursuant to Part XII of Chapter 1 of Title 39 of the Louisiana Revised Statutes of 1950: alternative fuel vehicle, sedan, and station wagon.

G. For purposes of this Subpart, “motor vehicle” shall not include the following:

1. A vehicle to be used by law enforcement personnel, certified first responders and emergency personnel when required for the performance of their duties, or a vehicle used in the conduct of military activities.

2. A vehicle to be used by any state employee when written authorization for the use of such vehicle has been procured, or when the decision to purchase or lease such vehicle has been made by the commissioner of administration and approved by him, or a vehicle to be used by an employee of a political subdivision of the state when the governing authority of the political subdivision authorizes such purchase.
The chief procurement officer shall prepare, issue, revise, and monitor the use of specifications for required supplies, services, and major repairs.

§1652. Exempted items
Specifications for supplies, services, or major repairs exempted pursuant to R.S. 39:1572 may be prepared by a purchasing agency in accordance with the provisions of this Part and regulations promulgated hereunder by the head of the governmental body granted authority to promulgate regulations by R.S. 39:1561.

§1654. Relationship with using agencies
The director shall obtain advice and assistance from personnel of using agencies in the determination of needs and the award of specifications and may delegate in writing to a using agency the authority to prepare and utilize its own specifications, subject to regulations.

§1655. Maximum practicable competition
All specifications shall be prepared to promote overall economy for the purposes intended and encourage competition in satisfying the needs of the state, and shall not be unduly restrictive. A specification may be drafted which describes a product which is proprietary to one company only where when one of the following applies:

1. No other kind of specification is reasonably available for the state to describe its requirements.

2. There is a requirement for specifying a particular design or make of product due to factors of compatibility, standardization, or maintainability.

3. Such specification includes language which specifically permits an equivalent product to be supplied. Such specification shall include a description of the essential characteristics of the product.

4. Such specification is determined to be in the best interest of the state as provided for by law.

B. Except as provided in Paragraph (A)(2) of this Section, whenever such proprietary specifications are used, the specifications shall clearly state that they are used only to denote the quality standard whenever such proprietary specifications are used, the specifications are subject to a recognized price index. Such index may include legal and valid.

§1657. Specifications prepared by architects and engineers
The requirements of this Part regarding the purposes and nonrestrictiveness of specifications shall apply to all specifications, including but not limited to those proposed by architects, engineers, designers, and draftsmen for public contracts.

§1658. Purchase of prostheses, orthoses, prosthetic services, and orthotic services by a state agency from an accredited facility
Notwithstanding any other provision of law to the contrary, regulations promulgated by the commissioner of administration or other purchasing entity governing the purchase of prostheses, orthoses, prosthetic services, or orthotic services shall be purchased only from an accredited facility as provided in R.S. 39:1613(B), however, nothing in this Section shall prohibit a licensed occupational therapist or a licensed physical therapist from practicing within his scope of practice. In addition, the provisions of this Section shall apply to a licensed optometrist, ophthalmologist, podiatrist, or orthopedist.

PART V. MODIFICATION AND TERMINATION OF CONTRACTS
FOR SUPPLIES, SERVICES, AND MAJOR REPAIRS

§1661. Contract clauses; administration
A. Contract clauses. Regulations may permit or require the inclusion of clauses providing for equitable adjustments in prices, time for performance, or other contract provisions, as appropriate, covering including but not limited to the following subjects:

1. Failing of the state to order in writing changes in the work within the general scope of the contract in any one or more of the following:

a. Drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the state in accordance therewith.

b. Method of shipment or packing.

c. Place of delivery.


e. Insurance requirements including as appropriate but not limited to general liability, automobile coverage, workers’ compensation, and errors and omissions.

f. Beginning and ending dates of the contract.

2. Maximum compensation to be paid the contractor.

3. Variations between estimated quantities of work in a contract and actual quantities.

4. Manufacturers’ design drawings shall be supplied in duplicate for all state buildings, to the appropriate state agency at the conclusion of contract.

B. Additional contract clauses. Regulations may permit or require the inclusion in state contracts of clauses providing for appropriate remedies and any contract phraseology but not limited to the following subjects:

1. Liquidated damages as appropriate.

2. Specified excuses for delay or nonperformance.

3. Termination of the contract for default, and

4. Termination of the contract in whole or in part for the convenience of the state.

C. At the time any contractor fails to fulfill or comply with the terms of the contract, or to perform the work or services, and the state directed changes or modifications in contract performance and (b) settlements of contracts which have been terminated; (2) to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions which provide for the reimbursement of costs, and (3) as appropriate in any other situation where the determination of the estimated or the incurred costs of performing contracts may be required.

PART VI. LEGAL AND CONTRACTUAL REMEDIES
SUBPART A. PROTECTION OF REAL AND PERSONAL PROPERTY
§1671. Authority to resolve protested solicitations and awards
A. Right to protest. Any person who is aggrieved in connection with the solicitation or award of a contract issued by the applicable chief procurement officer shall be entitled to seek review of the solicitation or award by the chief procurement officer after the state chief procurement officer has received notice of the protest and reviewed the complaint.

B. In the event any contractor fails to fulfill or comply with the terms of the contract, or to perform the work or services, and the state directed changes or modifications in contract performance and (b) settlements of contracts which have been terminated; (2) to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions which provide for the reimbursement of costs, and (3) as appropriate in any other situation where the determination of the estimated or the incurred costs of performing contracts may be required.

1. Sustained and the protesting bidder or offeree should have been awarded the contract but is not, the protesting bidder or offeree shall be entitled to the reasonable costs incurred in connection with the solicitation, including bid delivery and response fees.

2. The chief procurement officer may require the protestant to pay the costs of the attorney's fees, provided that any administrative determination of such costs shall be subject to the written concurrence of the attorney general.

H. Promulgation of regulations. The state director of purchasing state chief procurement officer is hereby authorized to promulgate regulations relative to protests in accordance with the Administrative Procedure Act, to implement the provisions of R.S. 39:1599.C and R.S. 39:1600.D.

§1671.1. Resolution of disputes between the director of the office of contractual review state chief procurement officer and using agencies
There is hereby authorized to promulgate regulations relative to protests in accordance with the Administrative Procedure Act.
provisions of R.S. §1526.

A. Applicability. This Section applies to a debarment for cause from consideration for award of contracts or a suspension from such consideration during an investigation where there is probable cause for such a debarment.

B. Authority. After reasonable notice to the person involved and a reasonable and reasonable opportunity for that person to be heard, the chief procurement officer shall have authority to suspend or debar a person for cause from consideration for award of contracts, provided that doing so is in the best interest of the state; and (b) is set forth in Subsection C of this Section. The chief procurement officer may suspend a person from consideration for award of contracts if he determines that there is probable cause to believe that such person has engaged in any activity which would lead to debarment. The suspension shall not be for a period exceeding six months. The suspension to debar or suspend shall be exercised in accordance with regulations.

C. Causes for debarment. The causes for debarment include the following:

(1) Conviction for a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a state contractor;

(3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(4) Violation of any contract provisions, as set forth below, of a character which is regarded by the chief procurement officer to be so serious as to justify debarment:

(a) Deliberate failure without good cause to perform in accordance with the terms and conditions of a contract, within the time and manner for performance as set forth in Subsection C of this Section; or

(b) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.

(5) Any other cause the chief procurement officer determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in regulations;

(6) Violation of the ethical standards set forth in Chapter 15 of Title 42.

D. Decision. The chief procurement officer shall issue a written decision to debar or suspend. The decision shall:

(1) State the reasons for the action taken;

(2) Inform the contractor of its right to administrative and judicial review as provided in this Subpart;

(3) Inform the debarred or suspended person involved of its rights to administrative and judicial review as provided in this Subpart.

E. Notice of decision. A copy of the decision under Subsection D of this Section shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other party intervening.

F. Finality of decision. A decision under Subsection D of this Section shall be final and conclusive unless one of the following applies:

(1) The decision is fraudulent;

(2) The debarred or suspended person has timely appealed administratively to the commissioner in accordance with R.S. §1685.

SUBPART B. LEGAL AND CONTRACTUAL REMEDIES FOR PROFESSIONAL, PERSONAL, CONSULTING, AND SOCIAL SERVICES CONTRACTS

§1676. Authority to resolve contract and breach of contract controversies other than professional, personal, consulting, and social services contracts.

A. Applicability. This Section applies to controversies between the state and a contractor and which arise under or by virtue of a contract between them. This includes without limitation controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission. Any contractor who seeks a remedy with regard to such controversies shall not be required to submit to a controversy described in Subsection A of this Section. Authority shall be exercised in accordance with regulations.

B. Authority. The chief procurement officer or his designee is authorized, prior to the commencement of an action in court concerning the controversy, to settle and resolve, with the approval of the attorney general, a controversy described in Subsection A of this Section. This authority shall be exercised in accordance with regulations.

C. Decision. If such a cause or controversy is not resolved by mutual agreement, the chief procurement officer or his designee shall promptly issue a decision in writing. The decision shall do all of the following:

(1) State the reasons for the action taken;

(2) Inform the contractor of its right to administrative and judicial review as provided in this Subpart.

D. Notice of decision. A copy of the decision under Subsection C of this Section shall be mailed or otherwise furnished immediately to the contractor.

E. Finality of decision. The decision under Subsection C of this Section shall be final and conclusive unless one of the following applies:

(1) The decision is fraudulent;

(2) The contractor timely appealed administratively to the commissioner in accordance with R.S. §1685.

F. Failure to render timely decision. If the chief procurement officer or his designee does not issue the written decision required under Subsection C of this Section, the contractor, at the contractor’s request, shall have the right to petition for review of the decision made pursuant to this Section, following the exhaustion of administrative remedies as provided by law or regulation.
(2) If the person awarded the contract has acted fraudulently or in bad faith, the contract shall be declared null and void. §1678.1. Damages
A. Damages recoverable by any aggrieved person in any action brought pursuant to the provisions of R.S. 39:1671 or otherwise asserted at law, shall be limited exclusively to reasonable costs incurred in connection with the solicitation including bid preparation costs other than attorney's fees. The person bringing an action shall have authority to review and determine any appeal by an aggrieved person from a determination by the director of purchasing chief procurement officer or his designee which is on the contract or for a breach of contract. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a person who is subject to a suspension or debarment proceeding, to determine whether the debarment or suspension is in accordance with the constitution, statutes, and regulations. Such actions shall extend to actions for declaratory, injunctive, or other equitable relief.
B. Debarment or suspension. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a person who is subject to a suspension or debarment proceeding, to determine whether the debarment or suspension is in accordance with the constitution, statutes, and regulations. Such actions shall extend to actions for declaratory, injunctive, or other equitable relief.
C. Actions under contracts or for breach of contract. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a person who is subject to a suspension or debarment proceeding, to determine whether the debarment or suspension is in accordance with the constitution, statutes, and regulations. Such actions shall extend to actions for declaratory, injunctive, or other equitable relief.
D. Limited finality for administrative determinations. In any judicial action under this Section, factual or legal determination by employees, agent, or other persons appointed by the state shall have no finality and shall not be conclusive, notwithstanding any contract provision, regulation, or rule of law to the contrary, except to the extent provided in: R.S. 39:1659, R.S. 39:1630, R.S. 39:1671(E), R.S. 39:1672(F), R.S. 39:1673(E), R.S. 39:1683(E), and R.S. 39:1685(C).
E. Writs or appeals; district court decisions. Any party aggrieved by a final judgment or interlocutory order or ruling of the Nineteenth Judicial District Court may appeal or seek review thereof, as the case may be, to the Court of Appeal, First Circuit or the Supreme Court of Louisiana, as otherwise provided in the statute of civil cases by law and the constitution.

§1692. Commencement of actions
A. Protested solicitations and awards. Any action under R.S. 39:1691(A) shall be commenced within fourteen days after receipt of the decision of the commissioner under R.S. 39:1684(C).
B. Debarments and suspension for cause. Any action under R.S. 39:1691(B) shall be commenced within sixty days after receipt of the decision of the commissioner under R.S. 39:1684(C).
C. Actions under contracts or for breach of contract controversies. Any action under R.S. 39:1691(C) shall be commenced within sixty days after receipt of the decision of the commissioner under R.S. 39:1685(C).

SUBPART E. ADMINISTRATIVE APPEALS PROCEDURES
§1681. Authority of the commissioner of administration
The commissioner of administration shall have the authority to review and determine any appeal by an aggrieved person from a determination by the state chief procurement officer or his designee which is on the contract or for a breach of contract. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a person who is subject to a suspension or debarment proceeding, to determine whether the debarment or suspension is in accordance with the constitution, statutes, and regulations. Such actions shall extend to actions for declaratory, injunctive, or other equitable relief.

§1683. Protest of solicitations or awards
A. Scope. This Section applies to an appeal addressed to the commissioner of a decision under R.S. 39:1671(C).
B. Notice of appeal. The aggrieved person shall file an appeal within seven days of receipt of a decision under R.S. 39:1671(C).
C. Decision. On any appeal under Subsection A of this Section, the commissioner shall decide within fourteen days whether the solicitation or award was in accordance with the constitution, statutes, regulations, and the terms and conditions of the solicitation. Any prior determinations by the state chief procurement officer or his designee shall not be final or conclusive.
D. Notice of decision. A copy of the decision under Subsection C of this Section shall be mailed or otherwise furnished immediately to the protestant or any other party intervening.
E. Finality of decision. A decision under Subsection C of this Section shall be final and conclusive unless one of the following applies:
(1) The decision is fraudulent, or
(2) The person adversely affected by the decision has timely appealed to the court in accordance with R.S. 39:1691(A).

