



§1113. Prohibited contractual arrangements; exceptions; reports

A.(1)(a) No public servant, excluding any legislator and any appointed member of any board or commission and any member of a governing authority of a parish with a population of ten thousand or less, or member of such a public servant's immediate family, or legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

(b) This Paragraph does not prohibit a municipal or parish governing authority from appointing one of its members:

(i) To fill a vacancy in accordance with the Louisiana Election Code. No person so appointed, except as provided in R.S. 42:1121(G), shall be eligible to or shall qualify in the next election as a candidate for the office to which he is appointed.

(ii) To a board or commission for which the governing authority is the appropriate appointing authority and the appointee receives no salary or per diem for service on the board or commission, or if a member of the governing authority is required to be appointed to the board or commission by the home rule charter, ordinance, or resolution which created or established the board or commission.

(2) No head of a department listed in R.S. 36:4(A) who is appointed by the governor or lieutenant governor shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of any agency to which funds have been transferred from the agency of such department head, but such prohibition shall apply only to any contract, subcontract, or transaction related to such funds.

B. Other than a legislator, no appointed member of any board or commission, member of his immediate family, or legal entity in which he has a substantial economic interest shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction which is under the supervision or jurisdiction of the agency of such appointed member.

C. No legislator, member of his immediate family, or legal entity in which he has a controlling interest shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction involving the legislator's agency.

D.(1)(a)(i) No person identified in Item (ii) of this Subparagraph or the spouse of such person nor any legal entity of a person shall enter into any contract with state government.

(ii) The provisions of this Subparagraph and other provisions which reference this Item shall apply to the following persons:

(aa) A legislator and any person who has been certified by the secretary of state as elected to the legislature.

(bb) The governor and each person holding statewide elected office.

(cc) The secretary, deputy secretary, undersecretary, and each assistant secretary, or the equivalent position of the Department of Economic Development.

(dd) The secretary, deputy secretary, undersecretary, and each assistant secretary, or the equivalent position of the Department of Culture, Recreation and Tourism.

(ee) The secretary, deputy secretary, undersecretary, and each assistant secretary, or the equivalent position of the Department of Environmental Quality.

(ff) The secretary, deputy secretary, undersecretary, and each assistant secretary, or the equivalent position of the Louisiana Department of Health.

(gg) The secretary, deputy secretary, undersecretary, and each assistant secretary, or the equivalent position of the Louisiana Workforce Commission.

(hh) The secretary, deputy secretary, undersecretary, and each assistant secretary, or the equivalent position of the Department of Natural Resources.

(ii) The secretary, deputy secretary, undersecretary, and each assistant secretary, or the equivalent position of the Department of Public Safety and Corrections and any warden or assistant warden of a state penal institution.

(jj) The secretary, deputy secretary, undersecretary, and each assistant secretary, or the equivalent position of the Department of Revenue.

(kk) The secretary, deputy secretary, undersecretary, and each assistant secretary, or the equivalent position of the Department of Children and Family Services.

(ll) The secretary, deputy secretary, undersecretary, and each assistant secretary, or the equivalent position of the Department of Transportation and Development.

(mm) The secretary, deputy secretary, undersecretary, and each assistant secretary, or the equivalent position of the Department of Wildlife and Fisheries.

(nn) The secretary, deputy secretary, undersecretary, and each assistant secretary, or the equivalent position of the Department of Veterans Affairs.

(oo) The executive secretary of the Public Service Commission.

(pp) The director of state civil service.

(qq) Each member of the State Board of Elementary and Secondary Education.

(rr) The commissioner of higher education and the president of each public postsecondary education system.

(ss) Each member of the Board of Ethics and the ethics administrator.

(tt) The chief of staff to the governor.

(uu) The commissioner of the division of administration.

(vv) The executive counsel to the governor.

(ww) The legislative director for the governor.

(xx) The deputy chief of staff to the governor.

(yy) The director of policy for the governor.

(zz) The assistant commissioner for management and finance, the deputy commissioner, the confidential assistant, and each assistant commissioner of the Department of Agriculture and Forestry.

(aaa) The superintendent of education, the deputy superintendent of education, the deputy superintendent for management and finance, and each assistant superintendent of the Department of Education.

(bbb) The chief deputy commissioner, each deputy commissioner, the assistant commissioner, and the executive counsel of the Department of Insurance.

(ccc) The first assistant attorney general of the Department of Justice.

(ddd) The deputy secretary of the Department of State, the deputy secretary for the office of the Uniform Commercial Code, and the deputy secretary for the office of GeauxBiz or his successor.

(eee) Each deputy state treasurer and each assistant state treasurer of the Department of the Treasury.

