

LOUISIANA SENATE

**2012**

**Regular Session**

***FINAL EDITION***  
***OF***

**Legislative Session**  
**Highlights**

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**COMMENT**

*This document is presented to you to provide a resource regarding session activity.*

*The information contained herein includes the final disposition of legislation, including Act No.'s for the 2012 Legislative Sessions.*



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August 20, 2012



## Agriculture/Rural Development

by: Curry Johnson  
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### AGRICULTURAL BOARDS AND COMMISSIONS

**Senate Bill 148 by Senator Thompson (Act 145)** requires that each license issued by the Louisiana Agricultural Commodities Commission be posted in all warehouse locations. The legislation also repeals the Agriculture Commodity Marketing Law and certain provisions relative to fixed-price contracts and cooperative marketing agreements.

**Senate Bill 150 By Senator Thompson (Act 310)** provides relative to the membership of certain commissions within the Department of Agriculture and Forestry. The legislation decreases the membership of the Louisiana Sweet Potato Advertising and Development Commission. The legislation also provides relative to appointments to the Horticulture Commission and authorizes the commissioner to appoint an alternate member for each member he appoints.

**Senate Bill 656 by Senator Morrish (Senate committee)** would have provided relative to the Louisiana Rice Promotion Board and Louisiana Rice Research Board. The legislation would have authorized the commissioner to plan and conduct referenda among qualified rice producers for the approval or disapproval of assessments or

refunds thereof in certain circumstances and further authorized the commissioner to adopt rules and regulations. The legislation also would have provided a mechanism for rice producers to request refunds.

**House Bill 815 by Representative Katrina Jackson (Act 211)** allows any board or commission within the Louisiana Department of Agriculture and Forestry to require an applicant's social security number on an application for a license, permit, or certificate.

### ANIMALS

**House Bill 109 by Representative Champagne (Act 8)** repeals provisions that regulate the use of stallions and jacks, including provisions related to certificates of enrollment and soundness, fees payable to the Louisiana Board of Animal Health, and penalties.

**House Bill 602 by Representative Chaney (Act 204)** authorizes the Louisiana Board of Animal Health to issue cease and desist orders for violations causing significant damage to animal health. The legislation further provides the board with plenary powers to deal with contagious and infectious diseases.

The legislation repeals provisions relative to the sale of hog cholera serum, cattle fever tick eradication, parish wide brucellosis testing, and



sheep scab infection.

**House Bill 887 by Representative Johnson (Act 214)** authorizes the commissioner to charge an annual service fee on imported exotic deer and antelope, elk, and farm-raised white tail deer and other exotic cervidae to defray the costs of services to the alternative livestock industry.

#### **BOLL WEEVIL ERADICATION FUND**

**Senate Bill 646 by Senator Thompson (Act 157)** requires that all monies received from the voluntary assessment on cotton producers to offset the cost of boll weevil suppression and eradication programs be transferred directly to the Louisiana Agricultural Finance Authority to provide for the expenses of the program.

#### **DEPARTMENT OF AGRICULTURE AND FORESTRY**

**Senate Bill 151 by Senator Thompson (Act 147)** requires owners of pesticide businesses and pesticide dealers to keep records for three years accurately reflecting the application, possession and disposition of pesticides. The legislation provides that monies in the Pesticide Fund received from the registration of pharmaceuticals administered to livestock may be used for the expenses of the office of animal health and food safety. The legislation further authorizes the Structural Pest Control Commission to issue subpoenas to compel the attendance of witnesses or produce documents or records.

**Senate Bill 288 by Senator Allain (Act 152)** authorizes the commissioner to employ an executive counsel and such assistants as he

finds necessary and fix the compensation of each. The legislation requires that the executive counsel and assistants be duly qualified and admitted to practice law in Louisiana.

**House Bill 153 by Representative Anders (Act 14)** establishes the Louisiana Organic Certification Cost-Share Rebate Program to encourage organic production in Louisiana. The legislation allows cooperative agreements between the commissioner and organic producers and authorizes the commissioner to promulgate rules. The legislation prohibits the use of the term "organic food" unless the growth and composition of the food meets federal requirements.

#### **FORESTRY**

**House Bill 844 by Representative Katrina Jackson (Act 458)** repeals provisions related to the levy and collection of the severance tax on any forest products grown on land reforested under contract between a landowner and the department of conservation or forestry commission. The legislation also repeals provisions that allowed landowners who have entered into contracts with the department of conservation for reforestation the ability to avail themselves of the limitation of taxes.

**House Bill 907 by Representative Katrina Jackson (Act 808)** adds the protection of assets, property, and personnel to the duties of appointed and commissioned forest officers and revises certain powers of the state forester. The legislation requires the Department of Education and school boards to encourage participation in natural resource education programs. The legislation repeals provisions related to the collection of mayhaw

berries in state forests, the deposit of fire or live coals by railroad employees, the operation of engines near brush or forest land, the inspection of certain lands by the state forester, reforestation contracts, and the purchase and care of forest lands.

# Capital Outlay

by: Martha Hess  
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**House Bill 2 by Representative Robideaux (Act 2)**, provides for the comprehensive capital outlay budget for Fiscal Year 2012-2013, including funding from the following sources of monies:

|  |                 |
|--|-----------------|
| Federal Funds                              | \$ 20,694,987   |
| Federal Funds - TTF                        | \$ 742,200,000  |
| Transportation Trust Fund (TTF) - Regular  | \$ 183,605,906  |
| Interagency Transfers                      | \$ 28,177,455   |
| Misc. Statutory Dedications                | \$ 86,687,778   |
| Fees and Self-Generated Revenues           | \$ 87,064,480   |
| Reappropriated Cash                        | \$ 16,450,547   |
| Revenue Bonds                              | \$ 177,950,000  |
| General Fund (Direct)                      | \$ (37,239,470) |
| General Fund (Direct) <i>Non-Recurring</i> | \$ (20,154,310) |

**TOTAL CASH PORTION**  
\$ 1,285,437,373

Authorizes the funding of certain capital outlay projects from the sale of general obligation bonds for the projects delineated as follows:

|            |                  |
|------------|------------------|
| Priority 1 | \$ 1,540,615,000 |
| Priority 2 | \$ 277,535,000   |
| Priority 3 | \$ 14,500,000    |
| Priority 5 | \$ 1,156,290,000 |

## TOTAL GENERAL OBLIGATIONS BONDS

\$ 2,988,940,000

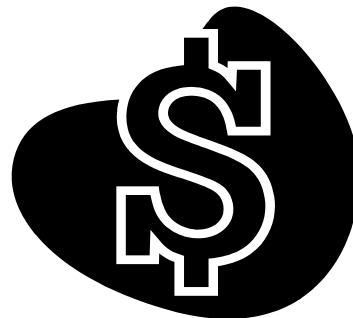
BONDS NRP/RBP \$ 10,455,700

## GRAND TOTAL ALL MEANS OF FINANCING

\$ 4,284,833,073

*Bonds NRP is the reallocation of previously sold bonds.*

*Section 16 limits cash lines of credit or authorization of issuance of general obligation bonds to \$1,696,475,000.*



## Children & Family

by: Ann S. Brown  
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### CHILDREN

Crimes — key legislative measures to protect the children are as follows:

**Senate Bill 623** by **Senator LaFleur (Act 840)** extends the "right of privacy" to juvenile victims of misdemeanor sex offenses.

**Senate Bill 4** by **Senator Morrell (Act 614)** and **House Bill 577** by **Representative Lopinto (Act 268)**

criminalizes the failure to report the sexual abuse of a child. Also requires the reporting of child abuse or neglect through the designated state child protection reporting hotline for Department of Children and Family Services (DCFS).

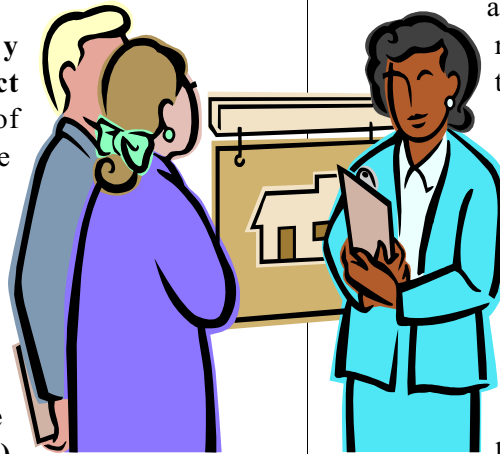
**Senate Bill 211** by **Senator Morrell (Act 736)** provides that the secretary of Department of Environmental Quality (DEQ) shall notify the State Board of Elementary and Secondary Education (BESE), DCFS when a child-occupied facility, placed into operation after Aug. 1, 2012, has been notified that the level of lead hazards, lead abatement activities, or any lead testing performed exceeds applicable standards. Further provides that a copy of the notification shall be displayed in a prominent location at the child-occupied facility. Also requires that parents or legal custodians of children enrolled at child-occupied facilities

be notified by electronic means, such as email or posting on a website, of all lead abatement activities, lead testing which exceeds applicable standards or lead hazard reduction activities performed at the facility or on its grounds.

**House Bill 861** by **Representatives Simon (Act 599)** increases the penalties imposed on child care facilities and child-placing agencies from \$250 to \$1,000 per day for operating without or in violation of a license. Also authorizes, in lieu of revocation, the issuance of

a written warning which includes a corrective action plan for certain violations or occurrences which does not pose an imminent threat to the health, safety, rights, or welfare of a child.

**House Bill 1016** by **Representative Pope (Act 430)** requires that DCFS' rules and regulations for Class A and Class B day care centers include procedures which allow them to remedy certain deficiencies, immediately upon identification by DCFS, in an onsite inspection provided that any deficiency which may be remedied in such manner does not constitute a critical violation of licensing standards. Also provides that the La. Advisory Council on Child Care and Early Education shall provide input and guidance to DCFS on all matters pertaining to rules, regulations, and standards for day care centers, including but not limited to those relative to



licensure.

**House Bill 1201 by Representatives Moreno (Act 223)** provides that no person who has been convicted of, or who has pled guilty or nolo contendere to, any sex offense whose victim was under the age of 13 years, shall own, operate, or in any way participate in the governance of child care facilities, or own, operate, or in any way participate in the governance of, or reside in, family child day care homes.

#### Education

**Senate Bill 581 by Senator Appel (Act 3)** provides for an Early Childhood Care and Education Network. Requires BESE to create a comprehensive and integrated network through which to manage and oversee publicly-funded programs that provide early childhood educational services by 7/1/13.

**House Bill 269 by Representative Barrow (Act 249)** allows foster children to remain enrolled in the public school where the child was enrolled at the time he entered foster care, for the duration of his stay in the custody of the state or until he completes the highest grade at that school.

**Senate Concurrent Resolution 122 by Senator Mills (Filed with the Secretary of State)** requests BESE make recommendations of family involvement or use of family involvement data in measuring school performance and educator effectiveness and any other steps taken by the board to assist La. schools and educators in more effectively engaging families in their children's educations. Also requires that BESE issue a report of their recommendations to the Senate

and House education committees no later than 60 days prior to the 2013 Regular Session.

Support – efforts to secure financial support for children include the following:

**Senate Concurrent Resolution 98 by Senator Murray (Filed with the Secretary of State)** requests that the Louisiana State Law Institute study and make recommendations concerning "net child care costs" under laws for payment of child support and child support guidelines. Requires a report of its findings or recommendation to be submitted to the legislature no later than 2/1/13.

**Senate Bill 520 by Senator Broome (Act 793)** provides that death benefits, under the LA Worker's Compensation Law, shall be paid to surviving biological and adopted children of the employee, to be divided equally among them, constituting the sole and exclusive compensation. Further provides that if there are no surviving children, then the \$75,000 shall be paid to each surviving parent. Also provides that regardless of dependency, no payment shall be made to the concubine of the deceased employee nor the concubine's children, unless the children are related to the deceased employee by blood or adoption.

**House Bill 737 by Representative Broadwater (Act 99)** provides relative to death benefits, under the LA Worker's Compensation Law, that if there are no surviving dependents of the deceased employee, the non-dependent children shall divide \$75,000 among themselves equally. Also provides that children with a valid child support order from a court of competent jurisdiction against the deceased parent, are



also considered to be dependents of the deceased employee.

**House Bill 481 by Representative P. Williams (Act 87)** clarifies that child support overpayments are excluded from recovery from unemployment compensation benefits.

**House Bill 1205 by Representative Johnson (Act 444)** provides procedures by which a previously ordered child support obligation may be transferred to the current caretaker of the child when the current caretaker is not the obligee of the original order.

#### FAMILY ASSISTANCE PROGRAMS

**Senate Bill 714 by Senator Broome (Act 686)** removes the United States Department of Housing and Urban Development (HUD)'s income limit as the exclusive qualifier in identifying "persons or families of low or moderate income". Allows the board of directors of the Louisiana Housing Corporation (LHC) to determine who qualifies as a "person or families of low or moderate income" in a manner consistent with any federal housing programs.

