

First Extraordinary Session, 2008

HOUSE BILL NO. 34

BY REPRESENTATIVE RICHARD

LEGISLATORS: Relative to prohibition on legislators and certain affiliated persons entering into certain contracts with governmental entities, extends prohibition until a year after end of service, removes exception for contracts awarded by competitive processes, and adds exception for sales of \$2,500 or less (Item #2)

1 AN ACT

2 To amend and reenact R.S. 42:1113(D)(1)(a) and to enact R.S. 42:1113(D)(2)(g) and (h) and

3 (3), relative to the prohibition on certain contractual arrangements for legislators,

4 persons elected to the legislature, their spouses, and certain entities in which any of

5 them owns an interest; to remove an exception from such prohibition for contracts

6 and subcontracts awarded through certain competitive processes; to provide certain

7 exceptions; to provide for applicability of the prohibition after termination of the

8 legislator's service; to provide for penalties; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 42:1113(D)(1)(a) is hereby amended and reenacted and R.S.  
11 42:1113(D)(2)(g) and (h) and (3) are hereby enacted to read as follows:

12 §1113. Prohibited contractual arrangements

13 \* \* \*

14 D.(1)(a) No legislator or person who has been certified by the secretary of

15 state as elected to the legislature, or spouse of a legislator or person who has been

16 certified as elected to the legislature, nor any corporation, partnership, or other legal

17 entity in which the legislator or person who has been certified by the secretary of

18 state as elected to the legislature or the spouse of a legislator or spouse of a person

19 who has been certified by the secretary of state as elected to the legislature owns any

1 interest, ~~in~~, except publicly traded corporations, shall enter into any contract or  
 2 subcontract with any branch, agency, department, or institution of state government  
 3 or with the Louisiana Insurance Guaranty Association, the Louisiana Health  
 4 Insurance Guaranty Association, or any other quasi public entity created in law  
 5 ~~unless the contract or subcontract is awarded by competitive bidding after being~~  
 6 ~~advertised and awarded in accordance with Part II of Chapter 10 of Title 38 of the~~  
 7 ~~Louisiana Revised Statutes of 1950 or is competitively negotiated through a request~~  
 8 ~~for proposal process or any similar competitive selection process in accordance with~~  
 9 ~~Chapters 16 or 17 of Title 39 of the Louisiana Revised Statutes of 1950.~~

10 \* \* \*

11 (2) The provisions of this Subsection shall not prohibit the following:

12 \* \* \*

13 (g) Completion of any contract or subcontract between a legislator or person  
 14 who has been certified by the secretary of state as elected to the legislature, or spouse  
 15 of a legislator or person who has been certified as elected to the legislature, or any  
 16 corporation, partnership, or other legal entity in which such a person owns any  
 17 interest, except publicly traded corporations, and any branch, agency, department,  
 18 or institution of state government or the Louisiana Insurance Guaranty Association,  
 19 the Louisiana Health Insurance Guaranty Association, or any other quasi public  
 20 entity created in law, which contract or subcontract was awarded by competitive  
 21 bidding after being advertised and awarded in accordance with Part II of Chapter 10  
 22 of Title 38 of the Louisiana Revised Statutes of 1950 or competitively negotiated  
 23 through a request for proposal process or any similar competitive selection process  
 24 in accordance with Chapter 16 or 17 of Title 39 of the Louisiana Revised Statutes of  
 25 1950, and which contract or subcontract was entered into prior to the effective date  
 26 of this Subparagraph; however, no such contract or subcontract shall be renewed for  
 27 a period extending beyond January 8, 2012.

28 (h)(i) A sale by a retail establishment valued at two thousand five hundred  
 29 dollars or less. However, no person shall enter into separate sales valued at two

1        thousand five hundred dollars or less as a subterfuge to avoid the prohibition of this  
2        Subsection.

3                (ii) For purposes of this Subparagraph, "retail establishment" shall have the  
4        same meaning provided in R.S. 14:67.25.

5                (3) No former legislator or spouse of a former legislator, nor any  
6        corporation, partnership, or other legal entity in which a former legislator or spouse  
7        of a former legislator owns any interest, except publicly traded corporations, shall,  
8        for a period of one year following the termination of such former legislator's public  
9        service as a legislator, enter into a contract or subcontract that would have been  
10       prohibited by this Subsection prior to the termination of such former legislator's  
11       public service as a legislator.