(iii) For purposes of this Subsection, "legal entity of a person" means any corporation, partnership, or other legal entity in which a person identified in Item (ii) of this Subparagraph or the spouse of such person owns an interest of greater than five percent, except a publicly traded corporation or a legal entity in which the person owns a passive ownership interest that is the result of participation in a federally approved program of employee ownership.

(iv) For purposes of this Subsection, "legal entity of a family member" means any corporation, partnership, or other legal entity in which an immediate family member of a person identified in Item (ii) of this Subparagraph, except the spouse of such a person, owns an interest of greater than five percent, except a publicly traded corporation or a legal entity in which the immediate family member owns a passive ownership interest that is the result of participation in a federally approved program of employee ownership.

(v) For purposes of this Subsection, "state government" means 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 state quasi public entity created in law.

(b)(i) No immediate family member, except the spouse, of a person identified in Item (a)(ii) of this Paragraph, nor any legal entity of a family member shall enter into any contract with state government unless the contract is awarded by competitive bidding after being advertised and awarded in accordance with Part II of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950 or is competitively negotiated through a request for proposal process or any similar competitive selection process in accordance with Chapter 16 or 17 of Title 39 of the Louisiana Revised Statutes of 1950; however, this exception for competitively negotiated contracts shall not include contracts for consulting services.

(ii) The provisions of this Subparagraph shall not prohibit a contract for professional services entered into with the attorney general which is based on criteria set forth by the office of risk management.

(c) The following shall not be considered a contract for purposes of this Subsection:

- (i) A foster parent provider agreement or a child care provider agreement entered into with the Department of Children and Family Services. In addition, such an agreement shall not be subject to R.S. 42:1111(E)(2)(a).
 - (ii) An agreement with a state entity or state quasi-public entity for housing, medical treatment, retirement benefits, or insurance benefits provided on the same terms and conditions available to similarly situated persons.
 - (iii) An agreement providing for public assistance benefits, including but not limited to subsidies for agriculture, aquaculture, forestry, soil and water conservation, educational scholarships, grants and subsidies, or guaranteed student loans, provided that such benefits are available to similarly situated persons.
 - (iv) An agreement for which the compensation is solely reimbursement of costs.
 - (v) Applying for, payment of fees for, or obtaining a license, credential, or permit provided that such license, credential, or permit is available to similarly situated persons.
 - (vi) The payment of admission fees.
 - (vii) The sale of property pursuant to the expropriation of immovable property by any branch, agency, department, or institution of state government.
 - (viii) The donation of professional veterinary services and the donation of any goods and services related to the provision of such veterinary services.
 - (ix) Any transaction valued at two thousand five hundred dollars or less. However, no person shall enter into separate transactions valued at two thousand five hundred dollars or less as a subterfuge to avoid the prohibition of this Subsection.
- (2) The provisions of this Subsection shall not prohibit the following:
- (a) Contracts for employment in a professional educational capacity in or for professional services for an elementary or secondary school or other educational institution.
 - (b) A provider agreement entered into with the Louisiana Department of Health under the state medical assistance program or the early steps program, a contract with an early steps program provider, or a provider contract entered into with any plan providing Medicaid services to Medicaid recipients.
 - (c) Contracts of employment of a physician or other licensed health care professional with the state or the charity hospitals of the state or the Louisiana Department of Health.
 - (d) Completion of any contract which, at the time it was entered into, was not prohibited by the provisions of this Subsection; however, no such contract shall be renewed except as specifically provided for in this Paragraph.
 - (e)(i) Completion of any contract between a person identified in Item (1)(a)(ii) of this Subsection or his spouse or a legal entity of a person and state government, which contract was awarded by competitive bidding after being advertised and awarded in accordance with Part II of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, or competitively negotiated through a request for proposal process or any similar competitive selection process in accordance with Chapter 16 or 17 of Title 39 of the Louisiana Revised Statutes of 1950 or which contract, other than a contract for consulting services, was not competitively negotiated through a request for proposal process in accordance with Chapter 16 or 17 of Title 39 of the Louisiana Revised Statutes of 1950, and which contract was entered into prior to March 3, 2008; however, no such contract shall be renewed for a period extending beyond January 9, 2012.
 - (ii) Completion of any contract between the immediate family member, except for a spouse, of a person identified in Item (1)(a)(ii) of this Subsection or a legal entity of a family member and state government, which contract was not awarded by competitive bidding after being advertised and awarded in accordance with Part II of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950 or which contract, other than a contract for consulting services, was not competitively negotiated through a request for proposal process or any similar competitive selection process in accordance with Chapter 16 or 17 of Title 39 of the Louisiana Revised Statutes of 1950, and which contract was entered into prior to March 3, 2008; however, no such contract shall be renewed for a period extending beyond January 9, 2012.
 - (f) Contracts for employment or for services by any licensed health care professional providing services in the classroom or working with administration in an elementary or secondary school or other educational institution.
 - (g) Contracts for services by health care professionals which are required by federal or state law to provide an educational program for students in an elementary or secondary school or other educational institution.
 - (h) A contract for professional services entered into by a person selected pursuant to Part VII of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950 with any agency or entity of state government with which such person had a contract for professional services pursuant to Part VII of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950 at any time prior to March 3, 2008, or at any time prior to the initiation of the public service which made the person subject to the provisions of this Subsection; however, no contract for such professional services shall be entered into after January 8, 2012.
 - (i) A health care provider contract by a physician or other licensed health care provider with the Office of Group Benefits to provide medical, surgical, and hospital services or medical equipment or pharmaceuticals at a reduced rate for members of the Office of Group Benefits Program as the sole reimbursement for such medical services, treatment, or health care.
- (3)(a) No person formerly serving in a position identified in Item (1)(a)(ii) of this Subsection nor his spouse nor any legal entity of a person shall, for a period of one year following the termination of the public service of such person enter into a contract that would have been prohibited by this Subsection prior to the termination of the public service of such person. The provisions of this Paragraph shall not prohibit the renewal of a contract that was not prohibited prior to March 3, 2008.
- (b) The provisions of this Paragraph shall not apply to a person, to the spouse of a person, nor to a legal entity of a person if the public service of the person terminated prior to March 3, 2008. However, the provisions of this Paragraph shall apply to a person, to the spouse of a person, and to a legal entity of a person if the person served in an office or position identified in Item (1)(a)(ii) of this Subsection on or after March 3, 2008.
- (4)(a) Each person identified in Item (1)(a)(ii) of this Subsection shall file a report with the Board of Ethics, by May fifteenth of each year of his term of office or of his service in his position, identifying the parties to and the value and term of each contract between him or his spouse or legal entity of a person and state government during the previous calendar year.
- (b) Each immediate family member, except a spouse, of a person identified in Item (1)(a)(ii) of this Subsection shall file a report with the Board of Ethics by May fifteenth of each year of the person's term of office or of the person's service in his position identifying the parties to and the value and term of each contract between the immediate family member or any legal entity of a family member and state government during the previous calendar year.
- (c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this Paragraph, the first report due pursuant to the provisions of this Subsection shall be due by May 15, 2009, and shall include the information required by this Paragraph for the period between and including March 3, 2008, and December 31, 2008.
- (5) If any provision of this Subsection conflicts with any other provision of this Section, the more restrictive provision shall govern.
- (6) The provisions of R.S. 42:1113(D)(1)(a)(i), R.S. 42:1113(D)(1)(b), and other provisions which reference these provisions of law shall not apply to the spouses and immediate family members of the deputy secretaries, undersecretaries, assistant secretaries, or equivalent positions in the following agencies:
- (a) Department of Economic Development.
 - (b) Department of Culture, Recreation and Tourism.
 - (c) Department of Environmental Quality.
 - (d) Louisiana Department of Health.
 - (e) Louisiana Workforce Commission.
 - (f) Department of Natural Resources.
 - (g) Department of Public Safety and Corrections.
 - (h) Department of Revenue.
 - (i) Department of Children and Family Services.
 - (j) Department of Transportation and Development.
 - (k) Department of Wildlife and Fisheries.
 - (l) Department of Veterans Affairs.
 - (m) Department of Agriculture and Forestry.
 - (n) Department of Education.
 - (o) Department of Insurance.
 - (p) Department of Justice.
 - (q) Department of State.
 - (r) Department of Treasury.

E. Repealed by Acts 2008, No. 514, §3, June 30, 2008.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1984, No. 830, §1; Acts 1987, No. 730, §1; Acts 1995, No. 1156, §1; Acts 1997, No. 1279, §1, eff. July 15, 1997; Acts 1998, 1st Ex. Sess., No. 119, §1, eff. May 5, 1998; Acts 2003, No. 1002, §1, eff. July 2, 2003; Acts 2008, 1st Ex. Sess., No. 2, §1, eff. March 3, 2008; Acts 2008, No. 514, §§1,3, eff. June 30, 2008; Acts 2008, No. 696, §1, eff. July 2, 2008; Acts 2008, No. 743, §7, eff. July 1, 2008; Acts 2009, No. 308, §1; Acts 2012, No. 689, §1, eff. June 7, 2012.

NOTE: See Acts 2008, No. 514, §5 for applicability of R.S. 42:1113(D) as amended.