In an effort to reduce waste within the Supplemental Nutrition Assistance Program (SNAP) are the following:

**Senate Bill 215 by Senator Mills (Act 635)** creates the SNAP Fraud and Abuse Detection and Prevention Fund in the state treasury as a special fund. Provides for funding through the donation of individual income tax refunds. Further provides for the monies in the fund to be used only to enhance fraud and abuse detection and prevention activities.

**Senate Bill 633 by Senator Johns (Act 677)** provides that whoever commits the crime of unauthorized use of SNAP benefits or a SNAP benefit access device is to be fined not less than \$5,000 nor more than \$1,000,000 or imprisoned, with or without hard labor, for not less than six months nor more than 10 years, or both. Changes present law references of "food stamp coupons," " food stamp authorization cards" and "food stamp access devices" to "SNAP benefits" or "SNAP benefit access devices". Also creates the crime of failure to report unauthorized use of SNAP benefits.

#### HEALTH CARE

In an effort to reduce health care costs, several legislative instruments were offered to encourage preventive care measures (i.e. the delivery and utilization of basic health care services) such as:

**House Concurrent Resolution 78 by Representative P. Smith (Filed with the Secretary of State)** creates a study committee to study and make recommendations with respect to the detection and prevention of cardiac arrest in young athletes and to study the feasibility of requiring all high school and collegiate athletes to be screened for early detection of heart disease. Study findings shall be reported to the legislature by 2/1/13.

**House Bill 867 by Representative Ortego (Act 421)** authorizes University Medical Center (UMC) in Lafayette to enter into a cooperative endeavor with the Lafayette Parish School System (LPSS) to develop a pilot program for coordinated school health and wellness centers to provide primary care services to students and their family members.

Further provides that the pilot program shall be subject to the availability of funds from various sources of monies such as legislative appropriation, federal funds, public or private donations, gifts, or grants from individuals, corporations, nonprofit organizations, or other business entities, and any other monies which may be provided by law. Also requires UMC to submit a report to the House and Senate committees on education and health and welfare no later than six months after commencement of services of the pilot program and annually thereafter.

**Senate Concurrent Resolution 15 by Senator Morrell (Filed with the Secretary of State)** requests DHH to promote the department's EarlySteps system with the Louisiana Hospital Association, the Louisiana State Medical Society, and the Optometry Association of Louisiana. The EarlySteps system is designed to support families with the development of their special needs child.

Mental Health – efforts to protect funding of mental health services included:

**House Bill 952 by Representative Brossett (Act 506)** establishes the Mental and Behavioral Health Services Preservation Act for the preservation of state funded mental and behavioral health services.

**House Bill 326 by Representative Willmott (Act 489)** authorizes a family psychiatric mental health nurse practitioner or psychologist to execute an emergency certificate for admission to a treatment facility of a minor suffering from mental illness or substance abuse.

**House Bill 846 by Representative Simon (Act 418)** establishes principles for the state mental health system.

One last effort to protect children is **Senate Bill 261 by Senator Nevers (Act 763)** which provides that under extraordinary circumstances, any other relative, by blood or affinity, or a former stepparent or stepgrandparent, not granted custody of the child may be granted reasonable visitation rights if the court finds that it is in the best interest of the child. In determining the child's best interest the court shall consider the following factors:

1. The length and quality of the prior relationship between the child and relative.
2. Whether the child is in need of guidance, enlightenment, or tutelage which can best be provided by the relative.
3. The preference of the child if he is determined to be of sufficient maturity to express a preference.
4. The willingness of the relative to encourage a close relationship between the child and his parent or parents.
5. The mental and physical health of the child and the relative.

## Civil Law & Procedure

by: *Angela De Jean*  
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There were several bills introduced during the 2012 Regular Session of the Legislature regarding civil procedure. **Senate Bill 263 by Senator Martiny (Act 544)** adds certified mail as an option for secretary of state's service of process in certain instances and removes the requirement of requesting a return receipt. **Act 544** also provides that the acceptance by an owner of a public carrier vehicle of a certificate issued by a municipality or parish shall be deemed appointment, by such owner, of the secretary of state to be his true and lawful attorney for service of process in any action or proceeding involving such owner by reason of the ownership, operation, maintenance or use of such vehicle upon any street. Such service of process upon the secretary of state has the same legal force as if served on the owner personally. Lastly, **Act 544** provides for any process or pleadings served upon the secretary of state to be by duplicate copies, one copy of which is to be forwarded by the secretary of state to public carrier vehicle owners who are out of state by registered mail or commercial courier.

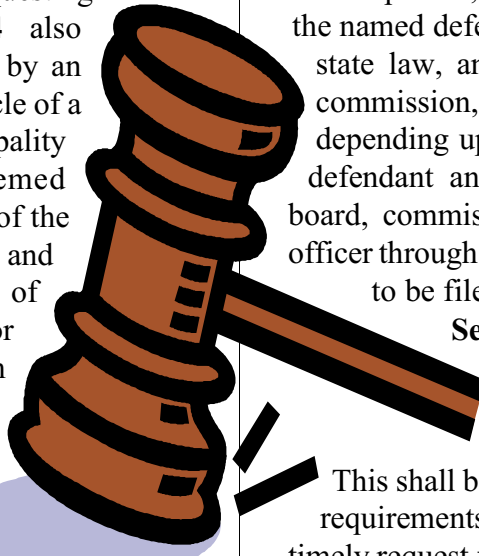
Present law provides that in all suits filed against the state of Louisiana or a state agency, citation and service may be obtained by citation and service on the attorney general

of Louisiana, or on any employee in his office above the age of sixteen years, or any other proper officer or person, depending upon the identity of the named defendant and in accordance with state law, and on the department, board, commission, or agency head or person, depending upon the identity of the named defendant and in accordance with state law, and on the department, board, commission, or agency head or person, depending upon the identity of the named defendant and the identity of the named board, commission, department, agency, or officer through which or through whom suit is to be filed against. **Senate Bill 308 by**

**Senator Murray (Act 770)** adds that service shall be requested upon the attorney general within 90 days of filing suit.

This shall be sufficient to comply with the requirements of present law concerning timely request for service and failure to make such timely request. However, the duty of the defendant served through the attorney general to answer the suit or file other responsive pleadings does not commence to run until the additional service required upon the department, board, commission, or agency head has been made.

**Senate Bill 349 by Senator Murray (assigned to Senate Judiciary A)** would have provided that a trial by jury shall not be available in suits where the amount of no individual's cause of action exceeds that amount equal to an amount in controversy as



set forth in 28 U.S.C. 1332(a) concerning diversity jurisdiction in federal civil cases, exclusive of interest and costs revising present law which provides that a trial by jury shall not be available in suits where the amount of no individual's cause of action exceeds \$50,000 exclusive of interest and costs.

Present law in Code of Civil Procedure sets forth judicial procedures relative to evictions of tenants and occupants. Provides for trial by rule and rendition of a judgment of eviction. Further provides that an appeal may be taken under certain circumstances if the appeal is applied for within 24 hours after the rendition of the judgment of eviction. **Senate Bill 393 by Senator Murray (House Civil Law & Procedure)** would have added that a party may make a written request or motion for a new trial on certain grounds, if the new trial is applied for within 24 hours after the rendition of the judgment of eviction. Would have provided that an appeal under present law may be taken if applied for within 24 hours after the rendition of the judgment of eviction, or within 24 hours after the denial of a motion for new trial if such motion is made. **Senate Bill 393** would have required, in the case of a judgment of eviction rendered against an unrepresented defendant appearing at trial, that the court shall advise him of his right to seek a new trial and to appeal.

Prior law allowed a party at any time more than 30 days before the date of trial, without any admission of liability, to serve upon an adverse party an offer of judgment to settle all claims between them. **Senate Bill 429 by Senator Nevers (Act 557)** changes the time period to 20 days before date of trial.

**Senate Bill 506 by Senator Claitor (Act 664)** provides that, upon motion of the district attorney in a criminal proceeding, a court having jurisdiction over any related pending civil action or proceeding may, in the interests of justice and for good cause shown after a contradictory hearing, stay all or a portion of discovery sought in the civil action or proceeding. Requires the contradictory hearing to be held by the court in the civil action within 30 days of the filing of the motion for stay. Further provides that good cause shall include, but is not limited to, a finding by the court that such discovery will adversely affect the ability of the district attorney to conduct a related criminal investigation or the prosecution of a related felony criminal case.

**Act 664** further provides that a party to the stayed discovery proceeding may move to have the stay subsequently lifted for good cause. Within 30 days of disposition in the trial court, the district attorney shall file an ex parte motion consenting to terminating the stay. Further provides that the time during which the civil proceeding is stayed pursuant to proposed law shall not be used to compute the three-year abandonment period of the civil matter. **Act 664** does not apply to petitions or proceedings for divorce, custody, child support, visitation, and protective orders.

**Senate Bill 509 by Senator Claitor (Act 666)** provides relative to the manner in which justice of the peace courts may make service of citation or other process. Such service may be made by the court by certified mail, with return receipt requested, when the costs for service are posted with the court. **Act 666** provides that if the properly addressed certified mail return receipt reply form is

signed by the addressee who is the defendant, service shall be considered personal service. If such return receipt reply form is signed by a person other than the defendant, such service shall be considered domiciliary service.

Under prior law the purchaser who had been evicted from property sold under a writ of fieri facias had a right of reimbursement against the judgment debtor and the seizing creditor. If the judgment was obtained against both, the purchaser had to execute the judgment first against the judgment debtor and then against the seizing creditor, if his judgment remained unsatisfied. **House Bill 350 by Representative Arnold (Act 19)** limits the purchaser's right of reimbursement in an eviction proceeding to the value received by the seizing creditor from the sheriff's sale of the property.

**House Bill 350 by Representative Foil (Act 194)** deletes the requirement of written consent of each section or division of the court in order to consolidate actions pending in the same court authorizes waiver of the contradictory hearing, required in present law, upon consent of all of the parties. Present law provides that when two or more separate actions are pending in the same court, the section or division of the court in which the first filed action is pending may order consolidation of the actions for trial after a contradictory hearing, and upon a finding that common issues of fact and law predominate. If a trial date has been set in any of the subsequently filed actions that have not yet been consolidated, then the written consent of each section or division of the court is required.

A judgment on a motion for summary judgment is rendered if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to material fact, and that mover is entitled to judgment as a matter of law. **House Bill 459 by Representative Abramson (Act 257)** deletes the reference to "pleadings, depositions, answers to interrogatories and admissions" showing no genuine issue as to material fact in a summary judgment proceeding being those "pleadings, depositions, answers to interrogatories or admissions" "on file". **Act 257** also requires that when the court rules on a motion for summary judgment, it must consider only evidence admitted for purposes of the motion for summary judgment. when the court determines that a party is not negligent, not at fault, or not the cause of the injury or harm alleged, then that party may not be considered in any subsequent allocation of fault.

Further, **Act 257** requires when a court grants a motion for summary judgment that a party is not negligent, not at fault, or not the cause of the injury or harm alleged, then that party shall not be considered in any subsequent allocation of fault. When the court grants a motion for summary judgment that a party is not negligent, not at fault, or not the cause of the injury or harm alleged, then evidence shall not be admitted at trial to establish the fault of that party or nonparty, nor shall the issue of that party or nonparty's fault be either submitted to the jury or included on the jury verdict form. Lastly, **Act 257** requires the court to specify in its judgment that a party or nonparty has been determined to be not at fault and that the party or nonparty is prohibited from being considered in any

subsequent allocation of fault, and provides that proposed law shall not apply if the court fails to specify the applicability of proposed law.

There were also several studies that passed during the 2012 Regular Session. The legislature has enacted numerous statutes providing various entities with civil liability immunity including the state, state agencies, or political subdivisions of the state. Parties involved in litigation have asserted immunity granted to them by law through the peremptory exception of no cause of action, as an affirmative defense, and motions for summary judgment. Court have been inconsistent in determining whether immunity is properly raised in any of these procedural tools. Therefore, **House Concurrent Resolution 13 by Representative Tim Burns (filed with the Sec of State)** urges and requests the Louisiana State Law Institute to study Louisiana's existing laws governing peremptory exceptions and immunity and to make specific recommendations as to whether immunity should be added as a peremptory exception. The recommendation is to be submitted to the legislature on or before January 1, 2013.

**House Concurrent Resolution 76 by Representative Pat Smith (filed with the Sec of State)** requests the Louisiana State Law Institute to study procedures for the filing of liens for unpaid wages and to make recommendations in the form of specific proposed legislation to the legislature on or before January 1, 2014. **Representative Smith's** resolution provides in pertinent part that the state of Louisiana suffers when employers fail to pay payroll taxes associated with the unpaid wages and fail to make

contributions to the unemployment insurance and workers' compensation systems, diminishing state and local government revenues. Certain unpaid wages would have yielded approximately \$50,000 in taxes to the state which represents a fraction of total unpaid wages. The total unpaid revenues for the entire state is unknown but it could be many times this amount. **House Concurrent Resolution 76** provides that unpaid wages are bad for business because law-abiding businesses and employers must compete with businesses that do not pay their fair share, leaving an unfair playing field for honest business people. Local business suffers when workers and their families have no money to spend. Moreover, **Representative Smith's Resolution** provides that communities suffer when working families are forced to rely on public assistance or charities to survive or are forced to leave their homes to seek other work because of unpaid wages.