§1684. Suspension or debarment proceedings
A. Scope. This Section applies to a review by the commissioner of a decision under R.S. 39:1672.
B. Time limitation on filing an appeal. The aggrieved person shall file its appeal with the commissioner within fourteen days of the receipt of the decision under R.S. 39:1672(C).
C. Decision. The commissioner shall decide within fourteen days whether the solicitation or award was in accordance with the constitution, statutes, regulations, and the best interests of the state, and was fair. Any prior determination by the state chief procurement officer or other persons appointed by the state shall have no finality and shall not be conclusive, notwithstanding any contract provision, regulation, or rule of law to the contrary, except to the extent provided in: R.S. 39:1659, R.S. 39:1630, R.S. 39:1671(E), R.S. 39:1672(F), R.S. 39:1673(E), R.S. 39:1683(E), and R.S. 39:1685(C).

§1685. Violations; penalties
A. The commissioner who is vested with authority to promulgate regulations under R.S. 39:1581 shall have, within his department, the same authority and responsibilities to review and determine appeals of decisions of the chief procurement officer or his designee as are vested in the commissioner of administration by this Subpart.
B. Any person who intentionally violates such law, rule or regulation shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

SUBPART F. ACTIONS BY OR AGAINST THE STATE
§1695. Contract and breach of contract controversies
A. Solicitation and award of contracts. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a person who is subject to a suspension or debarment proceeding, to determine whether the debarment or suspension is in accordance with the constitution, statutes, and regulations. Such actions shall extend to actions for declaratory, injunctive, or other equitable relief.
B. Debarment or suspension. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a person who is subject to a suspension or debarment proceeding, to determine whether the debarment or suspension is in accordance with the constitution, statutes, and regulations. Such actions shall extend to actions for declaratory, injunctive, or other equitable relief.
C. Actions under contracts or for breach of contract. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a person who is subject to a suspension or debarment proceeding, to determine whether the debarment or suspension is in accordance with the constitution, statutes, and regulations. Such actions shall extend to actions for declaratory, injunctive, or other equitable relief.
D. Limited finality for administrative determinations. In any judicial action under this Section, factual or legal determination by employees, agent, or other persons appointed by the state shall have no finality and shall not be conclusive, notwithstanding any contract provision, regulation, or rule of law to the contrary, except to the extent provided in: R.S. 39:1659, R.S. 39:1630, R.S. 39:1671(E), R.S. 39:1672(F), R.S. 39:1673(E), R.S. 39:1683(E), and R.S. 39:1685(C).
E. Writs or appeals; district court decisions. Any party aggrieved by a final judgment or interlocutory order or ruling of the Nineteenth Judicial District Court may appeal or seek review thereof, as the case may be, to the Court of Appeal, First Circuit or the Supreme Court of Louisiana, as otherwise provided in the statute of civil cases by law and the constitution.

§1692. Commencement of actions
A. Protested solicitations and awards. Any action under R.S. 39:1691(A) shall be commenced within fourteen days after receipt of the decision of the commissioner under R.S. 39:1684(C).
B. Debarments and suspension for cause. Any action under R.S. 39:1691(B) shall be commenced within sixty days after receipt of the decision of the commissioner under R.S. 39:1684(C).
C. Actions under contracts or for breach of contract controversies. Any action under R.S. 39:1691(C) shall be commenced within sixty days after receipt of the decision of the commissioner under R.S. 39:1685(C).

SUBPART G. DELINQUENT PAYMENT PENALTIES
§1695. Late payment to business; penalty paid by state agency
A. If a state agency shall pay any payment due within ninety days of the due date prescribed by contract, to a business awarded a contract with the state agency to supply equipment, supplies, or services, or to provide services, the state agency shall pay, in addition to any other amount due the state agency, interest on the amount due at the rate established pursuant to Civil Code Article 2924(B)(3) the judicial interest rate referenced in R.S. 13:4202(B) per year, from the ninety-first day after the due date prescribed by the contract. In applying this Section to a claim related in any way to an entitlement program, payment for claims shall be due ninety days after a claim is received by the state.
B. If it is determined by the state agency that additional evidence of the validity of the claim for payment is required, such evidence shall be requested within ten working days from the date the bill is received by the state agency. If in instances where additional evidence is required, the bill shall be reviewed and payment or rejection made within thirty days from receipt of the evidence requested in the office of the paying agency.
C. Any penalty required to be paid by a state agency pursuant to this Section shall be disbursement upon request of the state agency upon that agency's operating expenses budget.

§1696. Reporting requirements
A. Whenever a state agency is required by R.S. 39:1695 to pay a penalty, it shall be presumed that the fault is that of the head of the state agency and, in such cases. In instances where additional evidence is required, the bill shall be reviewed and payment or rejection made within thirty days from receipt of the evidence requested in the office of the paying agency.
B. Any penalty required to be paid by a state agency pursuant to this Section shall be disbursement upon request of the state agency upon that agency's operating expenses budget.
A. In cases where a state agency states that payment is late due to reasonable cause, and said claim is disputed by the business owed payment, upon receipt of a representation of the business, the Joint Legislative Committee on the Budget shall determine whether or not the circumstances constitute “reasonable cause” as used in R.S. 39:1605.

B. No state agency shall be required to pay a penalty if it has submitted a warrant to the state treasurer at least thirty days prior to the due date prescribed by statute.

PART VII. INTERGOVERNMENTAL RELATIONS

SUBPART A. DEFINITIONS

$1701. Definitions of terms used in this Part

(1) "Cooperative purchasing" means procurement conducted by or on behalf of more than one public procurement unit or by a public procurement unit with an external procurement activity or by a private procurement unit. The public procurement unit or external procurement activity conducting the cooperative purchasing shall provide a copy of such certification to the Central Purchasing Agency for the purpose of resale in competition with private enterprise.

(2) "External procurement activity" means any buying organization not located in the state which, if located in the state, would qualify as a public procurement unit. An agency of the United States government is an external procurement activity.

(3) "Local public procurement unit" means any parish, city, town, governmental body, and any other subdivision of the state or public agency thereof, public authority, public educational, health, or other institution, and to the extent provided by law, any other entity which expends public funds for the acquisition of supplies, services, major repairs, and construction, and any nonprofit corporation operating a charitable hospital.

(4) "Private procurement unit" means any independent institution of higher education in this state.

(5) "Public procurement unit" means either a local public procurement unit or a state public procurement unit.

(6) "State public procurement unit" means the central purchasing agency and any other purchasing agency of this state.

SUBPART B. COOPERATIVE PURCHASING

$1702. Cooperative purchasing authorized; participation in federal General Services Administration vendor list

A. (1) Any public procurement unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, major repairs, or construction with one or more public procurement units or external procurement activities or enter into private procurement units in accordance with an agreement entered into between the participants. Such cooperative purchasing may include but is not limited to joint or multi-party contracts between public procurement units and open-ended state public procurement unit contracts which are made available to local public procurement units.

B. (1) The Director of the Governor’s Office of Administration may make available to public procurement units the following services, among others:

(a) Development of products specifications.

(b) Development of quality assurance testing services and methods.

(c) Supplier prequalification information.

(d) Supplier performance ratings.

(e) Debarred and suspended bidders lists.

(f) Standard forms.

(g) Printed manuals.

(h) Quality assurance testing services and methods.

(i) Supplier performance ratings.

(j) Debarred and suspended bidders lists.

(k) Use of state personnel training programs.

E. Fees. The chief procurement officer may enter into contractual arrangements and publish a schedule of fees for the services provided under Subsections C and D of this Section.

$1707. Use of payment received by a supplying public procurement unit

All payments from any public procurement unit or external procurement activity received by a public procurement unit supplying personnel or services shall be available to the supplying public procurement unit as authorized by law.

$1708. Public procurement units in compliance with code requirements

Where the public procurement unit or external procurement activity administering a cooperative purchase complies with the requirements of the public procurement unit tendering the services, the public procurement unit or external procurement activity shall pay the public procurement unit providing the personnel the direct and indirect cost of furnishing the personnel, in accordance with an agreement between the parties.

C. State information services. Upon request, the chief procurement officer may make available to public procurement units the following services, among others:

(1) Standard forms.

(2) Printed manuals.

(3) Product specifications and standards.

(4) Quality assurance testing services and methods.

(5) Qualified products lists.

(6) Source information.

(7) Developing products specifications.

(8) Supplier prequalification information.

(9) Supplier performance ratings.

(10) Debarred and suspended bidders lists.

(11) Use of state personnel training programs.

D. State technical services. The state, through the chief procurement officer, may provide the following technical services, among others:

(1) Development of products specifications.

(2) Development of quality assurance test methods.

(3) Use of state personnel training programs.

(4) Use of state personnel training programs.

(5) Use of state personnel training programs.

(6) Use of state personnel training programs.

(7) Use of state personnel training programs.

(8) Use of state personnel training programs.

(9) Use of state personnel training programs.

(10) Use of state personnel training programs.

E. Fees. The chief procurement officer may enter into contractual arrangements and publish a schedule of fees for the services provided under Subsections C and D of this Section.

$1708. Contract controversies

A. The state, through the commissioner of administration, may make available to public procurement units and their bidders, contractors, or suppliers, access to state technical services. The chief procurement officer may make available to public procurement units and their bidders, contractors, or suppliers, access to state technical services.

B. Review of procurement requirements

To the extent possible, the chief procurement officer shall collect information concerning the type, cost, quality, and quantity of commonly used supplies, services, major repairs, or construction being procured by state public procurement units. The chief procurement officer may appoint the state technical services officer as a procurement officer.

C. Use of state personnel training programs

Any public procurement unit may enter into an agreement, independent of the requirements of Part III of this Chapter or Title 38, with any other public procurement unit or external procurement activity for the cooperative use of supplies or services, under the terms agreed upon between the parties.

Any public procurement unit may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another public procurement unit or an external procurement activity under the terms agreed upon between the parties.

§1716. Contract controversies

SUBPART e. CONTRACT CONTROVERSIES

Under a cooperative purchasing agreement, controversies arising between any public procurement unit, its bidders, suppliers, or contractors shall be resolved in accordance with Part VI of this Chapter, where the administering public procurement unit is a state public procurement unit or otherwise subject to Part VI.
PART VIII. ASSISTANCE TO SMALL AND DISADVANTAGED BUSINESSES AND WOMEN OWNED BUSINESSES

§1731. Short title. The provisions of this Part shall be known and may be cited as the Louisiana Small Business Procurement Act.

§1732. Definitions of terms used in this Part. As used in this Part, the following words and phrases shall have the meanings ascribed to them in this Part, or unless otherwise provided or unless a different meaning is plainly required by the context:

A. “Small business” means a business that is at least fifty-one percent of the set aside contracts awarded to small businesses is owned and operated by socially or economically disadvantaged persons.

B. “Set aside” means a contract or contract modification awarded to a small business or other small business.

C. “Contract award” means a contract or contract modification awarded to a small business.

D. “Small business” means a business that is at least fifty-one percent of the set aside contracts awarded to small businesses is owned and operated by socially or economically disadvantaged persons.

E. “Socially or economically disadvantaged person” means a person who is socially or economically disadvantaged.

F. “Award of contracts after unsuccessful set asides” means that the award after the unsuccessful set asides shall be placed pursuant to the existing solicitation and award provisions established by law.

§1734. Assistance to small businesses.

The commissioner of administration and the executive director of the Louisiana division of minority and women's business enterprise in the Department of Economic Development shall publicize the provisions of this Part, and attempt to locate small businesses able to perform the work required. The commissioner shall promulgate regulations, rules, standards, and procedures for certifying that small businesses are aware of the requirements of R.S. 39:1733 and are able to perform the work required. Rules and regulations shall apply as consistent to procurements set aside for small businesses.

§1735. Determination of disadvantaged businesses. In making his annual designation of procurements, the commissioner shall divide the procurements so designated into contract awards in order to facilitate the awarding of a procurement contract award to a small business, the award shall be placed pursuant to the provisions of this Part.

§1736. Reports.

The commissioner of administration shall submit an annual report to the governor and the legislature, with a copy thereof going to the Louisiana division of minority and women's business enterprise, indicating the progress being made toward the objectives and goals of this Part during each fiscal year. This report shall include the following information:

A. The total dollar value and number of set aside contracts awarded during this period and the percentage of total state procurement contracts awarded to small businesses.

B. The number of small businesses identified by and responding to the set aside contracts awarded to small businesses, with appropriate designation as to the total number and value of set aside contracts awarded to each small business.

C. The number of contracts which were designated and set aside but which were not awarded to a small business, the estimated total dollar value of these awards, the lowest offer or bid on each of these awards made by the small business, and the price at which these contracts were awarded pursuant to the normal procurement procedures.

§1751. Application. The provisions of this Part shall be applicable to any agency, as defined in R.S. 36:3(1), within the executive branch of state government with respect to the procurement of computer equipment, software, and telecommunications services. However, nothing provided in this Part shall be construed to preempt the authorities granted to the higher education boards in Article VIII of the Constitution of Louisiana.

§1752. Definitions. For the purposes of this Part, the following words and phrases shall be defined as follows:

THE ADVOCATE

As it appears in the enrolled bill
A. The types of contracts permitted in the procurement of telecommunications systems and telecommunications services are defined in this Part, and the provisions of this Part supplement the provisions of R.S. 39:1551 through 1736.

39:1551 through 1736.

This Part:

1. The director of the office of telecommunications management shall approve in writing the use of a multi-year contract over one year, not to exceed three years.

2. The director of the state purchasing office shall approve in writing the use of a multi-year contract over three years, not to exceed five years.

3. The provisions of this Part shall, with respect to the procurement of telecommunications systems or telecommunications services, supersede and personal communications systems.

“Radio systems, to include but not be limited to two-way radio systems; however, the operational abilities and priorities of two-way communications of the departments in the executive branch shall not be impeded.

5. “Competitive sealed bidding” means a method of procurement which is defined in this Part.

6. “Software” means computer programs and documentation essential to and necessary for a telecommunications system or telecommunications service to perform productive operations.

7. “Telecommunications systems contract” means a contract for the procurement of telecommunications services to include but not be limited to long distance, pay telephone, radio paging, and utility-type services such as local dial tone.

