

Regular Session, 2013

HOUSE BILL NO. 498

BY REPRESENTATIVES NANCY LANDRY AND TERRY LANDRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CAMPAIGN FINANCE: Prohibits persons engaged in the private correctional facility business and related persons from giving campaign contributions in support of or opposition to certain officials and candidates

1 AN ACT

2 To enact R.S. 18:1505.2(U), relative to campaign finance; to prohibit certain persons from
3 contributing to certain officials and candidates; to provide for civil and criminal
4 penalties for violations; to provide that certain contributions escheat to the state
5 under certain circumstances; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 18:1505.2(U) is hereby enacted to read as follows:

8 §1505.2. Contributions; expenditures; certain prohibitions and limitations

9 * * *

10 U.(1) The legislature recognizes the importance of retaining the confidence
11 of its citizens in the operation of our state and local government by preventing
12 influence and the appearance of influence of elected officials and candidates for
13 certain offices with respect to campaign contributions made by persons who have or
14 who are seeking to operate prisons and other incarceration facilities when the
15 policies and decisions relative to incarcerations and the housing of and payments for
16 prisoners and other incarcerated persons are under the jurisdiction or supervision of
17 certain offices and officers. Therefore, it is essential to the operation of effective
18 democratic government in this state that citizens have confidence both in its officials
19 and in the electoral process and that government operations and elections be

1 conducted so as to prevent influence and the appearance of influence of officials and
2 candidates for such public offices and of the election process by such special
3 interests.

4 (2) No person to whom this Subsection is applicable, as provided in
5 Paragraph (3) of this Subsection, shall make a contribution, loan, or transfer of funds,
6 including but not limited to any in-kind contribution as defined in this Chapter, to the
7 governor, a legislator, a sheriff, any candidate for the office of governor, state
8 legislator, or sheriff, any political committee of any such official or candidate, or to
9 any other political committee which supports or opposes any such official or
10 candidate.

11 (3) This Subsection shall be applicable to all of the following:

12 (a) Any person who has or who is seeking to have a contract with the state,
13 any political subdivision of the state, or any agency or official of the state or a
14 political subdivision to house any person to be incarcerated under the laws of this
15 state or of any parish or municipal government.

16 (b) Any person who has an interest in any person included in Subparagraph
17 (a) of this Paragraph. As used in this Subparagraph, "interest" means ownership by
18 a legal entity, or by an individual or his spouse, either individually or collectively,
19 of an interest which exceeds ten percent.

20 (c) Any holding, intermediary, or subsidiary company of any person included
21 in Subparagraph (a) of this Paragraph.

22 (d) Any officer, director, trustee, partner, or senior management level
23 employee of any person included in Subparagraph (a), (b), or (c) of this Paragraph.

24 (d) The spouse and minor children of any person to whom this Subsection
25 is made applicable by this Paragraph.

26 (4) This Subsection shall not prohibit an expenditure by a candidate for his
27 own campaign or a contribution, loan, or transfer of funds by a candidate to his own
28 political committee.

1 (5)(a)(i) Any person who makes a contribution, loan, or transfer of funds in
2 violation of this Subsection shall be assessed a civil penalty in the same amounts as
3 provided in Paragraph (J)(1) of this Section. The penalties provided in R.S.
4 18:1505.5 shall not be applicable to any violation of this Subsection.

5 (ii) If a candidate, committee, or person required to file reports is notified by
6 the supervisory committee that a contribution, loan, or transfer of funds to such
7 candidate, committee, or person was made in violation of this Subsection, such
8 contribution, loan, or transfer of funds shall escheat to the state. Any such
9 contribution, loan, or transfer of funds, or an amount equal thereto, shall be paid over
10 to the state by the recipient candidate, committee, or other person required to file
11 reports within ten business days after the recipient candidate, committee, or person
12 required to file reports is notified by the supervisory committee that the contribution,
13 loan, or transfer of funds was made by a person prohibited by this Subsection from
14 making such contribution, loan, or transfer of funds.

15 (b) The supervisory committee shall institute civil proceedings to collect the
16 civil penalties provided for in this Subsection in the manner provided in Paragraph
17 (J)(2) of this Section.

18 (c) The criminal penalties provided in R.S. 18:1505.6(C) shall be applicable
19 to any violation of this Subsection.

20 (d) In addition to all other applicable penalties, a violation of this Subsection
21 by any person renders the violator unsuitable and ineligible to bid on or enter into
22 any contract with the state, any political subdivision of the state, or any officer or
23 official thereof for a period of five years from the violation. The supervisory
24 committee shall notify the division of administration and the legislative auditor of
25 each violation of this Subsection and the supervisory committee, the division of
26 administration, and the legislative auditor shall post on their respective websites a
27 current list of the persons in violation of this Subsection that are unsuitable and
28 ineligible to bid on or enter into any contract.

DIGEST

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

Nancy Landry

HB No. 498

Abstract: Prohibits persons who have or who are seeking to have private correctional facility businesses and related persons from giving campaign contributions in support of or opposition to certain candidates for governor, legislator, or sheriff or officials who hold those positions.

Proposed law prohibits persons seeking to have a contract with the state or any political subdivision of the state or any agency or official thereof to house any person to be incarcerated under the laws of this state or any parish or municipal government and related persons from making a campaign contribution, in-kind contribution, loan, or transfer of funds to the governor, a legislator, a sheriff; a candidate for the office of governor, state legislator, or sheriff; any political committee of such an official or candidate; or any other political committee which supports or opposes such an official or candidate.

Proposed law makes such prohibitions applicable to:

- (1) Any person who has or who is seeking to have a contract with any agency of state or local government or any political subdivision of the state or office or officer thereof to house any person to be incarcerated under the laws of this state or of any parish or municipal government.
- (2) Any person who has an interest in any person included in (1). Defines "interest" as ownership by a legal entity, or by an individual or his spouse, either individually or collectively, of an interest which exceeds 10%.
- (3) Any holding, intermediary, or subsidiary company of any person included in (1).
- (4) Any officer, director, trustee, partner, or senior management level employee of any person included in (1), (2), or (3).
- (5) The spouse and minor children of any person in (1), (2), (3), or (4).

Proposed law specifies that it shall not prohibit an expenditure by a candidate for his own campaign or a contribution, loan, or transfer of funds by a candidate to his own political committee.

Proposed law provides that any person making a contribution, loan, or transfer of funds in violation of these prohibitions shall be assessed a penalty of not more than \$5,000 or the amount of the contribution, whichever is greater, except provides that the penalty for a knowing and willful violation shall be not more than \$10,000 or 200% of the violation, whichever is greater. Defines "knowing and willful", for such purposes, as conduct which could have been avoided through the exercise of due diligence. Provides that the civil penalties otherwise applicable to the Campaign Finance Disclosure Act shall not apply to violations of these provisions, but that criminal penalties (up to \$500 and six months in jail) shall apply to any person violating such provisions. Provides that enforcement shall be in the manner otherwise provided by the Campaign Finance Disclosure Act. Further provides that any violation of proposed law by any person renders the violator unsuitable and ineligible to bid on or enter into any contract with the state, any political subdivision of the state, or any officer or official thereof for a period of five years from the violation. Requires the supervisory committee to notify the division of administration and the legislative auditor of

each violation and requires the supervisory committee, the division, and the legislative auditor to post a current list of persons that are unsuitable and ineligible to bid on or enter into any contract on their respective websites.

Proposed law requires that a candidate or committee which has been notified by the supervisory committee that it has accepted a contribution, transfer of funds, or loan which was made in violation of this prohibition, shall pay the amount to the state.

(Adds R.S. 18:1505.2(U))