**House Concurrent Resolution 81 by Representative Huval (filed with the Sec of State)** requests the Louisiana State Law Institute to study jury trial procedures in order to create an expedited or summary jury trial and report its findings and recommendations in the form of specific proposed legislation to the legislature on or before January 1, 2014. **House Concurrent Resolution 81 by Representative Huval** provides that courts have struggled to design procedures to provide litigants with speedy, inexpensive, and fair resolutions to civil cases. Litigants frequently desire to try their cases before a jury, but choose not to due to the increased costs and delays involved in impaneling either a six-person or twelve person jury. The expedited or summary jury trial is based on a federal model with key features such as short, time-limited

trials, relaxed rules of evidence, smaller juries, fewer witnesses testifying, and more control given to the attorneys who participate by mutual consent. Lastly, **Representative Huval's** resolution provides that expedited or summary jury trial procedures modeled after successful procedures employed in other states and enacted in this state could result in more efficient use of our judicial resources and provide greater access to juries by civil litigants.

**House Concurrent Resolution 93 by Representative Billot (filed with the Sec of State)** requests the Louisiana State Law Institute to study creating procedures that would enable a surety to take possession of collateral in certain circumstances and to report its findings on or after January 1, 2014. **Representative Billot's** resolution provides that many people obligate themselves as surety of debts for the purchase of movables. The purchased movables are the primary collateral of the debt incurred. If the principal obligor of the debt fails or refuses to make required payments, the surety is then required to make the payments in order to prevent default on the debt and seizure of the collateral. While the surety is making payments on the debt, he frequently does not have possession or control of the collateral. The principal obligor who has failed or refused to make payments retains possession and control of the movable and may cause damage to or destruction of the movable. **House Concurrent Resolution 93 by Representative Billot** provides that it would be beneficial to the surety, in addition to his rights of subrogation and reimbursement, if he were able to take possession of the movable in order to protect his interest in the collateral before it is damaged or destroyed.

**House Concurrent Resolution 126 by Representative Cox (filed with the Sec of State)** recognizes the first of May through the fourteenth of June, 2012, as National Military Appreciation Month. During National Military Appreciation Month, all members of the military are celebrated, including those who are members or staff of the legislature. The freedom and security that citizens of the United States enjoy today are direct results of the blood shed and continued vigilance of the United States Armed Forces. In 2004, the United States Congress passed a resolution proclaiming National Military Appreciation Month and calling all Americans to remember those who gave their lives in defense of freedom and to honor the men and women of all of the armed forces who have served and are now serving their country, together with their families. The months of May and June have been selected for this display of patriotism because during these months, the nation celebrates Victory in Europe (VE) Day, Military Spouse Day, Loyalty Day, Armed Forces Day/Week, National Day of Prayer, Memorial Day, Navy Day, Army Day, and Flag Day.

**House Concurrent Resolution 131 by Representative Lopinto (filed with the Sec of State)** requests the Louisiana State Law Institute to study the testamentary disposition of the right to bring a survival action pursuant to Civil Code Article 2315.1 and to report its findings and recommendations in the form of specific proposed legislation to the legislature on or before January 1, 2013. Civil Code Article 2315.1 provides a survival action in favor of certain classes of survivors to the exclusion of others. This survival action is heritable. Mandatory transfer of a survival action to the favored class under Civil Code

Article 2315.1 may conflict with the decedent's testamentary wishes when the decedent has been estranged from the favored class for a considerable length of time. Testamentary disposal of a survival action may result in a more equitable distribution of a decedent's assets.

**House Concurrent Resolution 134 by Representative Foil (filed with the Sec of State)** requests the Louisiana State Law Institute to study procedures relative to the abandonment of civil actions and to report its findings and recommendations to the legislature on or before January 1, 2014. The policy underlying dismissal of abandoned actions is prevention of protracted litigation filed for the purpose of harassment or without a serious intent to pursue the claim. Code of Civil Procedure Article 561 provides for the dismissal of cases in which a plaintiff's inaction demonstrates abandonment of his action. Inaction by a judgment creditor may sometimes be due to his inability to serve a sophisticated judgment debtor who is intentionally avoiding service of process. **House Concurrent Resolution 134** provides that it is inherently unfair to allow a sophisticated judgment debtor to avoid service of process with the intent of having the action declared abandoned and dismissed by the court.

**House Concurrent Resolution 140 by Representative Abramson (filed with the Sec of State)** requests the Louisiana State Law Institute to study the potential impact of creating a child support calculation system in cases of "dual paternity" on other areas of the law and to report its findings and recommendations in the form of specific proposed legislation at least 60 prior to the

convening of the 2013 Regular Session. Pursuant to the provisions of R.S. 9:315.16, the child support guidelines were reviewed by the Child Support Review Committee. The committee considered the subject matter of the application of the guidelines to instances of dual paternity, now legislatively provided for in Articles 197 and 198 of the Civil Code. **Representative Abramson's** resolution provides that issues presented by "dual paternity" extend beyond child support to such areas of the law as parental authority, tutorship, alimentary obligation owed by ascendants to descendants over the age of eighteen, wrongful death and survival actions, immunity from suit, bars to suit, and successions. Therefore, since the charge of the Child Support Review Committee is to study the child support guidelines and make recommendations for modification and the charge of the Marriage and Persons Committee is to consider all other areas of the law impacted by "dual paternity", the review and consideration of both committees is desirable.

**Senate Concurrent Resolution 26 by Senator Gallot (filed with Sec of State)** requests the Louisiana State Law Institute to study the issue of heirship property and develop recommendations for facilitating the ability of family members to receive title to immovable property when successive generations of their family have failed to file succession proceedings; and to develop recommendations to facilitate more equitable and economically efficient distribution of immovable property. a significant percentage of Louisiana families have immovable property which has been passed down from generation to generation without the filing of succession proceedings. Surviving family



members often do not have merchantable title to their immovable property because they have not completed the recognized formalities of succession procedure. **Senate Concurrent Resolution 26** provides that citizens without significant economic means are less likely to seek estate planning services or have the funds to complete the successions of their deceased relatives which would restore their titles to a merchantable status. **Senate Concurrent Resolution 26** also provides that there is a need to review present law to determine whether changes should be made to facilitate, encourage, and promote merchantability of immovable property owned after the death of family members. The Louisiana State Law Institute shall report its findings and recommendations to the legislature on or before January 1, 2014.

**Senate Concurrent Resolution 36 by Dorsey-Colomb (filed with Sec of State)** requests the Louisiana State Law Institute to study inclusion of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) in Louisiana law. **Senate Concurrent Resolution 36 by Dorsey-Colomb** provides that Louisiana should provide the highest quality in services, personal care and protection, and legal assistance for our state's senior citizens, those who are physically and mentally disabled, and others under guardianship. The resolution also provides that many of these persons need the services of a tutor, guardian or conservator to be able to handle their personal and legal affairs. With a population that is both aging and mobile, there is a demonstrated need for assistance for this population in transferring or recognizing an existing guardianship or conservatorship across state line.

The Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) was drafted and approved in 2007 by the National Conference of Commissioners for Uniform State Laws, specifically to address jurisdictional, transfer and enforcement issues relating to adult guardianships and protective proceedings. The UAGPPJA is designed to help resolve jurisdictional disputes, transfer guardianship cases between states, and provide recognition and enforcement of guardianship or protective orders across state lines by facilitating communication and cooperation between courts of different jurisdictions concerning guardianship or protective proceedings. The UAGPPJA has been endorsed by Louisiana's Elder Law Task Force, the American Bar Association, the National Academy of Elder Law Attorneys, the National College of Probate Judges, the Conferences of Chief Justices and State Court Administrators, the National Guardianship Association and the Alzheimer's Association.

Louisiana presently provides for its guardianship procedure through its interdiction and tutorship articles and statutes, which are currently scattered throughout the Louisiana Civil Code, the Louisiana Code of Civil Procedure, and the Louisiana Revised Statutes of 1950. The purpose of an act such as the UAGPPJA is to provide uniformity of terminology and structure so that a person's guardianship and protective proceedings maybe recognized and transferred as near-seamlessly as possible across state lines, while respecting the existing structure of Louisiana's current articles addressing interdiction or guardianship.

## Coastal Restoration

by: *Jerry Jones*  
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**Senate Bill 289 by Senator Allain (Act 464)**

- Authorizes the Coastal Protection and Restoration Authority to provide engineering assistance and services to the Teche-Vermilion Fresh Water District.

**Senate Bill 290 by Senator Murray (Act 768)**

- Provides relative to the La. Universities Marine Consortium.

**Senate Bill 495 by Senator Long (Act 471)**

- Revises the membership and powers and duties of the Ground Water Resources Commission and renames it the Water Resources Commission.

**Senate Concurrent Resolution 31 by Senator Crowe (Filed with sec of state)**

- Memorializes Congress to urge the US Army Corps of Engineers, New Orleans District, to follow the recommendations of the Louisiana Department of Natural Resources, office of coastal management, as to the implementation of fair and reasonable regulations on wetland habitat assessment and compensation for wetland impacts.

**Senate Concurrent Resolution 40 by Senator Perry (Filed with sec of state)**

- Requests the Coastal Protection and Restoration Authority, in conjunction with appropriate member agencies, to jointly study the freshwater needs of the Mermentau Basin and the feasibility of diverting Atchafalaya River water into the Mermentau Basin.

**Senate Concurrent Resolution 41 by Senator Morrish (Filed with sec of state)**

- Approves the annual integrated coastal protection plan for Fiscal Year 2012-2013.

**Senate Concurrent Resolution 46 by Senator Morrish (Filed with sec of state)**

- Approves the comprehensive master plan for integrated coastal protection.

**Senate Concurrent Resolution 84 by Senator Francis Thompson (Filed with sec of state)**

- Requests the commissioner of administration and the director of the governor's office of coastal activities to utilize all available funding when considering the implementation of the Gulf hypoxia action plan.

**House Bill 26 by Representative Connick (Act 445)**

- Provides relative to thirty-year prescription and return of certain expropriated residential property. Excludes property expropriated for construction, operation, or



maintenance of levees, levee systems, flood control, drainage, hurricane or storm surge protection, or integrated coastal protection.

**House Bill 317 by Representative Gisclair (Act 487)** - Authorizes the use of salvage material in coastal protection and restoration projects. When, in the opinion of the secretary of DOTD or his designee, it is in the best interest of the state, he may order any materials deemed of no salvage value recovered from the reconstruction or repair of any state road or bridge, or from any other work performed by the department to be disposed of by transfer to the Office of Coastal Protection and Restoration to be utilized for coastal protection and restoration projects.

**House Bill 413 by Representative Harrison (Act 495)** - Authorizes the Office of Coastal Protection and Restoration to assist the Bayou Lafourche Fresh Water District and gives the district authority over activities on the banks of Bayou Lafourche. With the approval of the Coastal Protection and Restoration Authority, the board of commissioners may establish on its own behalf or for the areas under its authority, particularly but not limited to the banks of Bayou Lafourche, water resources development and integrated coastal protection, including but not limited to the studying, engineering, designing, planning, maintenance, operation, and construction of erosion control measures, marsh management, coastal restoration, reservoirs, diversion canals, gravity and pump drainage systems, and other works as such activities, facilities, and improvements relate to integrated coastal protection, conservation, water resources development, and saltwater intrusion. To that end and only upon approval of the Coastal

Protection and Restoration Authority, the board of commissioners may regulate the location, construction, or use of any building or structure within the district, where such building or structure threatens to interfere with water resources development and integrated coastal protection.

**House Bill 656 by Representative Dove (Act 588)** - Redraws the line for the coastal zone boundary.

**House Bill 720 by Representative Leger (Act 414)** - Establishes the La. First Hiring Act to promote the hiring of residents of La.'s coastal parishes for public works projects for coastal restoration and protection.

**House Bill 812 by Representative Champagne (Subject to call - Senate final passage)** - Proposed constitutional amendment would have provided that monies received by the state from violations of certain federal and state laws associated with the Deepwater Horizon oil spill shall be deposited into the Coastal Protection and Restoration Fund.

**House Bill 838 by Representative Champagne (Act 805)** - Provides that monies received from violations of certain federal and state laws associated with the Deepwater Horizon oil spill be deposited into the Coastal Protection and Restoration Fund.

**House Bill 896 by Representative Dove (Act 601)** - Provides for the respective responsibilities of the Department of Transportation and Development and the Coastal Protection and Restoration Authority in the coastal area.