8. “Telecommunications systems” which shall include telecommunications equipment and related services, and “telecommunications services” are limited to the equipment and services and means to provide:

(a) Telecommunications transmission facilities and services.
(b) Voice telecommunications systems and services.
(c) Local area network systems and services.
(d) Wide area network systems and services.
(e) Video systems and services, except those video systems and services specifically reserved to the Louisiana Educational Television Authority pursuant to R.S. 17:2501.
(f) Wireless systems and services to include but not be limited to cellular and personal communications systems.
(g) Radio systems, to include but not be limited to two-way radio systems; however, the operational abilities and priorities of two-way communications of the departments in the executive branch shall not be impeded.
(h) Intercom and electro-mechanical paging systems.
(i) Any and all systems and services based on emerging and future telecommunications technologies relating to Subparagraphs (a) through (h) of this Paragraph.
(j) “Telecommunications systems contract” means a contract between a supplier of telecommunications systems and the division of administration, office of telecommunications management, or the procuring agency, through which telecommunications systems may be procured for a term which shall not exceed ten years. The contract may be either an operating lease, installment purchase, or a financed lease without a balloon payment.
(k) “Telecommunications transmission facility” means any transmission medium, switch, instrument, wiring system, or other facility which is used, in whole or in part, to provide any transmission.
(l) “Utility” means any telecommunications service provided by the office of telecommunications management and used in the essential operations of a state agency, such as local dial tone, wide area network, and local area network.
(m) “Wide area network” means a data processing/communications network or system generally utilizing common carrier facilities to link geographically dispersed local area networks to other local area networks or computer systems.

The following general provisions shall apply to all procurements under this Part:

1. No contracts entered into shall have an initial effective date earlier than the date on which such contract receives approval as required by this Part.

2. All changes, modifications, and amendments to any contract hereunder shall be approved in advance by the office of telecommunications management, in the state purchasing office, in addition to any other approvals required by law.

3. Where written proposals or bids are submitted by vendors, the proposal or bid of the successful vendor shall be incorporated into the final contract negotiated with that vendor.

4. All contracts must contain the following annual appropriation dependency clause: “The continuation of this contract is contingent upon the termination of the appropriation of funds by the Legislature to fulfill the requirements of the contract. If the Legislature fails to appropriate funds for the continuation of this contract, the contractor will terminate the contract.”
To amend and reenact R.S. 37:753(E) and (I) and 786(A)(1) and (C), relative to the practice of dentistry and the regulation of the profession; to provide for the domicile of the Louisiana State Board of Dentistry; to provide for the terms of board members; to provide for judicial review of adjudication; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:753(E) and (I) and 786(A)(1) and (C) are hereby amended and reenacted to read as follows:

§753. Louisiana State Board of Dentistry; appointment of members; term of office; vacancies; nominating meetings; quorum; domicile

(a) Each person appointed to the board shall serve a term of five years.

(b) On or after August 15, 1993, no person shall be appointed to serve more than two consecutive five-year terms. Regardless of a board member's dates of service, including past service, no person shall serve more than a total of ten years on the board, whether such service consists of full or partial terms, or is consecutive or not.

(c) The provisions of Subparagraph (b) of this Paragraph shall not prevent a board member serving on August 1, 2014, from completing his term of service, but shall thereafter apply.

*   *   *   *   *

I. The domicile of the Louisiana State Board of Dentistry shall be the city of New Orleans parish of East Baton Rouge.

§786. Judicial review of adjudication

A.(1) Where the board, whether through a disciplinary committee or the entire board, renders a decision in an administrative adjudication, the party aggrieved by it may resort to the civil district court for the parish of Orleans Nineteenth Judicial District in the parish of East Baton Rouge for judicial review. Any such appeals shall be filed in the court in the same manner as original suits are instituted therein. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy and would inflict irreparable injury.

*   *   *   *   *

C. All proceedings in the civil district court for the parish of Orleans Nineteenth Judicial District in the parish of East Baton Rouge and appellate courts arising under this Section are civil in nature and shall be summarily by the court without a jury, shall take precedence over other civil cases, and shall be tried in chambers or an open court, in and out of term.

*   *   *   *   *

Section 2. The provisions of R.S. 37:753(I) and 786(A)(1) and (C) as amended by Section 1 of this Act shall become effective January 1, 2017.

Section 3. Except as provided in Section 2 of this Act, this Act shall become effective upon signature by the governor, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and subsequently approved by the legislature, this Section and Section 6 of this Act shall become effective on the day following such approval.

Approved by the Governor, June 23, 2014.

A true copy:

Tom Schedler
Secretary of State

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ACT No. 865

SENATE BILL NO. 496
BY SENATOR HEITMEIER
AN ACT
To amend and reenact R.S. 40:978(A) and to enact R.S. 40:978(E) and (F), relative to prescriptions; to provide for the limited dispensing of certain controlled substances; to provide for accessing the Prescription Monitoring Program in certain situations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:978(A) is hereby amended and reenacted, and R.S. 40:978(E) and (F) are hereby enacted to read as follows:

§978. Prescriptions

A. Except when dispensed or administered directly by a medical practitioner or administered by a person authorized to administer by such practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as defined in the Louisiana Revised Statutes of 1950, or Chapter 16 of Title 39 of the Louisiana Revised Statutes of 1950, or Chapter 17 of Title 39 of the Louisiana Revised Statutes of 1950, or Chapter 16 of Title 39 of the Louisiana Revised Statutes of 1950, or Chapter 17 of Title 39 of the Louisiana Revised Statutes of 1950, may be dispensed or administered without either the written prescription of a practitioner, or an electronic prescription order as provided by federal law or regulation, except that in emergency situations, as prescribed by the department by regulation, such drug may be dispensed or administered upon oral prescription reduced promptly to writing and filed by the pharmacist. Prescriptions shall be retained in conformity with the requirements of R.S. 40:976. No prescription for a Schedule II substance may be refiled nor may such prescription be filled more than ninety days after the date of the prescription.

*   *   *   *   *

E.(1) The pharmacist shall not dispense more than a ten-day supply at a dosage not to exceed the United States Food and Drug Administration's approved labeling for a medication if the prescription for such medication is not licensed by the state of Louisiana, and the medication is an opioid derivative Schedule II or an opioid derivative Schedule III controlled dangerous substance. The dispensing pharmacist shall notify the prescriber of the supply dispensed and the requested duration of the remainder of the prescription.

(2) Within sixty days of the dispensing of a medication pursuant to Paragraph (1) of this Subsection, such a medication shall not be dispensed again for the individual by a prescriber not licensed by the state of Louisiana.

F. A prescriber shall access the Prescription Monitoring Program prior to prescribing any Schedule III uncontrolled dangerous substance to a patient for the treatment of non-cancer-related chronic or intractable pain.

Approved by the Governor, June 23, 2014.

A true copy:

Tom Schedler
Secretary of State

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ACT No. 867

SENATE BILL NO. 516
BY SENATORS BUFFINGTON, DORSEY-COLOMB, GUILLORY AND MILLS AND REPRESENTATIVE STUART BISHOP
AN ACT
To enact Part VII of Chapter 15 of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:1360.81 through 1360.91, relative to primary care; and to provide for direct primary care; to provide for definitions; to provide for direct primary care; to provide for annual reports; to provide for violations and penalties; to provide for rules and regulations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part VII of Chapter 15 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:1360.81 through 1360.91, is hereby enacted to read as follows:

PART VII. DIRECT PRIMARY CARE PRACTICE

§1360.81. Definitions

For the purposes of this Part, the terms stated in this Section have the meanings assigned to them, respectively, unless the context otherwise requires:
CODING: Words in struck through from the date of the change.

practice shall provide notice of any change in the fee not less than sixty days
promptly refunded to the direct patient.

held in trust following receipt of termination of the direct agreement shall be
practice as earned at the beginning of each period. Any unearned direct fees
and may be paid by the direct patient or on his behalf by others.

described in the provisions of the direct agreement. The fee shall represent the
of the fee and the periodic basis upon which such fee shall be paid shall be
services, including a sickness and accident insurance company, a health

or supplies.

magnetic resonance imaging, or invasive radiology, rehabilitation services,
but not limited to X-ray computed tomography, positron emission tomography,
status. A direct practice may decline to accept a patient if the practice has

A. A direct practice shall not decline to accept new direct patients or
discontinue care for a direct patient if any one of the following
notice and the opportunity to obtain care from another physician, a direct
services in the direct practice. As long as a direct practice provides a patient

Misrepresenting the terms of a direct agreement

A person shall not make, publish, or disseminate any false, deceptive, or
misleading representation or advertising in the conduct of the business of a
direct practice or relative to the business of a direct practice.

§1360.88. Direct practice not an insurer

C. Subject to the restrictions established in this Part, a direct practice may
accept payment of direct fees directly or indirectly from third parties. A
direct practice may accept a direct fee paid by an employer on behalf of an employee
who is a direct patient if the employee relaying to direct practice agreements between the
direct practice and employees of that employer other than to establish the timing
and method of the payment of the direct fee by the employer.

§1360.87. Conduct of business; prohibitions

A. A direct practice shall not charge a direct fee on a periodic basis. The amount
of the fee and the periodic basis upon which such fee shall be paid shall be
included in the provisions of the direct agreement. The fee shall represent the
total compensation due for all services specified in the direct agreement
and may be paid by the direct patient or on his behalf by others.

A. A direct practice shall maintain appropriate accounts and provide a history
of payments and services received upon a request of a direct patient.

(1) Enter into a participating provider contract with any health insurance issuer or with any health insurance issuer's contractor or subcontractor to provide health care services through a direct agreement except as set forth in Subsection B of this Section.

(2) Submit a claim for payment to any health insurance issuer or any health insurance issuer's contractor or subcontractor for health care services provided to direct patients as covered by their agreement.

(3) When services provided through a direct agreement, be identified by a health insurance issuer or any health insurance issuer's contractor or subcontractor as a participant in the health insurance issuer's or any health insurance issuer's contractor or subcontractor network for purposes of determining network adequacy or being available for selection by an enrollee under a health insurance issuer's benefit plan.

(4) Pay for health care services rendered to direct patients by providers other than the providers in the direct practice or the direct patient in accordance with the provisions of this Subsection.

A. A direct practice and provider may:

(1) Enter into a participating provider contract with a health insurance issuer for purposes other than payment of claims for services provided to direct patients through a direct agreement. Such physicians shall be subject to all other provisions of the participating provider contract applicable to participating providers, including but not limited to the right to:

(a) Make referrals to other participating providers.

(b) Admit the carrier's members to participating hospitals and other health care facilities.

(c) Prescribe prescription drugs.

(d) Implement other customary provisions of the contract not dealing with reimbursement of services.

(2) Pay for charges associated with:

(a) The provision of routine lab and imaging services.

(b) Dispensing, at no additional cost to the direct patient, of prescription drugs prescribed by the direct provider in accordance with state law and regulations promulgated by the board.

§1360.83. Direct fee

§1360.85. Acceptance or discontinuation of patients; third-party payments

A. A direct practice shall not accept new direct patients or discontinue care to existing patients solely because of the patient's health status. A direct practice may decline to accept a patient if the practice has reached its maximum capacity, or if the patient's medical condition is such that the provider is unable to provide the appropriate level and type of health care services in the direct practice. As long as a direct practice provides a patient notice and the opportunity to obtain care from another physician, a direct practice may discontinue care for a direct patient if any one of the following conditions is satisfied:

(1) The patient fails to pay the direct fee under the terms required by the direct agreement.

(2) The patient has performed an act that constitutes fraud.

(3) The patient repeatedly fails to comply with the recommended treatment plan.

(4) The patient is abusive and presents an emotional or physical danger to the staff or other patients of the direct practice.

(5) The direct practice discontinues operations as a direct practice.

§1360.86. Direct practice not an insurer

A. A direct practice may accept payment of direct fees directly or indirectly from the providers in the direct practice, or from any entity providing care to direct patients as covered by their agreement.

A. A direct practice may not contract or offer to contract or enter into an agreement with any person solely on account of race, religion, national origin, the presence of
any sensory, mental, or physical disability, education, or economic status.

§1360.82. Prohibition on discrimination

Except as provided in R.S. 37:1360.85, no direct practice shall decline to accept
any person solely on account of race, religion, national origin, the presence of
any sensory, mental, or physical disability, education, or economic status.

§1360.84. Direct fee

A. A direct practice shall charge a direct fee on a periodic basis. The amount
of the fee and the periodic basis upon which such fee shall be paid shall be
included in the provisions of the direct agreement. The fee shall represent the
total compensation due for all services specified in the direct agreement
and may be paid by the direct patient or on his behalf by others.

B. A direct practice shall maintain appropriate accounts and provide a history
of payments and services received upon a request of a direct patient.

C. A direct practice may accept a direct fee paid by an employer on behalf of an employee
who is a direct patient if the employee relaying to direct practice agreements between the
direct practice and employees of that employer other than to establish the timing
and method of the payment of the direct fee by the employer.

Subsection B of this Section.

A. A direct practice shall not:

(1) Enter into a participating provider contract with any health insurance issuer or with any health insurance issuer's contractor or subcontractor to provide health care services through a direct agreement except as set forth in Subsection B of this Section.

THE ADVOCATE
PAGE 634

* As it appears in the enrolled bill

CODING: Words in struck through type are deletions from existing law; words underscored (House Bills) and underlined and boldfaced (Senate Bills) are additions.
B. The State Board of Elementary and Secondary Education shall promulgate rules and regulations to implement the Child Care and Development Fund State Plan. The state Department of Education shall develop and implement the state plan. The state Department of Education shall enter into a cooperative endeavor agreement to ensure a regular and consistent flow of funds to the state Department of Children and Family Services to secure the provision of development funds not unduly impact the operation or function of another agency. The transition shall occur in such a manner so as to not disrupt the provision of state services to the state Department of Children and Family Services in an amount sufficient to fully fund the indirect costs of the state Department of Children and Family Services which were previously covered by the Child Care and Development Fund at such time as another funding source is identified by the state Department of Children and Family Services to pay for those indirect costs. This agreement between the state Department of Education and the state Department of Children and Family Services may also allow services to be purchased by the state Department of Education including but not limited to fulfilling grant requirements, data reporting, and services to clients.