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

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law [R.S. 1:13(B)] and do not constitute proof or indicia of legislative intent. [R.S. 24:177(E)]

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Richard

HB No. 34

**Abstract:** Relative to the prohibition on legislators, persons elected to the legislature, their spouses, and certain entities in which any of them owns an interest entering into contracts or subcontracts with state governmental entities and certain other quasi public entities, makes the prohibition applicable for one year after the legislator leaves office, removes the exception for contracts and subcontracts awarded through public bid and certain other competitive processes, and adds an exception for retail sales of \$2,500 or less.

Present law (ethics code) prohibits a legislator, a person certified by the secretary of state as elected to the legislature, the spouse of a legislator or person certified as elected to the legislature, and any corporation, partnership, or other legal entity in which any of such persons owns any interest, except publicly traded corporations, from entering into any contract or subcontract with any branch, agency, department, or institution of state government or with the Louisiana Insurance Guaranty Association, the Louisiana Health Insurance Guaranty Association, or any other quasi public entity created in law. Present law excepts from this prohibition a contract or subcontract awarded by competitive bidding after

being advertised and awarded in accordance with law (Part II of Chapter 10 of Title 38) or a contract or subcontract competitively negotiated through a request for proposal process or any similar competitive selection process in accordance with law (Chapter 16 or 17 of Title 39).

Proposed law removes the exception for contracts or subcontracts awarded by competitive bidding or competitively negotiated through a request for proposal process or a similar competitive selection process in accordance with law. Otherwise retains present law.

Proposed law retains present law excepting the following from those contracts or subcontracts subject to the prohibition:

- (1) A provider agreement entered into with the Dept. of Health and Hospitals under the state medical assistance program.
- (2) A foster parent provider agreement or a child care provider agreement entered into with the Dept. of Social Services.

Proposed law also retains present law which allows:

- (1) Completion of any contract or subcontract otherwise prohibited entered into prior to initial election to the legislature; however, also retains present law prohibition on renewal of any such contract or subcontract.
- (2) Completion of any contract or subcontract otherwise prohibited which was entered into prior to July 1, 1995; however, also retains present law prohibition on renewal of any such contract or subcontract.
- (3) Contracts for employment in a professional educational capacity in an elementary or secondary school or other educational institution.
- (4) Contracts of sale pursuant to the expropriation of immovable property by any branch, agency, department, or institution of state government.
- (5) Contracts of employment of a physician with the state or the charity hospitals of the state.
- (6) Donation of professional veterinary services or the donation of any goods and services related to the provision of such veterinary services.

Proposed law retains and does not affect present law which prohibits a legislator, a member of his immediate family, and a legal entity in which he has a controlling interest from bidding on or entering into or being in any way interested in any contract, subcontract, or other transaction involving the legislative branch.

Proposed law further excepts completion of contracts that were entered into by the legislator, person certified as elected to the legislature, or spouse, or other entity in which the legislator, legislator-elect, or spouse has an ownership interest, except for publicly traded corporations, which were awarded by competitive bid or other competitive process according to present law and was entered into before the effective date of proposed law. Provides that no such contract shall be renewed for a period extending beyond Jan. 8, 2012.

Proposed law further excepts sales by a retail establishment valued at \$2,500 or less. Provides, however, that no separate sales shall be entered into as a subterfuge to avoid proposed law prohibition.

Proposed law defines "retail establishment" as having the same meaning as in present law (R.S. 14:67.25).

Proposed law prohibits former legislators and their spouses, or any legal entity in which a former legislator or spouse has an ownership interest, except publicly traded corporations, for one year after the former legislator's termination of public service as a legislator, from entering into contracts they are prohibited from entering into by proposed law during the legislator's term of office.

Present law (R.S. 42:1153) provides penalties for ethics code violations which include for elected officials and other persons censure and/or a fine of up to \$10,000 and which include for public employees (including appointed officials) and other persons removal, suspension, reduction in pay, or demotion and/or a fine of up to \$10,000.

Proposed law makes present law penalties applicable to violations of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 42:1113(D)(1)(a); Adds R.S. 42:1113(D)(2)(g) and (h) and (3))