**House Bill 916 by Representative St. Germain (Act 604)** - Renames the state entities responsible for coastal protection and restoration.

**House Concurrent Resolution 31 by Representative St. Germain (Filed with sec of state)** - Approves the Atchafalaya Basin Annual Plan for FY 2012-2013.

**House Concurrent Resolution 123 by Representative Thibaut (Filed with sec of state)** - Creates the False River Watershed Council.

**House Concurrent Resolution 144 by Representative Champagne (Filed with sec of state)** - Requests the Governor's Advisory Commission on Coastal Restoration and Protection to review funding sources for the 2012 Comprehensive Master Plan.



## Commerce & Consumer Protection

by: *Mary O'Brien*  
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### Regulation of Professionals-

#### Architects

**House Bill 1063 by Representative Simon (Act 514)** deals with the regulation of architects through the State Board of Architectural Examiners and requires licensing of architectural firms through rulemaking by the board.

#### Contractors

**House Bill 25 by Representative Henry Burns (Act 163)** establishes an exemption from the subject matter exam for licensed arborists who apply for a landscape, grading, and beautification building contractor's license to perform particular arborist work.

**House Bill 386 by Representative Ponti (Act 193)** provides relative to home improvement contracting in the specific area of repairs and replacement of a roof system, including the covering, insulation, and ventilation of roofs. Act provides for agreements to be in writing for all such jobs in excess of \$7500 and not more than \$75,000.

#### Geoscientists

**Senate Bill 128 by Senator Claitor (Act 308)** deletes provision that the Board of Professional Geoscientists be financially self-sufficient, removes "fossil fuels" from the definition of "geoscience", and provides that no person employed or acting as a petroleum geologist shall be required to be licensed or certified by the Board.

#### Engineers

**Senate Bill 318 by Senator Martiny (Act 31)** provides relative to naval architects and naval engineers and the Louisiana Professional Engineering and Land Surveying Board. Grandfathers in certain persons currently practicing as naval architects and naval engineers and requirements for licensing of persons with certain educational qualifications as naval architects and naval engineers. The grandfather provisions sunset on December 31, 2015.

#### Pharmacists

**Senate Bill 124 by Senator Johns (Act 625)** exempts the Louisiana Board of Pharmacy and the Louisiana Board of Medical Examiners from limitations on disciplinary hearings by professional or occupational boards and commissions.

**Senate Bill 214 by Senator Mills (Act 357)** eliminates the requirements of using written documents to meet certain qualifications and notifications by those practicing as pharmacists in Louisiana, clearing the way for out-of-state pharmacists to practice in Louisiana on the basis of reciprocity.

#### Professional Licenses in General

**House Bill 1065 by Representative Broadwater (Act 434)** clarifies the provisions of the law regarding the updating of a professional license after the conversion of a domestic business entity. Additionally

provides that the updated license, certificate, or permit of a professional have an effective date retroactive to the effective date of the merger as stated on the certificate of merger.

#### **Banks/Banking/Financial Institutions**

##### **Senate Bill 164 by Senator Martiny (Act 30)**

with respect to all state banks, this act requires that all amounts loaned on an unsecured basis up to the limit in current law be added to all amounts loaned on a secured basis and the total thereof not exceed one half of the state banks's capital stock and surplus. Also provides a new, more stringent definition for "fully secured" and authorizes the Office of Financial Institutions to promulgate rules regarding the new law.

**Senate Bill 316 by Senator Martiny (Act 323)** provides with respect to the use of a power of attorney in a federally insured financial institutional setting, stating that when presented with an original or a certified true copy of a power of attorney stating specifically what access is due the holder of the power, the financial institution may rely on the authority designated in the power of attorney.

**Senate Bill 326 by Senator Broome (Act 234)** provides that beginning January 1, 2013, for a period of one year, the commissioner of financial institutions shall compile information and data from licenses concerning the operation, function, and customers of deferred presentment transactions and small loan businesses; particularly, the number of loans issued quarterly, the location of each licensee's business and the number of loans issued quarterly, and the number of checks returned unpaid and the fee paid by the licensee.

**House Bill 1128 by Representative Ponti (Act 220)** makes changes to various licensing renewal dates within the regulation of the Office of Financial Institutions.

##### **Senate Bill 120 by Senator Mills (Act 29)**

provides relative to immovable property owned by a bank and acquired such property from a failed or failing bank, an annual qualified appraisal shall be obtained for all property valued at more than \$250,000. (Raised value from \$100,000)

##### **Senate Bill 449 by Senator Martiny (Act 35)**

relative to state banks and the privileged nature of documents associated with any self-evaluation, self-assessment, self-testing, or self-correction, adding to the privileged category any of these documents those prepared by a third party service provider. States that such documents shall not be admissible as evidence except in certain limited situations.

#### **Utilities**

##### **Senate Bill 399 by Senator White (Act 328)**

provides relative to the powers and bylaws of electric cooperatives operating in Louisiana, allowing for a perpetual existence of such cooperative, adoption, amendment, or repeal of bylaws by the board of such cooperative, and provides for subjects which shall be appropriate as the subject of any bylaw.

##### **House Bill 824 by Representative Ponti (Act 103)**

relative to the excavation of underground utilities for the purpose of repair, requires notice to be given to a regional notification center within four hours of the beginning of an emergency excavation, within 12 hours of the beginning of an emergency excavation after a tropical storm or hurricane, or within 24 hours

of the beginning of an emergency evacuation after control of a wildfire emergency.

**Motor Vehicles**

**Senate Bill 175 by Senator Appel (Act 150)** requires any manufacturer or converter of motor vehicles, after a motor vehicle dealer terminates his franchise, to repurchase its products within thirty days after the dealer has met specific conditions. Contains provisions regarding specialty vehicle dealers and recreational products dealers.

## Constitutional Amendments

by: Tom Tyler  
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Joint resolutions proposing to amend the Louisiana constitution that receive the required two-thirds vote of each house of the legislature, will be submitted for voter approval at the November 6, 2012 statewide/presidential election.

### AD VALOREM TAX EXEMPTIONS

Our state constitution provides that in addition to the homestead exemption, only property listed in our constitution is exempt from payment of ad valorem taxes. This list of exempt property is found in Section 21 of Article VII of our constitution.

#### Veterans

The current additional \$7,500 homestead exemption available to disabled veterans which is also available to the veteran's surviving spouse will not be limited to whether or not the exemption was in effect prior to the veteran's death but continue for the surviving spouse under **Senate Bill 337 by Senator Amedee (Act 875)**

#### City of New Iberia

The governing authority of the city of New Iberia will be authorized to execute contracts for the exemption from property taxes for property annexed by the city after January 1, 2013 under **House Bill 497 by Representative Barras and Senator Mills (Act 869)**. These contracts must be approved by two-thirds of the governing authority of the city before they are effective. These contracts

can exempt the property owner from payment of property taxes for no more than five calendar years and may be renewed for up to an additional five years subject to approval by two-thirds of the members of the governing authority of the city.

#### Targeted Non-Manufacturing Businesses

**House Bill 674 by Representative Robideaux (Act 871)** proposes to grant an ad valorem tax exemption to property owned or leased by, and used by, a targeted non-manufacturing business in the operation of its facility, including buildings, improvements, equipment, and other property necessary or beneficial to such operation, according to a program and pursuant to contracts of exemption which contain such terms and conditions which shall be provided by law. This authority to contract for the exemption is available only in parishes which have agreed to participate, in the manner provided by law.

This exemption will not apply to land underlying the facility and other property pertaining to the facility on which ad valorem taxes have previously been paid, inventories, consumables, and property eligible for the manufacturing exemption provided elsewhere in the constitution. The exemption will not apply to the assessed valuation of the first \$10,000,000 or 10% of fair market value,



whichever is greater.

Defines a "targeted non-manufacturing business" to mean that at least 50% of the business' total annual sales from a site or sites in the state is to out-of-state customers or buyers, or to in-state customers or buyers but the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government, or any combination thereof will authorize the legislature to provide for the inclusion of sales by affiliates when appropriate in making the 50% determination.

## STATE FUNDS

### Special Fund Adjustments

The Medicaid Trust Fund for the Elderly will be protected under **Senate bill 82 by Senator Buffington (Act 873)** from provisions allowing the governor to reduce appropriations or allocations or make adjustments to monies in the Fund when a deficit is projected.

### Coastal Protection and Restoration Fund

Monies that may be coming to the state from violations of federal and state environmental and water quality laws associated with the Deepwater Horizon oil spill would have been dedicated to the Coastal Protection and Restoration Fund under **House Bill 812 by Representative Champagne (Senate calendar)**. The monies received will be used for integrated coastal protection efforts, including coastal restoration, hurricane protection, and improving the resiliency of the coastal area affected by the oil spill.

## EDUCATION

### Community Schools

The Southeast Baton Rouge Community

School System would have been regarded and treated as a parish with the same authority granted parishes, including the purposes of certain funding (MFP funding) and raising local revenues to support elementary and secondary schools. **Senate Bill 299 by Senator White (failed in House)** would have placed the Southeast Baton Rouge school system on the same level as the Central and Zachary community school systems in East Baton Rouge Parish, the municipalities of Baker, Monroe, and Bogalusa.

## BOARDS & COMMISSIONS

Under our current constitution following 15 member boards have two members from each congressional district and one from the state at large: the Board of Regents, the LSU, SU, and University of La. boards of supervisors, and the Board of Supervisors of Community and Technical Colleges.

**House Bill 524 by Representative Tim Burns (Act 870)** will provide that, starting January 3, 2013 and beginning every 10 years thereafter on the day the members of congress from newly reapportioned congressional districts take office, any vacancy that occurs on the respective board from a congressional district from which there are two or more board members is to be filled by appointment from a congressional district from which there are less than two members and after the membership includes two members from each congressional district, the next vacancy shall be filled by an appointment from the state at large.

Our current constitution provides that the State Civil Service Commission and the State Police Commission each have seven appointed members with not more than one

from each congressional district. **Act 870** will retain the seven appointed members but requires, that at least one member be appointed from each congressional district. Every 10 years beginning on the day the members of congress from newly reapportioned congressional districts take office, any vacancy that occurs on one of these commissions is to be filled from a congressional district from which there is no commission member - only when the membership includes a member from each congressional district may a vacancy be filled by an appointment from the state at large.

#### CONSTITUTIONAL RIGHTS

**Senate Bill 303 by Senator Riser (Act 874)** will retain the right of citizens to keep and bear arms and specifically states in our constitution that this is a fundamental right and it shall not be infringed. Any restriction on this right is to subject to strict scrutiny by the courts when determining if one's fundamental right has been infringed upon.

#### LOCAL OR SPECIAL LAWS

##### Special Districts

**Senate Bill 410 by Senator Claitor (Act 876)** will require publication of notice to introduce legislation creating a special district the primary purpose of which includes aiding in crime prevention in the district and includes providing increased presence of law enforcement personnel in the district. This notice of intent to introduce a bill creating the special district must be published on three separate days in the official journal of the locality where the special district is to be located. Publication must be without cost to the state and the last day of publication must be at least 30 days prior to introduction of the bill in the legislature.

#### RETIREMENT

##### Forfeiture of Benefits of Convicted Felons

Receipt of public retirement benefits will be expressly conditioned, under **House Bill 9 by Representative Ligi (Act 868)** upon the rendition of honorable service by a public official or employee. Under **Act 868** the legislature will be authorized to provide for forfeiture of all or part of public retirement benefits by any person who holds or held any public office or employment and who is convicted of a felony associated with and committed during his service in such public office or employment. The legislature will be further authorized to apply all or a part of any forfeited benefits to the unfunded accrued liability of the respective public system, plan, or fund.

This forfeiture provision will only apply to persons employed, re-employed, or elected on or after January 1, 2013 and only apply benefits earned on or after that date.

##### Retirement Legislation

**Senate Bill 21 by Senator Guillory (Act 872)** will place in the constitution the requirement that any bill to effect any change in laws relating to any retirement system for public employees be prefiled no later than five o'clock in the evening of the forty-fifth calendar day prior to the first day of a regular session.

## Corrections

by: *Tim Prather*  
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### Criminal Records

To assist in the continual upgrade of the Department of Public Safety and Corrections (DPS&C) computer network, **Senate Bill 96 by Senator Morrell (Act 532)**,



modifies the Integrated Criminal Justice Information System (ICJIS) which consists in part of the Corrections and Justice Unified Network (CAJUN) operated by DPS&C.

The upgrade renames one component of the system from the Corrections and Justice Unified Network (CAJUN) to the Corrections Offender Management System. It further renames another component of the system from the Juvenile Information Records Management System (JIRMS) to the Juvenile Electronic Tracking System (JETS).