D. Lead agency authority shall transfer no later than July 1, 2015. The date shall be established in the cooperative endeavor agreement. The cooperative endeavor agreement shall be submitted to the Joint Legislative Committee on the Budget for review.

§407.31. Short title
This Part may be cited as the “Early Learning Center Licensing Act”.

§407.32. Legislative intent; declaration of purpose and policy
It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. It is the purpose of this Part to establish and implement minimum standards for the safety and well-being of children in early learning centers, to ensure maintenance of these standards, and to regulate conditions in these centers through a program of licensing. The State Board of Elementary and Secondary Education shall promulgate rules and regulations to implement a program of licensing for early learning centers and the state Department of Education shall administer the licensing program pursuant to such rules and regulations.

§407.33. Definitions
A. As used in this Part, the following definitions shall apply unless the context clearly states otherwise:
1. “Camp” means any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group which serves only children five years of age or older and operates only when school is not in session during the summer months or school holidays.
2. “Child” means a person who has not reached age eighteen or otherwise been legally emancipated.
3. “Child day care center” means any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for more than eight hours in one day or more than one-half hours in a continuous two-day week.
4. “Child day care center” means any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for more than eight hours in one day or more than one-half hours in a continuous two-day week.
5. “Early learning center” means any child day care center, Early Head Start Center, Head Start Center, or stand-alone prekindergarten program not attached to a school.
6. “Early Head Start Programs” mean the federally-funded early childhood care and education programs that promote and teach school readiness to children ages birth to five from low-income families and services in the areas of education, social services for families, nutrition, family empowerment, health and safety, and providing the physical plant and instructional staff members for such purposes.
7. “License type” means the type of license applied for or held, which shall include Type I, Type II, and Type III.
8. “Related” or “relative” means a natural or adopted child or grandchild of the caregiver, unaccompanied by parent or legal custodian, or a foster child, unaccompanied by parent or legal custodian.

§407.34. Requirement of licensure
All early learning centers shall be licensed prior to beginning operations in Louisiana. Early learning center licenses shall be of three types: Type I, Type II, and Type III.

§407.35. Exemptions from licensure requirements
A. Public and nonpublic day schools serving children in grades kindergarten and above, including any prekindergarten programs attached thereto, as well as

* As it appears in the enrolled bill
as camps, and care given without charge, shall be exempt from the provisions of this Part.

B. A non-profit religious organization which is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code, which remains open for not more than twenty-four hours in a continuous seven-day week, and in which no individual child remains for more than twenty-four hours in one continuous stay shall not be considered an early learning center for the purposes of this Part.

C. Nothing in this Part shall apply to children in programs licensed or operated by the Department of Health and Hospitals or the Department of Children and Family Services.

§407.36. Types of Licenses

A. A “Type I license” is the type of license issued to an early learning center that is owned or operated by a religious or charitable organization that is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code and which meets by rule all of the applicable state and local laws and regulations. A “Type I license” is also the type of license issued to an early learning center holding a “Class B” license prior to the effective date of this Part.

(1) No early learning center holding a Type I license shall receive any state or federal funds from any source, whether directly or indirectly.

(2) If an early learning center holding a Type I license receives any state or federal funds, its license shall be automatically revoked.

B. A “Type II” license is the type of license issued to an early learning center that either receives no state or federal funds from any source, whether directly or indirectly, or whose only source of state or federal funds is from the United States Department of Agriculture’s food and nutrition programs, hereinafter referred to in this Part as “federal food and nutrition programs.”

(1) No early learning center holding a Type II license shall receive any state or federal funds from any source, whether directly or indirectly, other than those funds received solely for federal food and nutrition programs.

(2) If an early learning center holding a Type II license receives any state or federal funds, whether directly or indirectly, other than those received solely for federal food and nutrition programs, its license shall be automatically revoked.

C. A “Type III” license is the type of license issued to any early learning center which receives state or federal funds, directly or indirectly, from any source other than the federal food and nutrition programs. Type III early learning centers shall meet the performance and academic standards of the Early Childhood Care and Education Network regarding kindergarten readiness as determined by the State Board of Elementary and Secondary Education.

D. Nothing in this Section shall prevent an early learning center otherwise qualified for a Type II license to voluntarily seek a Type III license, provided that such early learning center meets the standards set forth for such license.

§407.37. Operating without a license; penalties

A. Whoever operates any early learning center without a valid license issued by the department shall be fined by the department not less than one thousand dollars for each day of such offense.

B. If any early learning center operates without a valid license issued by the department, or if the department finds that suit in the district court in the parish in which the center is located for injunctive relief, including a temporary restraining order, to restrain the institution, agency, corporation, person or persons, or any other group operating the center from continuing the violation. §407.39. Licenses; application; temporary or provisional; fees

B. Every early learning center approved for licensure by the department shall be required to have all of the following:

(1) Promote the health, safety, and welfare of children attending any early learning center.

(2) Provide safe and proper physical facilities at all early learning centers.

(3) Ensure adequate supervision of those attending early learning centers.

(4) Ensure adequate and healthy food service in early learning centers where food is offered.

(5) Act without discrimination on the basis of race, color, creed, sex, national origin, handicap, ancestry, or whether the child is being breastfed. However, nothing in this Paragraph shall be construed to affect, limit, or otherwise restrict the hiring or admission policies of an early learning center owned by a religious organization.

(6) Include procedures for the receipt, recordation, and disposition of complaints.

B. Each early learning center approved for licensure by the department shall be required to have all of the following:

(1) Approval from the office of state fire marshal.

(2) Approval from the Department of Health and Hospitals.

C. Each Type III early learning center shall also be required to obtain and maintain certification of compliance with the performance and academic standards of the Early Childhood Care and Education Network regarding kindergarten readiness as determined by the State Board of Elementary and Secondary Education. The department shall base its approval upon the uniform accountability system as promulgated by the State Board of Elementary and Secondary Education.

C. The State Board of Elementary and Secondary Education shall conduct a comprehensive review of all standards, rules, and regulations for all licenses every six months.

D. The State Board of Elementary and Secondary Education, upon request by the department, may waive compliance with a licensing minimum standard upon determination that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff or children are not imperiled. The department may request a hearing if it determines that the early learning center is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

E. Nothing in the rules, regulations, and standards adopted pursuant to this Section shall authorize or require medical examination, immunization, or

E. The department shall maintain on its website all the information that is required by state and federal funding sources, which shall be easily accessible to the public, including but not limited to program statistics for the Child Care Assistance Program that includes monthly and year-end fiscal year totals of the number of children and amount of benefits of the current year and previous years back to 2004, monthly statistics of the number of children and the amount of benefits by parish, applications processed by parish, unduplicated count of applicants by month, redeterminations, and cases by parish and fiscal year.

The department shall also include information on each licensed facility for the last fifteen visits, including licensed capacity, license type, and current rating.

A. Application for licenses: A “License for licenses” application for Type III licenses shall be made by the center to the department using forms furnished by the department. Upon receipt of an application for such license in effect for all Class A and Class B child care facilities possessing such license upon the effective date of this Section, without an increase in the amount of such fees.

F. There shall be an annual license fee of twenty-five dollars for any license issued to an early learning center other than the federal food and nutrition programs, its license shall be automatically revoked. A “Type II license” is the type of license issued to an early learning center providing care for at least sixteen but no more than fifty children; one hundred seventy-five dollars for any license issued to an early learning center providing care for at least fifteen but no more than one hundred children; and two hundred fifty dollars for any license issued to an early learning center providing care for more than one hundred children.

G. The annual licensure fees provided in this Section shall not apply to Type I early learning centers.

H. Annual fees for any type or category of license shall not be increased unless expressly authorized by statute as provided in Article VII, Section 2.I of the Constitution of Louisiana.

§407.40. Rules, regulations and standards for licenses

A. The State Board of Elementary and Secondary Education shall promulgate regulations for each type of license which, at a minimum, shall accomplish all of the following:

(1) Promote the health, safety, and welfare of children attending any early learning center.

(2) Provide safe and proper physical facilities at all early learning centers.

(3) Ensure adequate supervision of those attending early learning centers.

(4) Ensure adequate and healthy food service in early learning centers where food is offered.

(5) Act without discrimination on the basis of race, color, creed, sex, national origin, handicap, ancestry, or whether the child is being breastfed. However, nothing in this Paragraph shall be construed to affect, limit, or otherwise restrict the hiring or admission policies of an early learning center owned by a religious organization.

(6) Include procedures for the receipt, recordation, and disposition of complaints.

B. Every early learning center approved for licensure by the department shall be required to have all of the following:

(1) Approval from the office of state fire marshal.

(2) Approval from the Department of Health and Hospitals.

C. Each Type III early learning center shall also be required to obtain and maintain certification of compliance with the performance and academic standards of the Early Childhood Care and Education Network regarding kindergarten readiness as determined by the State Board of Elementary and Secondary Education. The department shall base its approval upon the uniform accountability system as promulgated by the State Board of Elementary and Secondary Education.

C. The State Board of Elementary and Secondary Education shall conduct a comprehensive review of all standards, rules, and regulations for all licenses every six months.

D. The State Board of Elementary and Secondary Education, upon request by the department, may waive compliance with a licensing minimum standard upon determination that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff or children are not imperiled. The department may request a hearing if it determines that the early learning center is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

E. Nothing in the rules, regulations, and standards adopted pursuant to this Section shall authorize or require medical examination, immunization, or

E. The department shall maintain on its website all the information that is required by state and federal funding sources, which shall be easily accessible to the public, including but not limited to program statistics for the Child Care Assistance Program that includes monthly and year-end fiscal year totals of the number of children and amount of benefits of the current year and previous years back to 2004, monthly statistics of the number of children and the amount of benefits by parish, applications processed by parish, unduplicated count of applicants by month, redeterminations, and cases by parish and fiscal year.

The department shall also include information on each licensed facility for the last fifteen visits, including licensed capacity, license type, and current rating.

A. Application for licenses: A “License for licenses” application for Type III licenses shall be made by the center to the department using forms furnished by the department. Upon receipt of an application for such license in effect for all Class A and Class B child care facilities possessing such license upon the effective date of this Section, without an increase in the amount of such fees.

F. There shall be an annual license fee of twenty-five dollars for any license issued to an early learning center other than the federal food and nutrition programs, its license shall be automatically revoked. A “Type II license” is the type of license issued to an early learning center providing care for at least sixteen but no more than fifty children; one hundred seventy-five dollars for any license issued to an early learning center providing care for at least fifteen but no more than one hundred children; and two hundred fifty dollars for any license issued to an early learning center providing care for more than one hundred children.

G. The annual licensure fees provided in this Section shall not apply to Type I early learning centers.

H. Annual fees for any type or category of license shall not be increased unless expressly authorized by statute as provided in Article VII, Section 2.I of the Constitution of Louisiana.
treatment of any child whose parents object to such examination, immunization, or treatment.

§407.41. State Central Registry Disclosure Requirement
A. No individual whose name is recorded on the state central registry within the Department of Children and Family Services as a perpetrator for a justified finding of abuse or neglect of a child shall own or operate a licensed early learning center or shall be hired by a licensed early learning center as an employee of any kind, including any therapeutic professionals, extracurricular personnel, and other independent contractors, unless there is a finding by the Department of Children and Family Services that the individual does not pose a risk to children.
B. Any such current or prospective employee, or volunteer of a licensed early learning center shall report annually, and at any time upon the request of the department, on the state central registry disclosure form promulgated by the Department of Children and Family Services, whether or not the individual has had any previous state central registry finding of abuse or neglect and he is the named perpetrator.
C. Any such current or prospective employee or volunteer of a licensed early learning center shall submit the state central registry disclosure form to the owner or operator of the facility, who shall maintain the documents in accordance with current licensing requirements. Any state central registry disclosure form shall be confidential and subject to the confidentiality provisions of R.S. 46:560(F) pertaining to the investigations of abuse and neglect.

§407.42. Criminal History Review
A. No person who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) shall directly or indirectly own, operate, participate in the governance of an early learning center, or shall be hired by any person or entity as an employee or volunteer of an early learning center licensed by the department, the following information relative to such person's fingerprints in a form acceptable to the Louisiana Bureau of Criminal Identification and Information may be temporarily hired pending a risk assessment evaluation provided by the Department of Children and Family Services to determine whether the individual poses a risk to children.
B. Any such determination shall be kept on file at all times by the Department of Children and Family Services.

§407.43. Inspections
A. The State Board of Elementary and Secondary Education shall establish regulations for the inspections of early learning centers licensed by the department, through its duly authorized agents, to inspect at regular intervals not to exceed one year, and as deemed necessary by the department, and without previous notice, all early learning centers subject to this Part. The department shall notify the owner or operator of an early learning center of any visit within five working days of the notice of the inspection. The early learning centers shall be open to inspection by authorized inspection personnel and by parents or legal custodians of children in the early learning center.

§407.44. Denial, refusal to renew, or revocation of license: written notice
A. The department shall have the power to deny, revoke, or refuse to renew a license for an early learning center if an applicant has failed to comply with the provisions of this Part or any applicable rule or regulations of the State Board of Elementary and Secondary Education, including those related to the state central registry disclosure requirement.
B. If the denial is effective when made, the department shall notify the applicant or licensee of such action in writing immediately, and of the reason for the denial or revocation.

