

ACT No. 408

2017 Regular Session

HOUSE BILL NO. 231

BY REPRESENTATIVE THIBAUT

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AN ACT

To amend and reenact R.S. 42:1123(22), relative to an exception from ethics laws for transactions involving certain municipalities; to allow an immediate family member and related legal entities to enter into certain transactions with the municipality subject to certain conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:1123(22) is hereby amended and reenacted to read as follows:

§1123. Exceptions

This Part shall not preclude:

* * *

(22)(a) Any mayor or member of a governing authority of a municipality with a population of five thousand or less, or an immediate family member of such a mayor or governing authority member, or legal entity in which ~~he~~ such a mayor, governing authority member, or immediate family member has a controlling interest, from entering into any transaction that is under the supervision or jurisdiction of the municipality.

~~(b) A mayor or member of a governing authority who enters into a transaction as provided for in~~ allowed by Subparagraph (a) of this Paragraph ~~shall do so under the supervision or jurisdiction of the municipality, provided that~~ may only be entered into if the municipality submits a plan to the Louisiana Board of Ethics for approval and the board approves the plan. The municipality's plan shall be developed in accordance with the following:

1 (i) The elected official involved shall immediately recuse himself from
2 acting in his governmental capacity in matters affecting the transaction and file
3 quarterly affidavits concerning the recusal with the clerk of the municipality and the
4 board. The affidavits shall set out the name and address of the elected official, the
5 name and population of the municipality, and a description of the transactions
6 involving the elected official, his immediate family member, or his or his immediate
7 family member's legal entity that occurred during the preceding quarter. The plan
8 of the municipality shall set out the due dates of the quarterly affidavits.

9 (ii) The plan developed by the municipality shall address how the
10 transactions shall be supervised after ~~an~~ the elected official is recused.

11 (iii) Individual transactions of two hundred fifty dollars or less ~~are not~~
12 ~~required to~~ shall not be subject to the ~~following rules. However, if provisions~~
13 contained in Items (iv) and (v) of this Subparagraph until such transactions involving
14 a single elected official or a legal entity in which he owns a controlling interest or
15 an immediate family member or a legal entity in which he owns a controlling interest
16 exceed two thousand five hundred dollars in the aggregate within the calendar year;
17 thereafter the provisions contained in Items (iv) and (v) of this Subparagraph shall
18 apply.

19 (iv) For transactions in excess of two hundred fifty dollars, but less than two
20 thousand five hundred dollars, telephone quotations with written confirmation or
21 facsimile quotations shall be solicited from at least three vendors within the
22 municipality, the parish, or within a fifty-mile radius of the municipality. However,
23 in the case of an emergency, no quotations shall be required so long as the elected
24 official recuses himself from the transaction and files an affidavit as required in Item
25 (i) of this Subparagraph within three business days of the occurrence of the
26 transaction. "Emergency" shall be defined in the plan adopted by the municipality
27 and subject to board approval.

28 (v) In the case of a transaction in excess of two hundred fifty dollars but less
29 than two thousand five hundred dollars, if the quotation submitted by the elected
30 official, his immediate family member, or legal entity in which the elected official

1 or his immediate family member has a controlling interest is the lowest bid received
 2 by the municipality the transaction is allowed. The plan adopted by the municipality
 3 and subject to board approval may specify situations in which a quotation submitted
 4 by the elected official, his immediate family member, or his or his immediate family
 5 member's legal entity may be accepted even if it was not the lowest bid received by
 6 the municipality.

7 (vi) An elected official, his immediate family member, or legal entity in
 8 which the elected official or his immediate family member has a controlling interest
 9 may enter into transactions with the municipality in excess of two thousand five
 10 hundred dollars only after written invitations are sent to at least three bona fide
 11 qualified bidders, other than the elected official, his immediate family member, or
 12 his or his immediate family member's legal entity, and upon specific advance
 13 approval by the board. Any such request for approval shall include the details of the
 14 proposed transaction, a copy of the written invitation, copies of the bids received in
 15 response to the invitation, and the method of recusal developed by the municipality.
 16 The plan developed by the municipality shall set out the details of the bid process.

* * *

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____