**Senate Bill 213 by Senator Brown (Act 634)**, modifies the current law that authorizes any person who has been arrested for a misdemeanor or felony offense to request that the arrest record be expunged if the time limitation for prosecution of the offense has expired and no prosecution has been instituted, if prosecution has been instituted and the proceedings have been finally

disposed of by dismissal, if a motion to quash has been sustained, or if the person has been acquitted. If the court finds that such person is entitled to an expungement of his record, it will order all records of such arrest and disposition be destroyed and that any custodian of such records file a sworn affidavit to the effect that the destruction has taken place; however, prohibits expungement or destruction of sex offenses or DWI convictions.

Current law further provides that DPS&C may maintain a confidential, nonpublic record of such arrest and disposition. This information may be released, confidentially, for use by the following organizations:

- \* Law Enforcement Agencies and Criminal Justice Agencies.
- \* The Louisiana State Board of Medical Examiners.
- \* The Louisiana State Board of Nursing.
- \* The Louisiana State Board of Examiners of Psychologists.
- \* The Emergency Medical Services Certification Commission.
- \* Louisiana Attorney Disciplinary Board Office of Disciplinary Counsel.

- \* The Louisiana Supreme Court Committee on Bar Admissions.

The Act adds the Louisiana Department of Insurance to the list of those organizations authorized to receive and use these confidential, nonpublic records of arrest.

Along the same lines, **Senate Bill 403 by Senator Morrell (Act 776)**, modifies the procedure of expungement and destruction of criminal records of arrests and convictions. Presently, a court is prohibited from ordering the destruction of any record of the arrest and prosecution of any person convicted of a felony, including a conviction dismissed pursuant to C.Cr.P. Art. 893 and 894.

The Act authorizes the expungement of the record of a felony conviction of any person if all of the following conditions are met:

- \* The person was convicted of a nonviolent first offense felony for distribution, dispensing, or possession with intent to produce, manufacture, distribute, or dispense amphetamine, methamphetamine, cocaine, oxycodone or methadone when the amounts involved of such substances was 28 grams or less.
- \* The person was committed to DPS&C and successfully completed the intensive incarceration program (IMPACT).
- \* The person has not been convicted of any other offense since completion of his sentence.

- \* The person has no criminal charge pending against him.

- \* A minimum of 10 years has passed since completion of his sentence.

- \* The person has not received a prior expungement of a felony pursuant to C.Cr.P. Art. 893.

Relative to law enforcement, **Senate Bill 452 by Senator Walsworth (Assigned to House & Governmental Affairs)**, would have altered existing law relative to certain records or information held by law enforcement agencies and communication districts not being subject to disclosure. The bill would authorize the disclosure of the booking photograph of any person arrested for an alleged offense.

#### Corrections

Relative to executions, **House Bill 120 by Representative Lopinto (Act 172)**, provides certain protections for those persons requested to attend or those persons participating in the execution of a death sentence and provides for the confidentiality of the identities of certain attendees. Currently, the presence of certain persons at the execution of a death sentence including the operator of the electric chair was required.

The Act removes the requirement that the operator of an electric chair be present at every execution of a death sentence. Furthermore, any person who is requested to attend an execution would not be required to attend, and the refusal to attend would not be used in any disciplinary action or negative job performance citation against such person.

Relative to confinement, **House Bill 123 by Representative Lopinto (Act 171)**, provides for restitution for expenses incurred for an escape or attempted escape from any facility an offender is legally assigned.

Currently, restitution may be obtained by corrections services from an offender for expenses incurred by DPS&C or any other law enforcement agency in any escape or attempt to escape from the custody of any facility of the department. The amount of restitution will be the actual costs incurred, including but not limited to property damage, staff transportation and lodging, salaries for the duration of the chase, and costs of return of the offender.

The Act provides that restitution may be obtained for an escape or attempted escape from any place where the offender is legally confined, specifically applicable to all penal, correctional, community rehabilitation centers, transitional work programs, hospitals, clinics, and any and all programs where offenders are legally assigned.

#### Pardon/Parole

Addressing the problem of prison overcrowding, **House Bill 121 by Representative Lopinto (Act 241)**, provides for a comprehensive revision of the current laws relative to parole, including the following changes:

- \* Requires reporting to the parole officer no later than 48 hours after being placed on parole.
- \* Specifies that the parolee avoid bars and casinos and refrain from the use of

illegal drugs or alcohol.

- \* Removes provision specifying a supervision fee of \$63 and replaces it with the requirement that a person released on parole shall pay supervision fees set by DPS&C as provided by law.
- \* Removes requirement that parolee perform at least 100 hours of unpaid community service.
- \* Removes requirement that parolee devote himself to an approved reading program.
- \* Removes provision regarding additional conditions of parole.

The Act provides that if parole is revoked for any reason, all good time earned or any additional credits earned or which could have been earned on that portion of the sentence served prior to the granting of parole will be forfeited, and the parolee will serve the remainder of the sentence as of the date of release on parole.

Also attempting to manage overcrowding, **House Bill 122 by Representative Lopinto (Act 173)**, provides that an individual housed at a local parish facility awaiting trial who has not yet been convicted or who has not been sentenced to the custody of the department may be housed in a facility under the control of the department if all of the following occur:

- \* The sheriff requests that the individual be housed by the department.

- \* The secretary of the department agrees to the transfer.
- \* The individual has been determined by the sheriff to be dangerous, an escape risk, or afflicted with a physical or mental disorder warranting housing by the department.

The Act provides that the sheriff or the governing authority of those parishes in which the governing authority operates the local parish facility shall reimburse the department at the rate of \$24.39 per day for keeping and feeding the individual in the department facility and will also reimburse the department for the cost of extraordinary medical expenses incurred for the individual. Furthermore, individuals housed in a facility under the control of the department at the request of the sheriff shall be housed separate and apart from offenders who have been sentenced to confinement at hard labor.

Considering the cost of confinement, **House Bill 228 by Representative P. Smith (Act 181)**, authorizes the earning of additional good time by certain habitual offenders for participation in certain rehabilitation and treatment programs. Currently, the secretary of DPS&C, through the adoption of rules and regulations for local jail facilities and state correctional institutions, encourages voluntary participation by inmates in certified treatment and rehabilitation programs, including but not limited to basic education, job skills training, values development, faith-based initiatives, therapeutic programs, and treatment programs.

Furthermore, when funds are provided, such educational programs will be available at each penal or correctional institution under the

jurisdiction of the department. The rules and regulations may include provisions for furloughs or the awarding of good time for offenders who are otherwise eligible. Offenders may be awarded up to 90 days good time for satisfactory participation in each approved program, but no offender will receive more than 250 days total good time for program participation. Certain habitual offenders would be prohibited from earning good time diminution of sentence.

The Act allows a habitual offender, in the custody of DPS&C, who was not convicted of a sex offense or a crime of violence, to earn additional good time for participation in certified treatment and rehabilitation programs.

#### Risk Review

**House Bill 432 by Representative Lopinto (Act 123)**, repeals the statutory authority for the La. Risk Review Panel.

The risk review panel evaluated the risk of danger to society posed by each person convicted of a crime who is confined in a prison facility if released from confinement.

The following persons were excluded from this evaluation by the panel:

- \* A person convicted of a crime of violence.
- \* A person convicted of a sex offense when the victim is under the age of 18 at the time of commission of the offense.

- \* Certain controlled dangerous substance violations.
- \* A person sentenced as a habitual offender where one or more of the crimes for which the person was convicted is a crime of violence.



## Crimes/Criminal Procedure

by: *Alden Clement*  
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The Regular Session of 2012 saw the creation of several new crimes, changes to the definitions and penalties for a number of existing crimes, and changes to various areas of criminal procedure.

### NEW CRIMES

The Penn State scandal saw proposals in several states to address the reporting of sexual abuse of students. **Senate Bill 4 by Senator Morrell (Act 614)** provides that certain "mandatory reporters" can be fined up to \$500 or imprisoned for up to six months for knowingly and willfully failing to report the abuse or neglect of a child. These fines and prison terms increase under certain conditions, such as if the abuse or neglect results in serious bodily injury, neurological impairment, or death. Further, any person 18 years of age or older who witnesses the sexual abuse of a child and knowingly or willfully fails to report to law enforcement or the Department of Public Safety and Corrections can be fined up to \$10,000 or imprisoned for up to five years.

**Senate Bill 59 by Senator Morrell (Act 616)** makes it a crime for any person to employ or otherwise utilize any juvenile to distribute or possess with the intent to distribute heroin, methamphetamine, or cocaine, and further makes it a crime for any person to entice, coerce, aid, or permit any juvenile to be on the premises or in any motor vehicle where the

distribution or possession with intent to distribute of heroin, methamphetamine, or cocaine is being committed.

In the wake of the verdict in the Casey Anthony case, and the circumstances surrounding the disappearance and death of her daughter Caylee, many states have considered their own versions of "Caylee's Law." **Senate Bill 75 by Senator Kostelka (Act 477)** provides that a child's caretaker must report to an appropriate authority that a child is missing within 26 hours when the child is over the age of 13 years, and within 14 hours when the child is 13 or younger. Among other penalties, if the child is found dead or determined to be dead, then the offender is to be imprisoned at hard labor for between two and fifty years and fined up to \$50,000.

**Senate Bill 121 by Senator Kostelka (Act 535)** creates the crime of domestic abuse aggravated assault, which is an assault with a dangerous weapon committed by one household member upon another household member. This crime would be a companion to the current law crime of domestic abuse battery, and would increase the penalty over what is





presently available for aggravated assault.

**Senate Bill 199 by Senator Kostelka (Act 540)** creates the crime of illegal transmission of monetary funds, which is defined as transmitting, attempting to transmit, causing to be transmitted, soliciting a transmission, or receiving a transmission, with the intent to defraud, by wire or radio signal, any stolen or fraudulently obtained monetary funds, and carries a penalty of up to 10 years imprisonment or a fine of up to \$100,000, or both. In addition, the offender must make full restitution to the victim and to any other person who has suffered a financial loss as a result of the offense.

**Senate Bill 243 by Senator Martiny (Act 638)** makes it unlawful for any person having knowledge of the commission of any homicide, rape, or sexual abuse of a child to fail to report or disclose such information to a law enforcement agency or district attorney.

**Senate Bill 616 by Senator Morrell (Act 839)** makes it unlawful for any person to knowingly create, design, manufacture, sell, purchase, lease, install, update, repair, service, transfer, use, or possess or otherwise make available any automated sales suppression device ("zapper") or phantom-ware. These devices and software can be used to falsify the records of electronic cash registers, including transaction data and transaction reports, in order to avoid payment of collected sales taxes to the state.

**Senate Bill 686 by Senator Adley (Act 846)** adds to the definition of obscenity the unsolicited transmission of a text message containing sexually explicit material.

**House Bill 48 by Representative Harris (Act 164)** creates the crime of theft of copper and other metals.

**House Bill 96 by Representative Moreno (Act 375)** creates the crime of online impersonation, making it unlawful for any person, with the intent to harm, intimidate, threaten, or defraud, to intentionally impersonate another actual person, without the consent of that person, in order to open an e-mail account, any other type of account, or a profile on a social networking website or other Internet website, or to post or send one or more messages on or through a social networking website or other Internet website.

#### **CONTROLLED DANGEROUS SUBSTANCES**

Several bills would add new drugs and other substances to the schedules of controlled dangerous substances, or otherwise prohibit their sale or possession.

**Senate Bill 130 by Senator Crowe (Act 355)** adds "Mitragyna speciosa" to the list of prohibited plants.

**Senate Bill 195 by Senator Mills (Act 345)** adds phenazepam to the list of Schedule I controlled dangerous substances.

**Senate Bill 196 by Senator Mills (Act 315)** adds Ezogabine to the list of Schedule V controlled dangerous substances.

#### **DWI**

**Senate Bill 533 by Senator Mills (assigned to Senate Finance committee)** would have required persons convicted of first or second

offense operating a vehicle while intoxicated, in addition to existing penalties, to undergo an evaluation by the Department of Health and Hospitals (DHH) to determine the nature and extent of the offender's substance abuse disorder and participate in any treatment program recommended by DHH. First and second offenders who are placed on probation under certain circumstances also would have been required to undergo an evaluation by DHH.

Two bills addressed mandatory jail time for certain persons convicted of operating a vehicle while intoxicated.

**Senate Bill 687 by Senator Perry (pending in Finance committee)** would have required 48 hours of mandatory jail time for persons convicted of first offense operating a vehicle while intoxicated.

**House Bill 47 by Representative Mack (Act 571)** requires 30 days of mandatory jail time for persons convicted of second offense operating a vehicle while intoxicated.

## WEAPONS

**Senate Bill 78 by Senator Morrish (Act 302)** excludes from the definition of illegal carrying of weapons the following kinds of knife: (1) any knife that may be opened with one hand by manual pressure applied to the blade or any projection of the blade and (2) any knife that may be opened by means of inertia produced by the hand, wrist, or other movement, provided the knife has either a detent or other structure that provides resistance that must be overcome in opening the blade or a spring load toward the closed position.