§407.45. Denial, refusal to renew, or revocation of license: appeal procedure
A. Upon the refusal of the department to grant or renew a license or upon the revocation of a license, the applicant or licensee having been refused a license or renewal, or having had a license revoked shall have the right to appeal such action to the division of administrative law by submitting a written request for an appeal to the department within thirty calendar days after receipt of the notice of denial or refusal to renew a license, or within fifteen calendar days after receipt of the notice of the division of administrative law's finding of a violation for which the department has determined a license or renewal is denied or revoked. The department shall notify the division of administrative law within ten calendar days of receipt of a request for an appeal and the appeal hearing shall be held no later than thirty calendar days after such notice, with an administrative ruling to be rendered within thirty calendar days of the hearing date. If the denial or revocation is upheld, the department shall notify the division of administrative law of a refusal to renew a license, or within thirty days from the date of a hearing for the denial of a new license. This provision shall not in any way preclude the right of the party to seek relief through mandamus suit against the department, as provided by law.
B. Notwithstanding any law, rule, regulation, or provision to the contrary, including but not limited to R.S. 49:96(A)(2), the department shall be entitled to seek judicial review from any final decision or order rendered by the division of administrative law in any appeal hearing arising under this Part. The venue of judicial review shall be the district court of the parish in which the licensee is located.

§407.46. Operating in violation of regulations; penalties and fines
A. (1) For violations related to supervision, criminal history record checks, or failure to report critical incidents, the department may issue a written warning that includes a corrective action plan, in lieu of revocation, upon any person or entity violating these requirements if such condition or occurrence does not pose an imminent threat to the health, safety, rights, or welfare of a child. Failure to implement a corrective action plan issued pursuant to this Section may result in either the assessment of a civil fine or license revocation or may result in both actions being taken by the department. Such civil fine shall not exceed two hundred fifty dollars per day for each violation; provided, however, that the fees assessed for such violations in any consecutive twelve-month period shall not exceed two thousand dollars.

B. The State Board of Elementary and Secondary Education shall adopt rules and regulations in accordance with the Administrative Procedure Act that articulate factors to determine whether an individual shall be denied, the history of noncompliance, an explanation of the treatment of continued and repeated violations, and to determine an appropriate fine.

C. The department may institute any necessary civil court action to collect fines imposed and not timely appealed. No child care facility shall claim fines imposed as reimbursable. Interest shall begin to accrue at the current rate of interest provided for in law. Any sum due or payable. All costs of any successful action to collect such fines, including travel expenses and reasonable attorney fees, shall be awarded to the department in addition to the fines.

The department may seek judicial review from any final decision or order rendered by the division of administrative law pursuant to this Section only in the following situations:
(1) The State Board of Elementary and Secondary Education to determine whether the individual poses a risk to children.
B. The department may seek judicial review from any final decision or order rendered by the division of administrative law pursuant to Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950. The division shall furnish to the facility or agency a copy of the decision, together with notice of the manner for requesting judicial review. During the pendency of an appeal, an early learning center may continue to receive funding for services provided to those eligible children as determined by the department.
C. The department may institute any necessary civil court action to collect fines imposed and not timely appealed. No child care facility shall claim fines imposed as reimbursable. Interest shall begin to accrue at the current rate of interest provided for in law. Any sum due or payable. All costs of any successful action to collect such fines, including travel expenses and reasonable attorney fees, shall be awarded to the department in addition to the fines.
(1) Any violations of standards, rules, or regulations in the prior twelve months.
(2) Any waivers of minimum standards authorized for such early learning center.
B. Requests may be sent by email, facsimile, or mail and shall include the name of each early learning center for which information is requested.
C. Early learning centers shall make available to parents or local custodians information on immunizations of early childhood centers licensing inspections from the department's website.
§407.49, Parent-child relationship
The State Board of Elementary and Secondary Education and the department shall not interfere with the parent-child relationship regarding the religious training of a child, where all of the following conditions are met:
(1) The parent or legal custodian has enrolled their child in a child care facility, including but not limited to a child residential facility, operated by a religious corporation, which is exempt from federal income taxes pursuant to 26 U.S.C. 501(c)(3).
(2) Where, as a condition of enrollment, the child is required to attend religious services or classes and the parent or legal custodian of the child agrees to such condition.
§407.50 Immunization information; influenza
A. Each licensed early learning center, before November first of each year, shall make available to each child's parent or legal custodian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. Such information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places where a parent or legal custodian may obtain additional information, and where a child may be immunized against influenza. Such information shall be updated annually if new information on influenza is released.
B. (1) The Department of Health and Hospitals shall develop and provide information on influenza immunization to the department. The department shall provide such information to each licensed early learning center, which shall then distribute information to each child's parent or legal custodian pursuant to Subsection A of this Section.
(2) The Department of Health and Hospitals and the department shall determine respectively the most cost-effective and efficient means of distributing such information.
§407.51, Advisory Council
A. The board shall establish an Advisory Council on Early Childhood Care and Education that shall consist of the following members:
(1) Two representatives of Type III early learning centers, selected by the state superintendent of education.
(2) One representative of a Type II early learning center, selected by the state superintendent of education.
(3) One representative of a Type I early learning center, selected by the state superintendent of education.
(4) Two representatives of Head Start programs, one of which shall be operating in a local education agency and selected by the state board, and one of which shall be operated by a nonlocal education agency and selected by the state superintendent of education from a list of three persons nominated by the Louisiana Head Start Association.
(5) Two representatives of nonpublic schools with publicly-funded early childhood programs other than Head Start, selected by the state board.
(6) Two representatives of Louisiana nonprofit advocacy organizations having a focus on early childhood education, selected by the state superintendent.
(7) Two representatives of approved nonpublic schools with publicly-funded early childhood care and education programs, selected by the state board.
(8) One professional or faculty member having child development or early childhood education expertise from a Louisiana post-secondary education institution, selected by the commissioner of higher education.
(9) The president of the Louisiana Chapter of the American Academy of Pediatrics, or his designee.
(10) One representative of an advocacy or service organization that focuses on serving children with disabilities, selected by the state superintendent.
(11) One representative of a Louisiana business or community organization, selected by the state board.
(12) One parent of a child currently enrolled in a publicly-funded early learning center or prekindergarten program, selected by the state board.
B. The council shall include nonvoting ex officio members who may advise and make recommendations to the council on early childhood care and education, including but not limited to the following:
(1) The chairman of the House Committee on Education, Senate Committee on Education, House Committee on Health and Welfare, and Senate Committee on Health and Welfare, or their designees.
(2) The secretary of the Department of Children and Family Services or his designee.
(3) The state director of the Louisiana State Head Start Collaboration Project.
(4) A representative of the state agency responsible for programs under Section 619 or Part C of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).
(5) The director of the Maternal and Child Health Program at the Department of Health and Hospitals.
(6) The director of the Child and Adult Care Food Program at the Department of Education.
(7) The Louisiana State Fire Marshal, or his designee.
(8) A representative from the office of sanitarian services at the Department of Health and Hospitals.
(9) A representative from the Louisiana Workforce Commission.
C. The council shall serve in an advisory capacity to the board and shall comply with the Open Meetings Law.
D. Council members shall serve at the will of the commissioner and shall not receive travel expenses or attendance at council meetings.
E. The Department of Education shall provide staff support for the council, including but not limited to the scheduling of meetings, providing public notice of scheduled meetings, and including information about the council and its meeting minutes on its website. Council meeting minutes shall be provided to the state board at its next regularly scheduled meeting.
F. The council shall meet at least quarterly, with the meetings to be called by the chair or the state superintendent as needed. The chair shall set the agenda.
G. The council shall provide input and guidance to the board and the Department of Education on matters pertaining to the development and implementation of rules, regulations, bulletins, policies or standards related to all publicly-funded early care and education programs, including early childhood centers, the Child Care and Development Fund Block Grant, the Early Childhood Program, the Child Care and Development Fund Block Grant or the Child Care Assistance Program, Early Head Start, and Head Start.
H. Prior to its submission to the United States Department of Health and Human Services, all information shall be sent to the council, and a draft of the state plan for the Child Care and Development Fund and its budget, and any amendments to the state plan including budget revisions, and provide an opportunity for the council to make recommendations. Recommendations made by the council shall be reported to the state board prior to their adoption.
I. Prior to the board's consideration of any rule or standard related to early learning centers, enrollment in early learning centers, the Cecil J. Picard LA Early Childhood Program, the Child Care and Development Fund Block Grant or the Child Care Assistance Program, the department shall consult with and provide a draft of the state plan for the Child Care and Development Fund and its budget, and any amendments to the state plan including budget revisions, and provide an opportunity for the council to make recommendations. Recommendations made by the council shall be reported to the state board prior to their adoption.
J. Prior to the board's consideration of any rule or standard related to early learning centers, enrollment in early learning centers, the Cecil J. Picard LA Early Childhood Program, the Child Care and Development Fund Block Grant or the Child Care Assistance Program, the department shall consult with and provide a draft of the proposed rules to the council, and provide an opportunity for the council to make recommendations. Recommendations made by the council shall be reported to the state board prior to their adoption.
K. The department shall provide quarterly reports on the implementation and progress, activities, and status of the Early Childhood Care and Education Network, including the creation and implementation of an accountability system for early care and education programs and the transition of the Child Care and Development Block Grant and licensure to the Department of Education. Any recommendations by the council shall be reflected in meeting minutes.
L. Services or classes and the parent or legal custodian of the child agrees to such condition.
M. The council shall meet at least quarterly, with the meetings to be called by the chair or the state superintendent as needed. The chair shall set the agenda.
N. The council shall provide input and guidance to the board and the Department of Education on matters pertaining to the development and implementation of rules, regulations, bulletins, policies or standards related to all publicly-funded early care and education programs, including early childhood centers, the Child Care and Development Fund Block Grant, the Early Childhood Program, the Child Care and Development Fund Block Grant or the Child Care Assistance Program, Early Head Start, and Head Start.
O. Prior to its submission to the United States Department of Health and Human Services, all information shall be sent to the council, and a draft of the state plan for the Child Care and Development Fund and its budget, and any amendments to the state plan including budget revisions, and provide an opportunity for the council to make recommendations. Recommendations made by the council shall be reported to the state board prior to their adoption.
P. Prior to the board's consideration of any rule or standard related to early learning centers, enrollment in early learning centers, the Cecil J. Picard LA Early Childhood Program, the Child Care and Development Fund Block Grant or the Child Care Assistance Program, the department shall consult with and provide a draft of the state plan for the Child Care and Development Fund and its budget, and any amendments to the state plan including budget revisions, and provide an opportunity for the council to make recommendations. Recommendations made by the council shall be reported to the state board prior to their adoption.
Q. The department shall provide quarterly reports on the implementation and progress, activities, and status of the Early Childhood Care and Education Network, including the creation and implementation of an accountability system for early care and education programs and the transition of the Child Care and Development Block Grant and licensure to the Department of Education. Any recommendations by the council shall be reflected in meeting minutes.
R. Services or classes and the parent or legal custodian of the child agrees to such condition.
any professional development ladder, and the participation in any teacher tax
credits. The description shall also include information about salaries and
benefits, and a comparison of the salary with similarly qualified employees in other
but related fields, and an analysis of the workforce capacity necessary to meet
the state's early care and education needs.
M. Any reports provided by the department and any council recommendations
shall be included in meeting minutes.

The Department of Education shall coordinate with the office of state fire
marshal and the Department of Health and Hospitals to align standards for
licensing of early learning centers with the standards for early childhood
education programs.
§407.53. Rules
The State Board of Elementary and Secondary Education shall promulgate
rules and regulations in accordance with the provisions of the Administrative
Procedure Act to carry out the provisions of this Part.

Section 3. Part X-C of Chapter 1 of Title 17 of the Louisiana Revised
Statutes of 1950, comprised of R.S. 17:407.61 through 407.72, and Part X-D of
Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of
R.S. 17:407.81 through 407.84, are hereby enacted to read as follows:
PART X-C Family Child Day Care Home Registration Law
§407.61. Short title
This Part may be cited as the “Family Child Day Care Home Registration
Law.”
§407.62. Definitions
As used in this Part, the following definitions shall apply unless the context
clearly states otherwise.
(1) “Child” means a person who has not reached the age of eighteen years.
The words “child” and “children” are used interchangeably in this Part.
(2) “Department” means the Department of Education.

§407.63. Requirement for registration; exemptions
A. All family child day care homes that receive state or federal funds, directly
or indirectly, shall be registered.
B. Family child day care homes that do not receive state or federal funds,
directly or indirectly, and individuals who provide care for only related family
members, shall not be required to be registered.
C. All family child day care homes shall be registered prior to receiving any
state or federal funds, directly or indirectly.

§407.64. Rules and regulations: inspection requirements
A. The Department of Health and Hospitals shall promulgate rules and
regulations in accordance with the Administrative Procedure Act to carry out
the provisions of this Part for all family child day care homes which participate in
the United States Child and Adult Care Food Program or the Child Care
Development Fund.
B. The Department of Education shall promulgate rules and regulations in accordance with the Administrative Procedure Act to carry out the provisions of this Part for those family child day care homes that participate in the United States Child and Adult Care Food Program or the Child Care and Development Fund.
C. A family child day care home shall be inspected and approved by the office
of state fire marshal in accordance with the rules and regulations as established
under Sections A and B of this Section, developed in consultation with the
office of state fire marshal.

§407.65. Inspections
The Department of Education, through its duly authorized agents, shall
reserve the right to visit and inspect registered family child day care homes as
deemed necessary by the department. All family child day care homes shall be
open to inspection by the department, parents, and by other authorized
inspection personnel during normal working hours or when children are in
care.

§407.66. Fees
A. (1) The office of state fire marshal shall have the authority to charge each
family child day care home applying for registration or renewal of registration an
application fee of [insert applicable amount]. This fee shall be adopted in accordance with the
Administrative Procedure Act.
(2) A fee shall be charged to cover the cost of inspection for family child
care homes regulated by the Department of Education in accordance to R.S.
17:407.64B. The fee shall be set at thirty dollars per inspection and used for
the sole purpose of employing personnel to perform such inspections.
B. The office of state fire marshal shall transfer sufficient funds to the
Department of Health and Hospitals or the Department of Education for those
family child day care homes which receive state or federal funds but do not
participate in the United States Child and Adult Care Food Program to carry
out the registration process in accordance with this Part.

§407.67. Revocation or refusal to renew registration: written notice
A. No family child day care home shall be registered if the Department
has failed to comply with the provisions of this Part, any applicable published
rule or regulation relating to registered family day care homes, or any
applicable state, federal, or local rule or regulation. If a registration is denied,
revoked, or withdrawn, the action shall be effective when made and the family
child day care home shall be notified in writing. This notice shall give the
reason for denial, revocation, or withdrawal of the registration.

§407.68. Revocation or refusal of registration: appeal or remedy
Upon the refusal of the department to grant or renew a registration or upon
the revocation of a registration, the family child day care home having been
refused a registration or renewal or having had a registration revoked shall
have the right to appeal, pursuant to the provisions of the Administrative
Procedure Act by submitting a written request for an appeal to the department within thirty
calendar days after receipt of the notification of the refusal or revocation.
The department shall notify the division of administrative law within ten calendar
days of receipt of a request for an appeal and the appeal hearing shall be held
no later than thirty calendar days after such notice, with an administrative
ruling no later than thirty calendar days from the date of the hearing. This
provision shall in no way preclude the right of the party to seek relief through
mandamus suit against the department, as provided by law.

§407.69. Operating without or in violation of registration; penalty; injunctive
relief
A. Whoever operates a family child day care home required to be registered
under this Part without a valid registration issued by the department shall be
fined not less than twenty-five dollars nor more than one hundred dollars. Each
day of violation of the requirements of this Part shall constitute a separate
offense.
B. The department may also file suit in the district court in the parish in
which the family child day care home is located for injunctive relief, including
any of the following: a temporary restraining order, to restrain the family child day care home from
continuing the violation.

§407.70. Notification of health and safety violations
The department shall notify the appropriate agencies if it is determined that
one or more violations exist at a family child day care home which place the
health and well-being of a child or children in imminent danger.

§407.71. Grounds for revocation or refusal to renew registration; criminal
activities; lack of CPR or first aid training
A. No family child day care home may have in its employ, or living in the
home, any person who has been convicted of or pled nolo contendere to a crime
listed in R.S. 15:387(1)(c). The cost of any criminal background check which may be required by the department as proof of compliance with this Subsection shall be the responsibility of the family child day care home.
B. The primary or secondary caregiver or provider of any family child
day care home shall have documented current certification in either Infant/Child CPR or Infant/Child/Adult CPR.
C. The department may deny, revoke, or refuse to renew any registration of a
family child day care home which violates the provisions of this Section.

§407.72. Orientation
A. All family child day care care home providers receiving payments from
the United States Child and Adult Care Food Program shall be required to participate in a four-hour
orientation. The orientation curriculum shall include but not be limited to the
following subjects: recordkeeping; immunization schedules and requirements; recognizing signs of child abuse; child abuse prevention; communicating with parents; age appropriate activities for young children; child development; child safety; and nutritional needs of children. The orientation will count toward the required hours of professional development training mandated by the Department of Education.
B. New family child day care home providers are required to provide proof of
orientation participation within twelve months after beginning operation.
New providers, at the time of application, are required to sign an agreement
committing to attend the required orientation within twelve months.

PART X-D Early Learning Staff

§407.81. Legislative intent declaratory
It is the intent of the legislature to protect the health, safety, and well-being of the
children of the state who are in out-of-home care on a regular or consistent basis. To that end, it shall be the policy of the state to ensure protection of children in care by encouraging early learning staff to obtain certification through state directed educational training programs.

§407.82. Definitions
As used in this Part, the following definitions shall apply:
(1) “Early learning staff” means a person employed as a full-time staff member in an early learning care or a registered family child day care home.
(2) “Department” means the Department of Education.

§407.83. Early learning staff: training
Early learning staff who participate in an early childhood educational
training program approved by the department may be eligible for a scholarship.

THE ADVOCATE
CODING: Words in struck through type are deletions from existing law; words underscored
and boldfaced are additions.

PAGE 639
funded by the state. Such scholarship shall be awarded only if funds are appropriated by the federal government for such purpose.

A. The department shall administer the provisions of this Part and shall be responsible for all matters pertaining to establishing the scholarship amount and the method of payment to eligible early learning staff.

B. The department shall develop guidelines and procedures to implement the provisions of this Part and ensure the payment of scholarships. The guidelines for determining the scholarship amount may include the number of training hours earned, the type of training selected, the cost of the training to early learning staff, the benefit of the training to the state and to the children served, and the number of early learning staff per classroom. The department shall be responsible for ensuring that the scholarship is paid within one and one-half hours following the determination of eligibility. Section 4. R.S. 36:474(A)(11) and 477(B)(1) are hereby amended and reenacted to read as follows:

$474. Powers and duties of the secretary of the Department of Children and Family Services

A. In addition to the powers, duties, and powers otherwise vested in the secretary by law, he shall:

(1) Except as provided in Subsection G of this Section, prepare and submit a state plan for participation in the Child Care and Development Block Grant Program until such authority is transferred to the state Department of Education in accordance with R.S. 17:407.26, and in the Title IV-A federal program to assist families at risk of welfare dependency. The Joint Committee on Health and Welfare shall serve as an advisory committee to the secretary to begin developing the state plan.

B.(1) The office of children and family services shall perform the services of the state regarding public assistance programs to provide aid to dependent children and to adults, who due to age, disability, or infirmity, are unable to adequately meet their basic needs. It shall also administer the food stamp program, special child day care programs, special child day care programs for ages of six through eighteen, special child day care programs for ages of five through seventeen, special child day care programs for ages of four through fourteen, and special child day care programs for ages of three through twelve, and other child day care programs. The office shall develop agreements with other state agencies to conduct eligibility determinations. The office shall provide for the public child welfare services of the state including but not limited to prevention services which promote, facilitate, and support activities to prevent child abuse and neglect; child protective services; voluntary family strengthening and support services; making permanent plans for foster children and meeting their daily maintenance needs of food, shelter, clothing, and other physical needs; and adoption services for foster children. The office shall also perform the functions of the state relating to the licensing of child care facilities that do not receive federal funds under Title XIX of the Social Security Act and day care centers and agencies facilities regulated under Chapter 4 of Title 46 of the Louisiana Revised Statutes of 1950. The office shall issue and monitor day care center contracts.

(2) The department shall develop guidelines and procedures to implement the provisions of this Part and to establish the amount of scholarships. The department shall be responsible for ensuring that the scholarship is paid within one and one-half hours following the determination of eligibility. The department shall also develop guidelines and procedures to implement the provisions of this Part and to establish the amount of scholarships. The department shall be responsible for ensuring that the scholarship is paid within one and one-half hours following the determination of eligibility.

(3) “Child day care center” means any place or facility operated by any institution, society, agency, corporation, facility, person, or persons, or any other group which serves children who are not related to the caregiver and who are not included in any other license issued. It shall also mean an early childhood learning center that remains open after 9:00 p.m. The department shall provide for the public child welfare services of the state including but not limited to prevention services which promote, facilitate, and support activities to prevent child abuse and neglect; child protective services; voluntary family strengthening and support services; making permanent plans for foster children and meeting their daily maintenance needs of food, shelter, clothing, and other physical needs; and adoption services for foster children. The department shall also perform the functions of the state relating to the licensing of special care facilities that do not receive federal funds under Title XIX of the Social Security Act and day care centers and agencies facilities regulated under Chapter 4 of Article 46 of the Louisiana Revised Statutes of 1950. The department shall issue and monitor day care center contracts.

(4) “Child-placing agency” means any institution, society, agency, corporation, facility, person, or persons, or any other group which serves children who are not related to the caregiver and who are not included in any other license issued. It shall also mean an early childhood learning center that remains open after 9:00 p.m. The department shall also develop guidelines and procedures to implement the provisions of this Part and to establish the amount of scholarships. The department shall be responsible for ensuring that the scholarship is paid within one and one-half hours following the determination of eligibility.

(5) “Maternity home” means any place or facility in which any institution, society, agency, corporation, person, or persons, or any other group regularly receives and provides necessary services for children before, during, and immediately following birth. This definition shall not include any place or facility which provides services for women who receive maternity care at a hospital or a hospital within the sixth degree of kindred, except as defined in R.S. 407.84. The office of children and family services shall establish guidelines and procedures to implement the provisions of this Part and to establish the amount of scholarships. The department shall be responsible for ensuring that the scholarship is paid within one and one-half hours following the determination of eligibility.

(6) “Related” or “relative” means a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

(7) “Residential home” means any place, facility, or home operated by any institution, society, agency, corporation, person, or persons, or any other group which serves children who are not related to the caregivers and whose parents or guardians are not residents of the same facility, with or without transfer of custody.

(8) “School,” as referred to in R.S. 48:1515, means any institution or facility for the education of children in grades one through twelve inclusive, or any institution or facility operated by a church or other religious organization in grades one through twelve that does not serve more than forty-two children or more than twelve and one-half hours in a continuous seven-day week. It shall also mean an early childhood learning center that remains open after 9:00 p.m. The department shall provide for the public child welfare services of the state including but not limited to prevention services which promote, facilitate, and support activities to prevent child abuse and neglect; child protective services; voluntary family strengthening and support services; making permanent plans for foster children and meeting their daily maintenance needs of food, shelter, clothing, and other physical needs; and adoption services for foster children. The department shall also perform the functions of the state relating to the licensing of special care facilities that do not receive federal funds under Title XIX of the Social Security Act and day care centers and agencies facilities regulated under Chapter 4 of Title 46 of the Louisiana Revised Statutes of 1950. The department shall issue and monitor day care center contracts.

(9) “Specialized provider” means any institution, society, agency, corporation, person, or persons, or any other group which serves children who are not related to the caregiver and who are not included in any other license issued. It shall also mean an early childhood learning center that remains open after 9:00 p.m. The department shall provide for the public child welfare services of the state including but not limited to prevention services which promote, facilitate, and support activities to prevent child abuse and neglect; child protective services; voluntary family strengthening and support services; making permanent plans for foster children and meeting their daily maintenance needs of food, shelter, clothing, and other physical needs; and adoption services for foster children. The department shall also perform the functions of the state relating to the licensing of special care facilities that do not receive federal funds under Title XIX of the Social Security Act and day care centers and agencies facilities regulated under Chapter 4 of Title 46 of the Louisiana Revised Statutes of 1950. The department shall issue and monitor day care center contracts.

(10) “Type I license” means the license held by a specialized provider agency that is Type I, Type II, Type III, or Type IV center. Nothing herein shall be construed to require a children's residential home to be licensed if it is licensed by a group to provide full-time care, twenty-four hours a day, to children in care. This definition shall not include any place or facility which provides services for women who receive maternity care at a hospital or a hospital within the sixth degree of kindred, except as defined in R.S. 407.84. The office of children and family services shall establish guidelines and procedures to implement the provisions of this Part and to establish the amount of scholarships. The department shall be responsible for ensuring that the scholarship is paid within one and one-half hours following the determination of eligibility.

THE ADVOCATE CODING: Words in square parentheses are deletions from existing law; words underscored (House Bills) and boldfaced (Senate Bills) are additions.
§1404. Requirement of licensure
A. All early childhood learning centers and specialized providers, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency, shall be licensed. Child care facility Specialized provider licenses shall be of two types: Type I, Type II, Type III, and Type IV.

§1405. Transitional provisions
A. Until such time as rules are promulgated by the department to implement this Chapter, all types of licenses provided for in Title IV of the Child Care and Development Block Grant Act of 1990, the Type II, Type III, and Type IV child-placing agencies Specialized provider licenses shall follow the rules, regulations, and standards in effect for Class A and Class B licensure.

B. The department shall create an early childhood learning working group to include one representative from Louisiana’s Early Childhood Advisory Council, the Child Care Association of Louisiana, the Nonpublic School Council, the Louisiana Head Start Association, the Department of Children and Family Services, the Department of Education, the Children’s Cabinet, and the office of the governor. Such working group shall include participants having expertise in care of infants and toddlers, pediatrics, health, pediatric mental health, cognitive development, and social emotional development.

C. The department shall seek input from the working group in the development of the rules and regulations establishing Type I, Type II, and Type III learning centers and facilities, and shall report the results of this Section to the working group for approval. Such working group shall forward the proposed rules and regulations to the Children’s Defense Fund, the Louisiana Association for the Education of Young Children, and the Louisiana Partnership for Children and Families no later than November 30th of each year.

D. The department shall seek the effective date of any provision of law which transfers statutory authority for licensing of child day care centers from the Department of Children and Family Services to the Department of Education.

E. All or Type III early childhood learning centers or residential homes possessing a Class B license shall be issued a Type I license as provided by rule.

F. Any child day care center possessing a Class A license on January 1, 2014, that meets the definition of a Type II or Type III center, shall be issued either a Type II or Type III license as provided by rule.

G. All existing early childhood learning centers that meet the definition for a Type II or Type III license pursuant to this Chapter shall be issued a Type II or Type III license as provided by rule.

H. All existing child placing agencies, maternity homes, and residential homes that meet the definition for a Type IV license pursuant to this Chapter shall be issued a Type IV license as provided by rule.

I. Specialized providers on the basis of race, color, creed, sex, national origin, handicap, ancestry, or whether the child is being breastfed. However, nothing in this Subparagraph shall be construed to affect, limit, or otherwise restrict any of the following:
   (1) The hiring or admission policies of a licensed child day care center Specialized provider owned by a church or religious organization. This may give preference in hiring or admission to members of the church or denomination.
   (2) The rights of religious sectarian child-placing agencies to consider creed in any decision or action relating to foster care or adoption.

J. The fees provided for in this Section shall not apply to any Type I child day care center Specialized provider owned or operated by a church or religious organization.

K. Annual fees for any type or category of license shall not be increased unless expressly authorized by statute as provided in Article VII, § 2.1 of the Constitution of Louisiana.

L. Rules, regulations, and standards for licenses
A. The department shall promulgate rules for each category and type of license to carry out the provisions of this Chapter in accordance with the rules and regulations of the Office of State Administrative Hearings. The department shall seek input and guidance from the Louisiana Advisory Council on Child Care and Early Education concerning the proposed rules and regulations for approval of Type I, Type II, and Type III facilities for licensure in accordance with the Administrative Procedure Act.