**Senate Bill 255 by Senator Morrell (Act 320)** changes the elements of the crime of aggravated assault with a firearm so that discharge of a firearm is not required, but merely that the offense is committed with a firearm, and increases the penalties to a fine of not more than \$10,000, or imprisonment with or without hard labor for not more than 10 years, or both.

**Senate Bill 572 by Senator Morrell (Act 335)** makes it unlawful for a person: (1) to knowingly solicit, persuade, encourage, or entice a licensed dealer or private seller of firearms or ammunition to sell a firearm or ammunition under circumstances that the person knows would violate the laws of this state or of the United States; (2) to provide to a licensed dealer or private seller of firearms or ammunition what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of a sale of a firearm or ammunition; or (3) to willfully procure another person to engage in such prohibited conduct.

**House Bill 4 by Representative Lopinto (Act 478)** increases the penalties for possession of or dealing in firearms with obliterated serial numbers.

## SEX OFFENSES & OFFENDERS

**Senate Bill 377 by Senator Gary Smith (Act 552)** expands the information and changes in information that a registered sex offender must report to local law enforcement agencies.

**Senate Bill 753 by Senator Erdey (Act 693)** makes it unlawful for a sex offender, when the victim was under the age of 13 years, to be physically present in or on public library

property, and prohibits loitering by a sex offender within 1000 feet of public library property. This bill further requires, by January 1, 2013, each governing board of a public library to develop and implement a plan to regulate access of sex offenders to the public library property under its jurisdiction.

**House Bill 70 by Representative St. Germain (Act 42)** prohibits a sex offender from (1) establishing a residence or physically residing within three miles of the victim of the offense for which he was convicted, (2) knowingly being physically present within 300 feet of the victim of the offense for which he was convicted, or (3) communicating with the victim of the offense for which he was convicted or an immediate family member of the victim, unless the victim consents to such communication in writing.

**House Bill 620 by Representative Thierry (Act 205)** clarifies current law by specifically making it unlawful for registered sex offenders to use "social networking websites," and removes a current law provision that allows the sex offender to get permission to use social networking websites from his probation or parole officer or the court of original jurisdiction.

#### **CRIMINAL PROCEDURE**

**Senate Bill 5 by Senator Murray (failed House final passage)** would have reversed present law so as to allow jurors in criminal cases to take notes during trial and use these notes during the jury's deliberations.

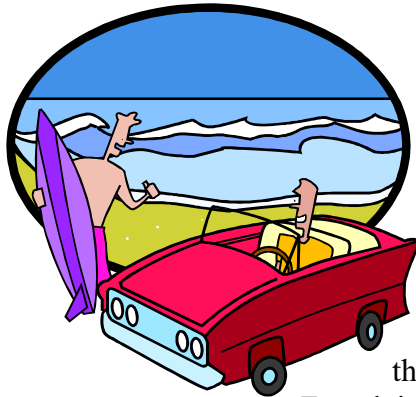
**Senate Bill 482 by Senator Perry (subject to call-Senate final passage)** would have prohibited the deposition of a child victim in

the prosecution of any crime of rape, sexual battery, or incest, trafficking of children for sexual purposes, and certain other sexual offenses, except by agreement of the parties or after approval of the court.

**Senate Bill 659 by Senator Martiny (Act 842)** provides for exceptions to grand jury secrecy, including disclosure to other prosecutorial entities and experts of material that is favorable to the defendant, and any statement of a witness that is inconsistent with the witness's grand jury testimony.

**House Bill 90 by Representative Mack (Act 169)** provides that a search warrant may issue upon probable cause, established to the satisfaction of the judge issuing the warrant, by the electronic testimony of a credible person reciting facts establishing the cause for issuance of the warrant. For purposes of this new law, "electronic testimony" means any method of communication, whether wired or wireless or any combination thereof, in which text or images may be transferred electronically from one person to another, and includes but is not limited to text messages and electronic mail.

## Culture, Recreation & Tourism



### CULTURE

by: Alan Miller  
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**House Bill 579 by Representative Ortego (Act 202)** provides that the official working language of the Council for the Development of French in Louisiana (CODOFIL) and its employees shall be French. The Act authorizes the council to identify itself as "Office of Francophone Affairs" in English or "Agence des Affaires Francophones" in French, to reflect its educational, social, economic development, and diplomatic missions. CODOFIL is an office within the Dept. of Culture, Recreation and Tourism (DCRT) established to preserve, promote, and develop La.'s French and Creole culture, heritage, and language.

**House Bill 640 by Representative G. Jackson (Act 97) and Senate Bill 315 by Senator Amedee (Act 322)** re-creates the DCRT and its statutory entities, effective June 30, 2012, in accordance with the "Sunset" law.

**Senate Bill 622 by Senator Amedee (Act 338)** provides that the lieutenant governor will perform all duties, functions and responsibilities of the secretary of culture, recreation and tourism, in lieu of appointing a secretary of culture, recreation and tourism, at the discretion of the lieutenant governor.

**Senate Bill 353 by Senator Murray (Act 324)** designates the month of March each year as Irish-American Heritage Month.

**Senate Bill 712 by Senator Lafleur (Act 851)** creates and provides for an exploratory committee to develop a plan regarding the establishment of an international language immersion school at the University of Louisiana at Lafayette. The bill further requires the committee to submit a written report and implementation plan to the Senate Committee on Education and House Committee on Education not later than March 31, 2013.

**House Concurrent Resolution 23 by Representative Ortego (Filed with the sec of state)** creates the Uniform Bilingual Signage and Map Task Force comprising eleven members to study, evaluate, analyze, and review the feasibility of producing an official state map in French and uniform bilingual highway signage and requires the committee to submit a written report of its findings and recommendations to the House and Senate committees on transportation, highways, and public works by March 1, 2013.

**House Concurrent Resolution 41 by Representative Ortego (Filed with the sec of state) and Senate Concurrent Resolution 42 by Senator Perry (Filed with the sec of state)** designate the city of Scott as the Boudin Capital of the World.

**House Concurrent Resolution 45 by Representative Robideaux (Filed with the sec of state) and Senate Concurrent Resolution 105 by Senator Cortez (Filed with the sec of state)** commend the city of Lafayette upon being named "The South's Tastiest Town 2012" by Southern Living Magazine.

**House Concurrent Resolution 46 by Representative Ortego (Filed with the sec of state)** requests that state agencies, when translating information from the English language to the French language, make every effort to make such translations using Louisiana French.

**House Concurrent Resolution 48 by Representative Kleckley (Filed with the sec of state) and Senate Concurrent Resolution 76 by Senator Alario (Filed with the sec of state)** commemorate the Louisiana Bicentennial of statehood and recognize the year-long celebration.

## RECREATION

*by: Tammy Crain Waldrop  
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**Senate Bill 315 by Senator (Act 322)** re-creates the DCRT for four more years it was to begin to terminate its operations July 1, 2012 and all legislative authority for such entities were to cease as of July 1, 2013 this law changes the date to July 1, 2017 and the date to begin to terminate its operations on July 1, 2016.

**Senate Bill 360 by Senator Martiny (Act 326)** provides for the distribution and sale of marine products, motorcycles, all-terrain vehicles, and recreational vehicles and further defines those definitions.

**Senate Bill 483 by Senator Perry (Act 661)** allows golf carts to be driven by licensed and insured drivers on the roadways of Palmetto Island State Park.

**Senate Bill 622 by Senator Amedee (Act 338)** authorizes the lieutenant governor to perform the duties, functions and responsibilities of the secretary of culture, recreation and tourism. It states that

a secretary may be appointed instead of shall and if no secretary is appointed the lieutenant governor will carry out the functions.

**Senate Bill 751 by Senator Morrish (Act 751)** provides relative to product shows this bill removes recreational products from present law and authorizes shows where recreational products are displayed and promoted for sale and provides that no final sale and delivery of a recreational product shall occur at such show except by a licensed Louisiana dealer. Provides for certain criteria to be met. It also adds definitions and clarifies the following terms: "Fairs or Festivals", "National show", "Nonresident or non-Louisiana", "Producer", "Rally", "Regional show", and "Show or recreational product show". Adds requirement that non-Louisiana recreational products dealers, distributors, and manufacturers submit a registration fee of \$100 to the La. Motor Vehicle Commission. It exempts any rally or display of recreational products which is a part of a bona fide fair or festival held in this state.

**Senate Concurrent Resolution 76 by Senator Alario (filed with sec of state)** commemorates the Louisiana Bicentennial of statehood and recognizes the many exciting events throughout the year-long celebration.

**Senate Resolution 32 by Senator Murray (filed with sec of state)** establishes the Major Event Funding Study Committee for the purpose of determining the feasibility of establishing trust funds to support the hosting of major events in Louisiana.



## TOURISM

by: *Linda Nugent*  
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### DEPARTMENT OF CULTURE, RECREATION AND TOURISM

Commonly referred to as the "Sunset Law", R.S. 49:190-199 provides for the termination of statutory entities and the re-creation of such entities after the appropriate legislative committees have reviewed each entity and determined that there is a public need for the entity. Legislation was introduced in both houses of the legislature to statutorily re-create the DCRT (**Senate Bill 315 by Senator Amedee (Act 322)** and **House Bill 640 by Representative G. Jackson (Act 97)**).

Under the provisions of **Senate Bill 622 by Senator Amedee (Act 338)**, the lieutenant governor would be authorized to appoint a secretary of the DCRT; current law requires the lieutenant governor to appoint a secretary. The legislation further provides that if a secretary is not appointed, the lieutenant governor would perform the duties, functions and responsibilities of the secretary.

### **THE FRENCH CONNECTION**

Louisiana's French heritage is well known the world over and is part of the attraction for visitors from other states and other nations.. Lawmakers considered several pieces of legislation this session both to honor and preserve that heritage and to promote tourism.

Providing an official state map in the French language and uniform bilingual highway signage could encourage the preservation of our French heritage and provide important services to both French speaking visitors and residents. The Uniform Bilingual Signage and Map Task Force will be created through **House Concurrent Resolution 23 by Representative Ortego (filed with Secretary of State)**. The resolution directs the task force to study, evaluate, analyze and review the feasibility of producing an official state map in the French language and uniform bilingual highway signage.

The CODOFIL is statutorily charged with preserving, promoting and developing Louisiana's French and Creole culture, heritage and language. Among its purposes is to oversee developing and expanding tourism activities designed to promote our French culture, heritage and language. **House Bill 579 by Representative Ortego (Act 202)** requires that the official working language of CODOFIL and its employees shall be French, and it authorizes CODOFIL to identify itself as "Office of Francophone Affairs" in English or "Agence des Affaires Francophones" in French.

Planning the establishment of an international language immersion school at the University of Louisiana at Lafayette would be the goal of an exploratory committee created by **Senate Bill 712 by Senator LaFleur (Act 851)**. Among other things, the committee would determine the curriculum to be offered, including French as the primary immersion language, and the feasibility of opening the school by the beginning of the 2014-2015 school year. Requires the submission of a written report and implementation plan to the Senate and House committees on education by March 31, 2013.

### **SCENIC RIVER**

Bayou Teche, a 135-mile waterway flowing from Port Barre to Morgan City, was once the main course of the Mississippi River and is of great cultural and historic significance in South Louisiana. **House Concurrent Resolution 49 by Representative Ortego (filed with Secretary of State)** requests the Department of Wildlife and Fisheries to study the possibility of including Bayou Teche in the Historic and Scenic Rivers program. Inclusion of the waterway into the program would increase acknowledgment of Bayou Teche for its historic and cultural value and help to increase tourism on the bayou and in communities along the bayou.

## LOCAL TOURISM

Several bills were considered affecting tourism districts across the state and the tax collections generated within the districts.

- The Tangipahoa Parish Tourist and Film Commission is renamed the *Tangipahoa Parish Tourist Commission* under the provisions of **Senate Bill 178 by Senator Nevers (Act 313)**.
- *Visit Baton Rouge* becomes the new name of the Baton Rouge Area Convention and Visitors Bureau as provided by **House Bill 414 by Representative Barrow (Act 256)**.
- Monies in the St. Martin Parish Enterprise Fund, subject to annual appropriation by the legislature, are to be used by the St. Martin Parish Tourist Commission for tourism purposes. **Senate Bill 549 by Senator Mills (Act 367)** provides that the monies in the fund shall be used by the St. Martin Parish government for tourism and economic development purposes.
- Changes in the levying of hotel occupancy taxes and the allocation of hotel occupancy tax revenues collected by the Vermilion Parish Tourist Commission are contained within **Senate Bill 600 by Senator Perry (Act 673)**. The 3% hotel occupancy tax now levied and the current allocation of the tax revenues would terminate December 31, 2012, under the provisions of Senate Bill 600. Effective January 1, 2013, the tourist commission could then, subject to approval of the voters in the parish, levy a 2% hotel occupancy tax. The bill would require one-half of the revenues generated to be used for tourism promotion and one-half for youth recreation purposes in the parish.
- Certain state revenues from riverboat gaming operations in Bossier and Caddo parishes would have been dedicated to the Caddo-Bossier Economic Development and Tourism Fund by **House Bill 1216 by Representative Thompson (assigned to Senate Finance)** is enacted. Monies in the fund, created in the proposed law, would be appropriated for specific tourism and economic development purposes.