B. The regulations developed by the department, at a minimum, shall accomplish all of the following:
   (a) Promote the health, safety, and welfare of children attending any facility or Specialized provider.
   (b) Promote safe, comfortable, and proper physical facilities of Specialized providers.
   (c) Ensure adequate supervision of those attending facilities Specialized providers by capable, qualified, and healthy personnel.
   (d) Ensure adequate and healthy food service in facilities Specialized providers where food is offered.
   (e) Prohibit discrimination by early childhood learning centers and Specialized providers on the basis of race, color, creed, sex, national origin, handicap, ancestry, or whether the child is being breastfed. However, nothing in this Subparagraph shall be construed to affect, limit, or otherwise restrict any of the following:
      (i) The hiring or admission policies of licensed child day care center Specialized providers owned by a church or religious organization. This may give preference in hiring or admission to members of the church or denomination.
      (ii) The rights of religious sectarian child-placing agencies to consider creed in any decision or action relating to foster care or adoption.

C. Approval from the Department of Health and Hospitals, Office of the state fire marshal, code enforcement and building safety.

D. Approval from the Department of Health and Hospitals, Office of public health.

E. Any entity Specialized provider approved by the department shall be required to have all of the following:
   (1) Include procedures for the receipt, recordation, and disposition of complaints.
   (2) Include procedures for the return of a child to his parent. Arrangements for the child's return to his parent shall not include third parties or other caregivers. Written arrangements shall be on file with the child care agency and the parent is on file with the child care agency.
   (3) Include procedures that allow an early childhood learning center to remedy certain deficiencies immediately upon identification by the department in accordance with the Administrative Procedure Act.

F. Any entity Specialized provider approved by the department shall base its approval upon the uniform accountability system.
(3) No facility residential home provider holding a Type I license shall receive any state or federal funds, from any source, whether directly or indirectly. If a facility residential home provider holding a Type I license receives any state or federal funds, its license shall be automatically revoked.

(4) No facility holding a Type II license shall receive any state or federal funds, from any source, whether directly or indirectly, other than those received solely for food and nutrition. If a facility holding a Type II license receives any state or federal funds, other than those received solely for food and nutrition, its license shall be automatically revoked.

C. The department shall prepare standard forms for applications and for inspection reports.

D. A comprehensive review of all standards, rules, and regulations for all licenses shall be made at least every three years by the department.

E. The secretary of the department, in specific instances, may waive certain rules and regulations upon determining that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff or children is not imperiled. If it is determined that the facility specialized provider or agency is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

F. Discrimination by child care facilities specialized providers and child-placing agencies on the basis of race, color, creed, sex, national origin, disability as defined by R.S. 51:2232(11), ancestry, or whether the child is being breastfed is prohibited. However, this shall not restrict the hiring or admission policies of a church or religious organization, which may give preference in hiring or admission to members of the church or denomination.

G. The department shall not regulate or attempt to regulate or control the religious or spiritual content of the curriculum of a school or facility specialized provider except for children under the age of eight, in order to protect the religion of religiously affiliated schools.

H. Nothing in the rules, regulations, and standards adopted pursuant to this Section shall authorize or require medical examination, immunization, or treatment of any child whose parents object to such examination, immunization, or treatment on religious grounds.

I. Each residential home and maternity home facility shall have a written discipline policy, which shall be made available to parents and to authorized inspection personnel upon request.

§1414.1. Disclosure requirements; penalties
A. Any owner, operator, current or prospective employee, or volunteer of a child care facility specialized provider licensed by the Department of Children and Family Services shall report annually and at any time upon the request of the department, the state central registry disclosure form promulgated by the department whether or not his name is currently recorded on the state central registry for a justified finding of abuse or neglect and he is the named perpetrator.

B. Any child care facility specialized provider licensed by the department who knowingly discloses the information on the state central registry disclosure form shall be guilty of a misdemeanor offense and shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

C. Any owner, operator, current or prospective employee, or volunteer of a child care facility specialized provider licensed by the department who discloses that he is currently recorded on the state central registry for a justified finding of abuse or neglect shall be entitled to a risk assessment evaluation provided by the department to determine that the individual does not pose a risk to children. Any such individual who is determined to pose a risk to children shall have the right to file an appeal in accordance with R.S. 46:566(E) pertaining to the investigations of abuse and neglect.

D. Any owner, operator, current or prospective employee, or volunteer of a child care facility specialized provider licensed by the department who knowingly discloses the information on the state central registry disclosure form shall be guilty of a misdemeanor offense and shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

E. The department shall promulgate rules and regulations to implement this Section. The rules and regulations shall include but not be limited to establishing criteria for risk evaluation requests, the composition of the risk evaluation panel, and establishing criteria for risk evaluation determinations.

§1415. Facilities and agencies subject to regulation; exemptions
A. All child care facilities specialized providers, and specialized providers shall be subject to the provisions of this Chapter. However, private or public day schools serving children in grades one and above, including any kindergartens or preschool programs attached thereto, as well as camps, and all care given without charge, shall be exempt from such provisions.

B. Nothing in this Chapter shall apply to facilities licensed by the Department of Health and Hospitals or the Department of Education.

§1417. Inspections
It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without prior notice, all facilities specialized providers subject to the provisions of this Chapter. The department shall also develop and facilitate coordination with and among other authorized agencies making inspections at regular intervals. The facility a specialized provider shall be open to inspection only during normal business hours and shall not be subject to the provisions of this Chapter. Any complaint related to the prevention or spread of communicable diseases shall be immediately referred to the state health officer through the nearest parish health unit for investigation and disposition.

§1419. Revocation or refusal to renew license; written notice
The department shall have the power to deny, revoke, or refuse to renew a license for a child care facility or specialized provider if an applicant has failed to comply with the provisions of this Chapter or any applicable, published rule or regulation of the department relating to child care facilities and specialized providers. If a license is denied, revoked, or withdrawn, the action shall be effective when made and the department shall notify the applicant, licensee, or specialized provider of such action in writing immediately and of the reason for the denial, revocation, or withdrawal.

§1420. Refusal or revocation of license; appeal procedure
A. Upon the refusal of the department to grant a license or upon the revocation of a license, the agency, institution, society, corporation, person doing business under the name of, or persons, or other group having been refused a license or having had a license revoked shall have the right to appeal such action by submitting a written request to the secretary of the department within thirty days after receipt of the notification in the case of the refusal of the license or, in the case of revocation, within thirty days after receipt of notice of the revocation. The appeal hearings shall be held no later than thirty days after the request therefor, except as provided in the Administrative Procedure Act, and shall be conducted in accordance with applicable regulations of the department and the provisions of R.S. 46:107.

B. A specialized provider or facility shall have the power to deny, revoke, or refuse to renew a license for a child care facility or child-placing agency specialized provider as defined in this Chapter. The department may take such action following the provisions of R.S. 46:566(F) pertaining to the investigations of abuse and neglect.

C. The department shall have the power to deny, revoke, or refuse to renew a license for a specialized provider or facility if an applicant has failed to comply with the provisions of this Chapter or any applicable, published rule or regulation of the department relating to child care facilities and specialized providers. If a license is denied, revoked, or withdrawn, the action shall be effective when made and the department shall notify the applicant, licensee, or specialized provider of such action in writing immediately and of the reason for the denial, revocation, or withdrawal.

§1421. Operating without or in violation of license; penalty
No facility holding a Type I license shall receive any state or federal funds, from any source, whether directly or indirectly. If a facility holding a Type I license receives any state or federal funds, from any source, whether directly or indirectly, other than those received solely for food and nutrition, its license shall be automatically revoked.

§1422. Operating without or in violation of license; injunctive relief
If any child care facility or specialized provider operates without a valid license issued by the department, the facility shall be fined not less than one thousand dollars per day for each day of such offense.

§1423. Removal of individuals from facility
The department shall remove any child or all children from any facility or agency specialized provider when it determines that one or more violations exist within the facilities specialized provider or agency which places the health and well-being of the child or children in imminent danger; provided, however, that a contradictory hearing shall be held within seven days thereafter by the district court of the district to determine whether the action was justified and whether and how long it shall continue.

§1427. Parent-child relationship
The Department of Children and Family Services shall not interfere with the parent-child relationship regarding the religious training of a child, where all of the following conditions exist within the facilities specialized provider or agency which places the health and well-being of the child in imminent danger: provided, however, that a contradictory hearing shall be held within seven days thereafter by the district court of the district to determine whether the action was justified and whether and how long it shall continue.

§1428. Immunization information; influenza
Any owner, operator, current or prospective employee, or volunteer of a child care facility or specialized provider licensed by the Department of Health and Hospitals shall receive written notice of the revocation. The appeal hearings shall be held no later than thirty days after the request therefor, except as provided in the Administrative Procedure Act, and shall be conducted in accordance with applicable regulations of the department and the provisions of R.S. 46:107.

§1429. Operating without or in violation of license; injunctive relief
If any child care facility or specialized provider operates without a valid license issued by the department, the facility shall be fined not less than one thousand dollars per day for each day of such offense.

§1430. Removal of individuals from facility
The department shall remove any child or all children from any facility or agency specialized provider when it determines that one or more violations exist within the facilities specialized provider or agency which places the health and well-being of the child or children in imminent danger; provided, however, that a contradictory hearing shall be held within seven days thereafter by the district court of the district to determine whether the action was justified and whether and how long it shall continue.

§1431. Parent-child relationship
The Department of Children and Family Services shall not interfere with the parent-child relationship regarding the religious training of a child, where all of the following conditions exist within the facilities specialized provider or agency which places the health and well-being of the child or children in imminent danger: provided, however, that a contradictory hearing shall be held within seven days thereafter by the district court of the district to determine whether the action was justified and whether and how long it shall continue.

§1432. Parent-child relationship
The Department of Children and Family Services shall not interfere with the parent-child relationship regarding the religious training of a child, where all of the following conditions exist within the facilities specialized provider or agency which places the health and well-being of the child or children in imminent danger: provided, however, that a contradictory hearing shall be held within seven days thereafter by the district court of the district to determine whether the action was justified and whether and how long it shall continue.

§1433. Parent-child relationship
The Department of Children and Family Services shall not interfere with the parent-child relationship regarding the religious training of a child, where all of the following conditions exist within the facilities specialized provider or agency which places the health and well-being of the child in imminent danger; provided, however, that a contradictory hearing shall be held within seven days thereafter by the district court of the district to determine whether the action was justified and whether and how long it shall continue.
shall include the causes and symptoms of influenza, the means by which influenza is spread, and the places where a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. Each such statement shall be updated annually if new information on such disease is available.

B. (1) The Department of Health and Hospitals shall develop and provide information on influenza immunization to the Department of Children and Family Services. The Department of Children and Family Services shall provide such information to each licensed child-care facility or child-placing agency, which shall make the information available to each child’s parent or legal guardian pursuant to Subsection A of this Section.

(2) The Department of Health and Hospitals and the Department of Children and Family Services shall determine respectively the most cost-effective and efficient means of distributing such information.

C. The Department of Children and Family Services shall consult with the Department of Health and Hospitals, shall establish by rules and regulations all guidelines and procedures for carrying out the provisions of this Section in accordance with the Administrative Procedure Act.

D. Nothing in this Section shall be construed to require any licensed child-care facility or child-placing agency, the Department of Children and Family Services, or the Department of Health and Hospitals to provide or pay for immunizations against influenza.

§1430. Operating in violation of regulations; penalties and fines
A. (1) For violations related to supervision, criminal history record checks, the state central registry disclosure process, staff-to-child ratios, motor vehicle checks, or failure to report critical incidents, the Department of Children and Family Services may issue a written warning that includes a corrective action plan, in lieu of, upon any person or entity violating these requirements if such condition or occurrence does not pose an imminent threat to the health, safety, rights, or welfare of a child. Failure to implement a corrective action plan issued pursuant to this Paragraph may result in either the revocation of the license or the issuance of a civil fine or license revocation or may result in both actions taken by the department. Such civil fine shall not exceed two hundred fifty dollars per day for each assessment; however, the aggregate fines assessed for violations determined to have occurred in any consecutive twelve-month period shall not exceed two thousand dollars.

(2) The department shall adopt rules in accordance with the Administrative Procedure Act which articulate factors in determining the type of sanction imposed including the severity of the risk, the actual harm and mitigating circumstances, the history of noncompliance, an explanation of the treatment of continuing circumstances, the failure to implement a written corrective action plan, the history of noncompliance, an explanation of the treatment of continuing and repeat deficiencies, evidence of a good faith effort to comply, and any other relevant factors. The department shall develop and adopt rules and regulations required by this Paragraph with input and guidance from the Louisiana Advisory Council on Child Care and Early Education. The authority to impose sanctions pursuant to this Section shall commence on the effective date of the rules promulgated pursuant to this Section.

B. The department shall adopt rules and regulations in accordance with the Administrative Procedure Act to provide for notice to the child-care facility, or child-placing agency of any violation, for a departmental reconsideration process for sanctions issued, and for an appeal procedure including judicial review. Such appeal shall be subject to the requirements of the Louisiana Administrative Procedure Act.

§2002. Extra compensation
A. (3)(a) A municipality, parish, fire protection district, or other political subdivision maintaining a fire department, the Chitimacha Tribe of Louisiana or the Coushatta Indian Tribe of Louisiana, or any nonprofit corporation contracting with any such political subdivision to provide fire protection services may enhance the first-year salary of every paid, regularly employed employee in the amount equivalent to the state supplemental pay, or any portion thereof, that the employee shall be entitled to be paid after retirement, in lieu of the state supplemental pay. If the enhancement, exclusive of the enhancement, meets the minimum wage obligations of the Fair Labor Standards Act, 29 U.S.C. 201 et seq.

§2490. Reinstatement and reemployment
F. Any regular employee who retires from a position in the classified fire service as a result of an injury or a medical condition which prevents him from performing the essential functions of his job, may, with the prior approval of the board, be reemployed in a position of the class in which he was employed immediately preceding his retirement or in a position in any lower class. Any such employee may be reemployed at any time after his retirement, but he shall be qualified for the position to which he is reemployed and be able to perform the essential functions of the position. In addition, the employee shall be reemployed with the seniority accumulated through the date of retirement. This Paragraph shall not be applicable to employees whose injury or medical condition resulted from their own negligent or intentional act.

§2550. Reinstatement and reemployment
F. Any regular employee who retires from a position in the classified fire service as a result of an injury or a medical condition which prevents him from performing the essential functions of his job, may, with the prior approval of the board, be reemployed in a position of the class in which he was employed immediately preceding his retirement or in a position in any lower class. Any such employee may be reemployed at any time after his retirement, but he shall be qualified for the position to which he is reemployed and be able to perform the essential functions of the position. In addition, the employee shall be reemployed with the seniority accumulated through the date of retirement. This Paragraph shall not be applicable to employees whose injury or medical condition resulted from their own negligent or intentional act.
Approved by the Governor, June 23, 2014.

A true copy:

Tom Schedler
Secretary of State

**ACT No. 870**

**BY REPRESENTATIVE LEGER**

A JOINT RESOLUTION

Proposing to amend Article VII, Section 20(A), the homestead exemption shall not extend to such additional ad valorem tax for police protection not to exceed five (5) mills on the dollar of assessed valuation and an additional ad valorem tax for fire protection not to exceed five (5) mills on the dollar of assessed valuation. The mills rates for each additional ad valorem taxes may not be increased. Notwithstanding the provisions of this Section, the governing authority of Orleans Parish may levy annually, for the year 2013 and thereafter, an additional ad valorem tax for fire protection not to exceed five (5) mills on the dollar of assessed valuation.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to amend Article VI, Section 26(E) of the Constitution of Louisiana, to read as follows:

§26. Parish Ad Valorem Tax

* * *

(E) Additional Taxes for Orleans Parish.

(1) In addition to any millage authorized by Paragraph (A) of this Section, the governing authority of Orleans Parish may levy annually, for the year 2013 and thereafter, an additional ad valorem tax for fire protection not to exceed five (5) mills on the dollar of assessed valuation and an additional ad valorem tax for police protection not to exceed five (5) mills on the dollar of assessed valuation. The mills rates for each additional ad valorem taxes may not be increased.

Section 2. Be it further resolved that this proposed amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on November 4, 2014.

Section 3. Be it further resolved that on the official ballot to be used at the election, there shall be printed a proposition, upon which the electors of the state shall be invited to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as follows:

Do you support an amendment allowing an authorized agent of a tax collector to assist in the tax sale process, including the sale of property for delinquent taxes and that the fee charged by the authorized agent be included within the costs that the tax collector can recover in the tax sale?

A true copy:

Tom Schedler
Secretary of State

**ACT No. 872**

**BY REPRESENTATIVE WESLEY BISHOP**

A JOINT RESOLUTION

Proposing to amend Article VII, Section 14(B) of the Constitution of Louisiana, to authorize the governing authority of the city of New Orleans to sell at a fixed price certain property; to provide for submission of the proposed amendment to the electors; and to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to amend Article VII, Section 25(A)(1) and (E) of the Constitution of Louisiana, to read as follows:

§25. Tax Sales

(2) Any additional ad valorem tax authorized by the amendment of Paragraph (A) of this Section, shall be null, void, and of no effect. This provision shall be null, void, and of no effect if the total appropriations for that calendar year hereafter made in the previous year unless the total appropriations for that calendar year hereafter be decreased below such level in any subsequent calendar year hereafter.

Furthermore, the revenues generated by these fire and police millages shall not displace, replace, or supplant funding by the city of New Orleans for fire and police protection for the city for that calendar year hereafter. The additional revenues generated by these fire and police millages shall be used solely for fire and police protection services that contribute to the safety of the residents of Orleans Parish. The provision of this Section does not affect the millage rate levied in accordance with Subparagraph (i) of this Paragraph as approved by the voters in 2014 shall be levied only if approved by a majority of the electors of Orleans Parish who vote on the proposition authorizing the additional tax at an election held for that purpose.

Section 2. Be it further resolved that this proposed amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on November 4, 2014.

Section 3. Be it further resolved that on the official ballot to be used at the election, there shall be printed a proposition, upon which the electors of the state shall be invited to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as follows:

Do you support an amendment allowing an authorized agent of a tax collector to assist in the tax sale process, including the sale of property for delinquent taxes and that the fee charged by the authorized agent be included within the costs that the tax collector can recover in the tax sale?

A true copy:

Tom Schedler
Secretary of State

**ACT No. 871**

**BY REPRESENTATIVE BERTHELOT**

A JOINT RESOLUTION

Proposing to amend Article VII, Section 25(A)(1) and (E) of the Constitution of Louisiana, relative to tax sales; to provide relative to authorized agents of a tax collector; to provide relative to the costs recoverable in tax sales; to provide for submission of the proposed amendment to the electors; and to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to amend Article VII, Section 25(A)(1) and (E) of the Constitution of Louisiana, to read as follows:

§25. Tax Sales

(2) Any additional ad valorem tax for police protection not to exceed five (5) mills on the dollar of assessed valuation and an additional ad valorem tax for fire protection not to exceed five (5) mills on the dollar of assessed valuation. The mills rates for each additional ad valorem taxes may not be increased.

(E) Movables: Tax Sales. When taxes on movables are delinquent, the tax collector or an authorized agent of the collector shall in accordance with law seize and sell sufficient movable property of the delinquent taxpayer to pay the tax and costs, which shall also include the fee of an authorized agent to be charged to the delinquent taxpayer.

If the tax collector can find no corporeal movables of the delinquent to seize, he may levy on incorporeal rights, vesting the debtor thereof, or he may proceed by summary rule in the courts to compel the delinquent to deliver for sale property in his possession or under his control.

Section 2. Be it further resolved that this proposed amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on November 4, 2014.

Section 3. Be it further resolved that on the official ballot to be used at the election, there shall be printed a proposition, upon which the electors of the state shall be invited to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as follows:

Do you support an amendment allowing an authorized agent of a tax collector to assist in the tax sale process, including the sale of property for delinquent taxes and that the fee charged by the authorized agent be included within the costs that the tax collector can recover in the tax sale?

A true copy:

Tom Schedler
Secretary of State

**ACT No. 873**

**BY REPRESENTATIVE WESLEY BISHOP**

A JOINT RESOLUTION

Proposing to amend Article VII, Section 25(A)(1) and (E) of the Constitution of Louisiana, to authorize the governing authority of the city of New Orleans to sell at a fixed price certain property; to provide for submission of the proposed amendment to the electors; and to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to amend Article VII, Section 25(A)(1) and (E) of the Constitution of Louisiana, to read as follows:

§25. Tax Sales

(2) Any additional ad valorem tax for police protection not to exceed five (5) mills on the dollar of assessed valuation and an additional ad valorem tax for fire protection not to exceed five (5) mills on the dollar of assessed valuation. The mills rates for each additional ad valorem taxes may not be increased.

(E) Movables: Tax Sales. When taxes on movables are delinquent, the tax collector or an authorized agent of the collector shall in accordance with law seize and sell sufficient movable property of the delinquent taxpayer to pay the tax and costs, which shall also include the fee of an authorized agent to be charged to the delinquent taxpayer.

If the tax collector can find no corporeal movables of the delinquent to seize, he may levy on incorporeal rights, vesting the debtor thereof, or he may proceed by summary rule in the courts to compel the delinquent to deliver for sale property in his possession or under his control.

Section 2. Be it further resolved that this proposed amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on November 4, 2014.

Section 3. Be it further resolved that on the official ballot to be used at the election, there shall be printed a proposition, upon which the electors of the state shall be invited to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as follows:

Do you support an amendment allowing an authorized agent of a tax collector to assist in the tax sale process, including the sale of property for delinquent taxes and that the fee charged by the authorized agent be included within the costs that the tax collector can recover in the tax sale?

A true copy:

Tom Schedler
Secretary of State

**ACT No. 881**

**BY REPRESENTATIVE WESLEY BISHOP**

A JOINT RESOLUTION

Proposing to amend Article VII, Section 14(B) of the Constitution of Louisiana, to authorize the governing authority of the city of New Orleans to sell at a fixed price certain property; to provide for submission of the proposed amendment to the electors; and to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to amend Article VII, Section 14(B) of the Constitution of Louisiana, to read as follows:

§14. Donation, Loan, or Pledge of Public Credit

(1) The proceeds of a tax sale and the interest thereon shall not be deemed as public revenue and shall be returned to the owner as public revenue unless the expropriation has ceased to exist and orders the return of the property declared that the public and necessary purpose which originally supported the expropriation has ceased to exist and orders the return of the property.

(2) For the benefit of public employees; (3) the pledge of public funds, credit, property, or things of value for public purposes with respect to the issuance of bonds or other evidences of indebtedness to meet public obligations as provided by law; (4) the return of property, including mineral rights, to a former owner from whom the property had previously been expropriated, or purchased under threat of expropriation, when the legislature by law declares that the public and necessary purpose which originally supported the expropriation has ceased to exist and orders the return of the property.
to the former owner under such terms and conditions as specified by the legislature; (5) acquisition of stock by any institution of higher education in exchange for any intellectual property; (6) the donation of abandoned or blighted housing property by the governing authority of a municipality or a parish to a nonprofit organization which is recognized by the Internal Revenue Service as a 501(c)(3) or 501(c)(4) nonprofit organization and which agrees to renovate and maintain such property until conveyance of the property; (7) the donation or purchase of any tax, interest, penalty, or other charges forming the basis of tax liens on blighted property so that they may be subordinated and waived in favor of any purchaser who is not a member of the immediate family of the blighted property owner or any entity in which the owner has a substantial economic interest, but only in connection with a property renovation plan approved by an administrative hearing officer appointed by the parish or municipal governing authority where the property is located; (8) the deduction of past due taxes, interest, and penalties in favor of an owner of a blighted property, but only when the tax, interest, and penalty are less than the appraised value to facilitate the blighted property renovation plan approved by the parish or municipal governing authority and only after the renovation is completed such deduction being canceled, null and void, and to no effect in the event ownership of the property in the future reverts back to the owner or any member of his immediate family; (9) the donation by the state of asphalt which has been removed from state roads and highways to the governing authority of the parish or municipality where the asphalt was removed, or if not needed by such governing authority, then to any other parish or municipal governing authority, but only pursuant to a cooperative endeavor agreement between the state and the governing authority receiving the donated property; (10) the investment in stocks of a portion of the Rockefeller Wildlife Refuge Trust and Protection Fund, created under the provisions of R.S. 56:797, and the Russell Sage or Marsh Island Refuge Fund, created under the provisions of R.S. 56:798, such portion not to exceed thirty-five percent of each fund; (11) the investment in equities of a portion of the Medicaid Trust Fund for the Elderly created under the provisions of R.S. 46:2691 et seq., such portion not to exceed thirty-five percent of each fund; or (12) the sale, at a price that the state shall be permitted to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as follows:

Do you support an amendment to authorize the investment of public funds to capitalize a state infrastructure bank and the loan, pledge, guarantee, or donation of public funds by a state infrastructure bank for eligible transportation projects?

Section 2. Be it further resolved that this proposed amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on November 4, 2014.

Section 3. Be it further resolved that on the official ballot to be used at the election, there shall be printed a proposition, upon which the electors of the state shall be permitted to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as follows:

Do you support an amendment to authorize the investment of public funds to capitalize a state infrastructure bank and the loan, pledge, guarantee, or donation of public funds by a state infrastructure bank for eligible transportation projects?
or services which are historically performed or administered by any other agency, office, or department of the state. The powers, functions, and duties allocated by this constitution to any executive office or commission shall not be affected or diminished by the allocation provided herein except as authorized by Section 20 of this Article.

Section 2. Be it further resolved that this proposed amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on November 4, 2014.

Section 3. Be it further resolved that this proposed constitutional amendment shall not become effective until funding is provided by the legislature, but no sooner than June 12, 2015.

Section 4. Be it further resolved that the department created by this amendment shall be able to use federal funding under the provisions of Title 19.

Section 5. Be it further resolved that on the official ballot to be used at the election, there shall be printed a proposition, upon which the electors of the state shall be permitted to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as follows:

Do you support an amendment to change the maximum number of departments in the executive branch of state government from twenty to twenty-one? (Amends Article IV, Section 1(B))

A true copy:

Tom Schedler
Secretary of State

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ACT No. 875

BY REPRESENTATIVE EDWARDS AND SENATOR LAFLEUR

A JOINT RESOLUTION

Proposing to amend Article V, Section 23 of the Constitution of Louisiana, relative to judges; to remove provisions that establish an age beyond which judges shall not remain in office; and to specify an election for submission of the proposition to electors and provide a ballot proposition.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state, for their approval or rejection in the manner provided by law, a proposal to amend Article V, Section 23 of the Constitution of Louisiana, to read as follows:

§23. Judges; Retirement
Section 23. (A) Retirement System. Within two years after the effective date of this constitution, the legislature shall provide for a retirement system for judges which shall apply to a judge taking office after the effective date of the law enacting the system and in which a judge in office at that time may elect to become a member, with credit for all prior years of judicial service and without contribution therefor. The retirement benefits and judicial service rights of a judge in office or retired on the effective date of this constitution shall not be diminished, nor shall the benefits to which a surviving spouse is entitled be reduced.

(B) Mandatory Retirement. Except as otherwise provided in this Section, a judge shall not remain in office beyond his seventieth birthday. A judge who attains seventy years of age while serving a term of office shall be allowed to complete that term of office.

Section 2. Be it further resolved that this proposed amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on November 4, 2014.

Section 3. Be it further resolved that on the official ballot to be used at said election there shall be printed a proposition, upon which the electors of the state shall be permitted to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as follows:

Do you support an amendment to remove the constitutional requirement that a judge retire upon attaining the age of seventy or, if his seventieth birthday occurs during his term, that he retire upon completion of that term? (Amends Article V, Section 23)

A true copy:

Tom Schedler
Secretary of State

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