## Economic Development

by: *Michelle Ducharme*  
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### Department of Economic Development

**Senate Concurrent Resolution 138 by Senator Gallot and Representative Dixon (filed with sec of state)** requests the Red River Waterway Commission and the Department of Economic Development (DED) to make a report on economic development opportunities and strategies for the Red River area between Alexandria and Pineville. This report is due to the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs by February 1, 2013.

**House Bill 178 by Ponti (Act 57) and Senate Bill 426 by Senator Martiny (Act 392)** provides that proprietary and trade secret information submitted to the DED for economic development purposes is exempt from the public records law.

**House Bill 208 by Ponti (Act 180) and Senate Bill 171 by Senator Martiny (assigned to House and Governmental Affairs)** removes the sunset period for the confidentiality of information submitted to the DED for the purposes of economic development negotiations. As introduced, the bill extended the sunset period, but throughout the legislative process, the sunset period was removed.

**House Concurrent Resolution 170 by Montoucet (filed with sec of state)** requests the governor and the DED embrace and

support any and every activity, project, or opportunity that could provide monetary aid to local political subdivisions to provide infrastructure or services supporting businesses interested in locating or in the process of building or expanding in a rural or lower populated area, thus creating job growth and stimulating the economy.

### International Commerce

**Senate Bill 723 by Appel et al. (Act 687)** creates the Louisiana International Commerce Initiative. The bill seeks to maximize the ability of Louisiana's international ports to bring commerce to Louisiana in a coordinated manner. The office of international commerce will be created within the DED serve as the authority on behalf of the state to advance the state's international commerce economic section. The legislation creates the Louisiana Board of International Commerce and sets forth specific duties relating to international commerce for the secretary of the DED and the board.

One of the most significant duties of the board is to develop the Master Plan of International Commerce. The strategy of the master plan and the successful execution of projects detailed in the master plan will position Louisiana as a leader in international commerce. The board shall also prepare an annual report describing the status of all projects in the master plan. The House Committee on Commerce, the Senate

Committee on Commerce, Consumer Protection, and International Affairs, the House Committee on Transportation, Highways, and Public Works, and the Senate Committee on Transportation, Highways, and Public Works will have oversight of the master plan and each committee will receive a copy of the annual report. In addition to the oversight of the master plan by four committees, the entire legislature shall also have an opportunity to approve the master plan each year.

### **Military**

**House Bill 936 by Representative Danahay (Act 810) and Senate Bill 250 by Senator John Smith (assigned to Senate Committee on Commerce, Consumer Protection, and International Affairs)** were introduced this session to create the Louisiana Military Advisory Council. The council will be established within the DED.

The council shall provide a public forum for issues concerning the installations and units of the armed forces located in Louisiana and the military and retired military personnel and the families who reside in Louisiana. The council is also charged with formulating goals and objectives to enhance cooperation, coordination, communication, and understanding amount the military, the United States Department of Defense, the Louisiana congressional delegation, the communities in the state interfacing with the military, and state and local government agencies. A very important duty of the council is to, in partnership with the Department of Economic Development and local communities, conduct ongoing analyses of current and proposed changes to the mission of the military force

structure and alignment of the United States Department of Defense.

The council's responsibilities are significant and the legislation gives the council the ability to create small working groups to fulfill its statutory duties. The legislation also directs almost all public entities to cooperate with the council in implementing this legislation.



## K-12 Education

by: *Jeanne Johnston*  
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### EARLY CHILDHOOD EDUCATION

**Senate Bill 581 by Senator Appel (Act 3)** provides for the Early Childhood Education Act which provides for the creation of a comprehensive and integrated network through which to manage and oversee publicly-funded early childhood education programs by July 1, 2013. The goal is to establish performance targets and kindergarten readiness standards, as appropriate, for children through age four and create a uniform assessment and accountability system for publicly-funded early childhood education programs that includes a performance letter grade. Directs BESE to coordinate with the Dept. of Children and Family Services and the Dept. of Health and Hospitals to align the licensing standards for child care facilities, including participation in the La. Quality Start Child Care Rating System, with the standards established for early childhood education programs.

### MINIMUM FOUNDATION PROGRAM AND FORMULA

There was considerable discussion during the 2012 Regular Session regarding the MFP, what should and should not be included for funding within the formula, and how legislative approval of the formula should be granted.

### Senate Concurrent Resolution 99 by Senator Appel (Sent to Secretary of State)

Provides for legislative approval of the formula for FY 2012-13 to determine the cost of a minimum foundation program (MFP) of education in all public elementary and secondary schools as well as to equitably allocate the funds to local school systems (including the Recovery School District, the LSU and SU laboratory schools, the Office of Juvenile Justice schools, the La. School for Math, Science, and the Arts, the New Orleans Center for Creative Arts, Type 2 Charter schools, the Student Scholarships for Educational Excellence Program, the Special School District, and the La. School for the Deaf and Visually Impaired) as developed by the State Board of Elementary and Secondary Education (BESE) and adopted by the board on February 27, 2012.

This new formula differs significantly from those in past years in that it captures all K-12 students and schools, including those traditionally funded outside of the formula - the La. School for Math, Science, and the Arts, the New Orleans Center for Creative Arts, Legacy Type 2 charter schools, the La. School for the Deaf and Visually Impaired and all other schools and programs within the Special School District, and most notably, MFP funding is provided for the first time for students attending nonpublic schools under the Student Scholarships for Educational

Excellence Program. Another major departure from formulas of the past is that for the first time, the local portion of the calculated MFP per-pupil amount is captured and designated for transfer by the state to the schools and school systems in which these pupils are enrolled.

The 2012-13 MFP, for the fourth consecutive year, does not provide for the customary 2.75% increase in the base per pupil amount to help offset inflation and other cost increases.

The cost of the MFP for the 2012-2013 fiscal year is \$3.422 billion, which includes an increase of \$35 million for increases in student enrollment, local revenue adjustments to districts' wealth, and the inclusion of additional schools and programs previously funded outside of the formula.

The formula also:

1. Retains the same base per pupil amount of \$3,855 used in FY 2008-2009, FY 2009-2010, FY 2010-2011, and FY 2011-2012.
2. Retains the same weights for at-risk, special education (including gifted and talented), and career education students used in FY 2008-2009, FY 2009-2010, FY 2010-2011, and FY 2011-2012.
3. Retains the \$100 per pupil allocation for mandated costs involving health insurance, retirement, and fuel used in FY 2008-2009, FY 2009-2010, FY 2010-2011, and FY 2011-2012.
4. Continues the phase-out of "hold-harmless" funding over 10 years, which began in FY 2007-2008, for specified school systems. Since the phase-out of hold harmless funding began, the 10% reduction amount was redistributed to all non-hold harmless districts. The FY 2012-2013 formula instead provides that these funds will be used to provide monetary rewards for high performing schools.
5. Continues suspension of the requirement that certain school systems and schools use 50% of "new" funds derived when the 2.75% growth factor is provided for in the formula for pay increases and related retirement costs for certificated employees.
6. Retains requirement that 70% of local school system general fund expenditures be in the areas of instruction and school administration at the school building level. Provides for consequences for a school system that fails to meet this requirement and permits a waiver for noncompliance if the school system has a District Performance Score (DPS) at or above the state average.
7. Provides for October and February mid-year adjustments based on increases and decreases in student enrollment.
8. Provides funding for educational service providers that provide BESE approved online courses to public school students attending schools with

a school performance letter grade of "C", "D", or "F".

9. Includes provisions for future funding of the Early High School Graduation Scholarship Program which is targeted for implementation in FY 2013-2014.
10. Provides that BESE will encourage school districts to explore utilizing student-based budgeting as a tool to improve student achievement.

**Senate Bill 726 by Senator Claitor ( House Education Committee) and Senate Bill 716 by Senator Adley (Senate Education Committee)** would have established a method specifying the process by which legislative approval of the MFP formula would be granted and provide direction to BESE regarding what elements properly belonged in the formula. The legislation specified that legislative approval of the MFP formula would be granted by means of a concurrent resolution which may originate in either the Senate or the House of Representatives and further specified that the MFP formula annually submitted to the legislature shall not contain language that is not integral to the actual mathematical computations necessary to determine the cost of the MFP and the equitable allocation of the funds to parish and city school systems as required by the state constitution. Would have prohibited the MFP formula from containing opinion, policy statements, or directives to DOE, or any other entity, that did not bear directly upon the actual mathematical computations and allocation of funds within the formula and shall not prospectively create, provide funding for, or make reference to any program or initiative that will not be implemented or

operative in the fiscal year for which the formula was designated to apply.

**Senate Bill 728 by Senator Claitor (Senate Education Committee)** would have required BESE, in fulfilling its responsibilities to provide a free and appropriate education to students with exceptional needs and to create additional educational options for such students, to consider all of the strengths and needs of special education students, other than gifted and talented students, and include the cost of providing the specifically designed instruction and support necessary to enable such students to reach their highest academic potential when developing and adopting the minimum foundation program and formula.

#### SCHOOLS AND SCHOOL DISTRICTS

**Senate Bill 563 by Senator White (Act 797)** creates and provides for the Southeast Baton Rouge Community School System as a separate school system in East Baton Rouge Parish and provided for a school board and geographic boundaries for the new school system. Although this enabling legislation gained legislative approval, the constitutional amendment necessary for the new school system to be eligible for MFP funding and to have taxing authority, **Senate Bill 299 by Senator White (Failed House Final Passage)** did not receive the two-thirds vote required for final passage, rendering the provisions of this legislation ineffective.

**Senate Bill 305 by Senator White (House Education Committee) and House Bill 609 by Representative Seabaugh (House Calendar)** were proposed constitutional amendments which, if approved by the voters, would have allowed the legislature to create

new school districts without the necessity for passage of a constitutional amendment to allow newly created school districts not specifically named in the state constitution to be eligible for inclusion in the MFP and to have taxing authority.

**Senate Bill 745 by Senator Nevers (Act 691)** as authorized by the state constitution, provides for the consolidation of two or more public school systems, subject to approval by a majority of the electors voting in each affected school system.

### SCHOOL BOARDS

**House Bill 292 by Representative Pugh (Act 386)** Provides for an election to be held on Nov. 6, 2012, in local school districts that do not currently impose term limits on school board members to determine whether the members of the school board in each respective district shall have term limits of three consecutive four-year terms. Specifies that if such term limitation is approved by a majority of the qualified electors, then each member of the school board of that district who at the end of his term of office will have served as a member for more than 2-½ terms in three consecutive terms, such service being during terms that began on or after Jan. 1, 2014, shall not be elected to the board for the succeeding term. Provides that if a majority of the qualified electors vote against such proposition, then the term limitation shall not apply in that district. Provides that proposed law shall not be applicable to the Recovery School District, the governing authority of any charter school, school districts where voters have already approved term limits for school board members (Lafayette Parish), or school districts in which school board members are

subject to term limits by law (Jefferson Parish).

### SCHOOL CHOICE

**House Bill 976 by Representative Carter (Act 2) and Senate Bill 597 by Senator Appel (Senate Finance Committee)** expands the school choice options available to parents and students as follows:

1. Provides for the transfer of a public school with a school performance letter grade of "D" or "F" to the Recovery School District if the parents/legal guardians of a majority of the students attending the school sign a petition requesting the transfer and the transfer is approved by BESE.
2. Makes numerous changes to the Charter School Law:
  - (a) Streamlines the charter application approval process and requires development of a common charter application.
  - (b) Allows BESE to authorize multiple charter schools for groups outside of the state with a demonstrated record of success and allows BESE to authorize chartering groups to operate more than one charter school under a single charter agreement.
  - (c) Allows a chartering group in a school system with a performance letter grade of "D" or "F" to apply directly to

BESE for a Type 2 charter without first applying to the local school board.

- (d) Deletes requirement that at least 75% of the faculty in a charter school be certified by the state and instead provides that teachers in a charter school must have a baccalaureate degree.
  - (e) Creates a new type of charter school, Type 1B, and requires BESE to establish procedures by which to certify "local charter authorizers" to authorize Type 1B charter schools. Local charter authorizers will serve as an alternative method to local school boards and BESE by which a chartering group may be granted a charter to operate a public school. Provides that state agencies and nonprofit corporations with an educational mission may be local charter authorizers. Provides for five local charter authorizers to be certified in each of the eight Regional Labor Market Areas established by the La. Workforce Commission which are expected to grant charters for at least five schools.
3. Provides for the Course Choice Program:
- (a) Requires BESE to authorize

course providers, including online and virtual providers, postsecondary education institutions, and corporations that offer vocational or technical courses to provide individual courses of instruction for students.

- (b) Course providers will receive a per course amount for each eligible funded student equal to 1/6 of 90% of the annual MFP per pupil amount for the school district where the student resides. The remaining 10% is retained by the school district in which the student is enrolled to cover administrative and operational costs related to the student. The tuition for the course is determined by the course provider but may not exceed the maximum amount allowed as specified above.
- (c) A student must take at least one course at the school in which he is enrolled.
- (d) Course tuition for a student attending a public school with a performance letter grade of "C", "D", or "F" is funded through the MFP. Students attending a public school with a letter grade of "A" or "B", students attending BESE approved nonpublic schools, and students enrolled in BESE approved home study

programs may enroll in such courses, but at their own expense.

3. Student Scholarships for Educational Excellence Program:

- (a) Expands the program statewide. (Program was limited to Orleans Parish in prior years.)
- (b) Specifies that public school participation in the program is subject to applicable court-ordered desegregation plans.
- (c) Gives selection priority first to students enrolled in public schools with a performance letter grade of "D" or "F" and then to students in schools with a letter grade of "C". Students in schools with a letter grade of "A" or "B" are not eligible to participate in the program.
- (d) Only public schools with a performance letter grade of "A" or "B" to qualify as a participating school and be eligible to accept scholarship students.
- (e) Provides that scholarship recipients are considered to be public school students for MFP funding purposes and includes scholarship students in the MFP. Provides that both the state and local portion of

the MFP per-pupil amount will be transferred to the participating school on behalf of the student. The Dept. of Education will transfer the amount of the local portion on behalf of the responsible school board and deduct a corresponding amount from the state MFP funds allocated to the appropriate local school district. Provides that nonpublic tuition for scholarship students may be equal to an amount up to 100% of the MFP per-pupil amount established for the school district in which the student resides.

#### STUDENT CONDUCT AND DISCIPLINE

**SB 764 by Senator Ward (Act 861)** provides for the "Tesa Middlebrook Anti-Bullying Act" to ensure that all schools and school districts have a uniform policy to provide equal protection for all public school students against bullying. The legislation requires the student code of conduct adopted by each local public school board and charter school to specifically address bullying behavior by students. Also requires that training be provided for all school employees, including bus drivers, regarding how to recognize bullying, how to identify students most likely to become victims of bullying, how to use appropriate intervention and remediation techniques and procedures, the procedures by which to report instances of bullying, and information on suicide prevention. The legislation provides for BESE and DOE to develop rules including



procedures on student and parental notification, reporting requirements and procedures, investigation of bullying incidents, disciplinary actions, and options for students who are victims of repeated bullying actions.

## **TAX REBATES**

### **- EDUCATION RELATED**

**House Bill 969 by Representative Talbot (Act 25)** authorizes a tax rebate equal to the actual amount of a donation made by a taxpayer to a school tuition organization (STO) which provides scholarships to attend a qualified nonpublic school to students who are members of a family with a total household income that does not exceed 250% of the federal poverty level. The amount of the rebate will be equal to the actual amount of the taxpayer's donation used to provide the scholarship, less administrative costs. No more than 5% of a donation may be used for administrative or promotional expenses.

**House Bill 1106 by Representative Katrina Jackson (Vetoed)** would have authorized a tax rebate equal to 75% of the amount of a donation made by a taxpayer during a taxable year to a public school which currently has a school performance letter grade of "B", "C", "D", or "F". Such donation could only have been used by the public school to purchase instructional materials and supplies, tutorial programs, in-school child care programs for students who are parents, school-based health clinics, or to meet state requirements imposed on academically unacceptable schools. The total amount of rebates that could have been issued to taxpayers would have been capped at \$10 million per calendar year.

## **TEACHERS AND OTHER SCHOOL EMPLOYEES**

**House Bill 974 by Representative Carter (Act 1) and Senate Bill 603 by Senator Appel (Senate Subject to Call)** provides as follows regarding local school superintendents, teachers, and other school employees:

### **Employment contracts and personnel matters:**

1. Requires local school boards to include specified performance targets in employment contracts with the local superintendent and submit copies of such contracts to the state superintendent of education
2. Requires local school boards to delegate authority for personnel decisions to the local superintendent, including policies related to reductions in force.
3. Requires the local superintendent to delegate school level hiring and employment placement decisions to the school principal, subject to his approval.
4. Requires that all school personnel employment decisions be based upon performance, effectiveness, and qualifications. Provides for effectiveness as the primary criterion when making personnel decisions and prohibits the use of seniority or tenure as such.

6. Provides that reduction in force policies for teachers and administrators shall be based solely on demand, performance, and effectiveness and that reduction in force policies for noncertified school personnel shall be based on performance and effectiveness as determined by local board policy. Prohibits the use of seniority or tenure as the primary criterion in any RIF policy.
7. \_\_\_\_\_ Provides that the local superintendent appoints school principals instead of the local school board.

**Salaries of teachers and other school employees:**

1. Requires all public school governing authorities (public schools, state special schools, and schools and programs of the special school district) to establish salary schedules. Schedules for certified personnel shall be based upon the following: effectiveness; demand inclusive of area of certification, particular school need, geographic area, and subject area, which may include advanced degree levels; and experience.
2. Provides that such salaries shall be considered as full compensation for all work required within each employee's prescribed scope of duties and responsibilities.
3. Prohibits any teacher or administrator rated as "ineffective" from receiving a higher salary in the year following the

evaluation than he received in the year of the evaluation.

**Tenure**

1. Provides that a teacher who has acquired tenure before September 1, 2012, retains tenure.
2. Provides as follows relative to tenure for teachers hired after September 1, 2012:
  - (a) A teacher who receives a performance rating of "highly effective" for five years within a six-year period shall be granted tenure.
  - (b) A teacher who is not awarded tenure remains an at-will employee but shall acquire tenure upon meeting this rating requirement.
  - (c) Beginning with the 2013-2014 school year, a tenured teacher who receives a performance rating of "ineffective" shall immediately lose tenure.
  - (d) A teacher who loses tenure for receiving an "ineffective" performance rating shall reacquire tenure if any one of the following conditions applies:
    - (i) The "ineffective" rating is reversed pursuant to the established grievance

procedure.

- (ii) He receives a "highly effective" performance rating for five years within a six-year period.
- 3. Requires the superintendent to notify a teacher in writing when tenure has been awarded and provides that such tenure is effective on the date specified in the notification.
- 4. If a teacher is rated "highly effective" based on the evidence of the growth portion of the evaluation but is rated "ineffective" according to the observation portion, within 30 days after such finding, the teacher shall be entitled to a second observation by members of a team of three designees, chosen by the local superintendent, which shall not include the principal.
- 5. Consolidates the tenure provisions for all certified school employees and repeals provisions providing for separate provisions for teachers in Orleans Parish and the Special School District.
- 6. Provides that an employee of the Iberville Parish School Board who (1) is a member of or is eligible for membership in the State Teachers' Retirement System of La. and who is not covered by the provisions of present law relative to tenure and (2) is hired on or after July 1, 2012, shall not be eligible to acquire permanent status.

### Termination of employment

- 1. Authorizes a superintendent to terminate employment upon providing the teacher with written charges therefor and the opportunity to respond.
- 2. Grants the teacher seven days to respond and provides that the response shall be included in the teacher's personnel file.

Relative to tenured teachers:

- 1. Authorizes removal of a tenured teacher upon written charges of willful neglect of duty, incompetency, dishonesty, immorality, or of being a member of an entity prohibited from operating in the state, and then only if found guilty after a hearing by the school board. Specifies what details must be included in such charges.
  - (a) Adds poor performance to the list of potential charges that can lead to termination of employment.
  - (b) Deletes requirement that the teacher be found guilty by the board and the specified details that the statement of charges must include.
  - (c) Adds that an "ineffective" rating on a performance evaluation constitutes sufficient proof of poor performance, incompetence, or willful neglect of duty and

requires no additional documentation to substantiate such charges.

- (d) Prohibits a teacher from being terminated for an ineffective evaluation until completion of the established grievance procedure established if a grievance was timely filed.
2. Provides for the following procedure for removal of a tenured teacher:
- (a) The teacher must be furnished with a copy of charges and be given seven days to respond, at the end of which time period he may be terminated.
  - (b) Within seven days after dismissal, the teacher may request, and upon request shall be granted, a hearing by a panel composed of a designee of the superintendent, a designee of the principal or the administrative head of the state special school in which the teacher was employed, and a designee of the teacher; prohibits the designation of an immediate family member or any full-time employee of the school system by which the teacher was employed who is under the supervision of the person making the designation.
  - (c) Such hearing shall begin within seven business days

following the teacher's request for such hearing.

- (d) The panel shall submit its recommendation to the superintendent, who may reinstate the teacher.
3. Provides that a teacher has the right to seek supervisory review from a court of competent jurisdiction.
4. Requires the superintendent, if he does not reinstate the teacher, to notify the teacher in writing. Grants the teacher 60 days from the postmarked date of such notification to petition a court to review the superintendent's action and to determine whether it was arbitrary or capricious. Requires that the record on review be limited to evidence presented to the tenure hearing panel and that the court review the matter not later than 10 days after the petition is filed.
5. Provides that a local superintendent must be removed from office upon being found incompetent, unworthy, or inefficient or to have failed to fulfill the terms and performance objectives of his contract or to comply with school board policy.

**House Bill 293 by Representative Harrison (Act 704)** provides that school bus operators hired by a local school board after July 1, 2012, shall not be eligible to acquire tenure and is subject to removal in accordance with the personnel policies of the employing school board. School bus operators who acquired

tenure prior to July 1, 2012 retain such tenure. Senate Floor Amendments provided that after July 1, 2012, a school bus operator who owns his bus may acquire tenure after serving a seven-year probationary period. The final details of this legislation are yet to be determined by the conference committee.

# Postsecondary Education

by: *Jeanne Johnston*  
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## ARTICULATION AND TRANSFER

Current law requires development of a comprehensive system of articulation and transfer of credits between and among public secondary and postsecondary education institutions. The postsecondary education management boards, BESE, and the local school boards are jointly responsible for developing and implementing articulation and transfer programs and agreements that facilitate and maximize the seamless transfer of credits between and among public secondary and postsecondary education institutions and that make the most efficient use of faculty, equipment, and facilities. At the heart of this system is the 2-year associate of arts and associate of science transfer degrees implemented in the Fall of 2010 that are designed to transfer fully to a 4-year institution and apply toward a 4-year degree. Faculty advisory groups were established to determine course compatibility and required content and will assign common course numbers, so there will no longer be confusion over which courses are equivalent and which courses will transfer.

The Board of Regents is required to determine and establish a standard number of credits required to complete each baccalaureate degree program and establish a standard number of credits required to earn associate

degree programs for transfer to a 4-year

college or university.

The baccalaureate degree programs must not require more than the number of credits established by the board for degree completion without approval from the board. **Senate Bill 103 by Senator Nevers (Act 622)** refines this concept further by limiting the number of credit hours required to earn a baccalaureate degree to 120 hours of college credit without approval from the Board of Regents, except for degree programs that require additional credit hours to meet certification or accreditation requirements.

The initial legislation also called for a phased-in implementation of a statewide course numbering system. **Senate Bill 104 by Senator Nevers (Act 623)** specifies the following time line for implementation of the statewide common course numbering system for postsecondary education:

1. All courses contained in the Board of Regents' general education core curriculum.

*To be implemented during the 2012-2013 academic year.*

2. All courses required for completion of the associate of arts and associate of science transfer degrees.

*To be implemented during the 2013-2014 academic year.*

3. All remaining lower division courses.  
*To be implemented during the 2014-2015 academic year.*

4. All remaining undergraduate courses.  
*To be implemented by the end of the 2015-2016 academic year.*

### GOVERNANCE AND STRUCTURE

The postsecondary education governance structure has been under scrutiny in recent years. Interest intensified with the creation of the Postsecondary Education Review Commission in 2009 and the discussion was extended with the creation of the Governance Commission by the Board of Regents pursuant to HCR 184 of the 2011 Regular Session. There continues to be great interest in determining the ideal organizational structure through which to provide postsecondary education to Louisiana's citizens, as well as the optimal postsecondary education delivery system for the state, including the number and distribution of colleges and universities within the state. Discussion and debate concerning the feasibility and advisability of merging two or more existing postsecondary institutions has intensified during the past two legislative sessions and promises to continue.

The Louisiana Constitution requires the Board of Regents to report their findings and recommendations be made to the legislature prior to consideration of legislation to create a new postsecondary institution, the addition of another management board, or the transfer of an institution from one management board to another. Consequently, the number of requests

to the Board of Regents to study the need for expanded community college services is increasing, as well as legislation merging existing schools and campuses.

**Senate Bill 385 by Senator LaFleur (Senate Education Committee) and House Bill 396 by Representative Carmody (House Subject to Call)** proposed a constitutional amendment to clarify that the state's four postsecondary education management boards are responsible for the daily operations of the institutions under their control and that the exercise of this responsibility is subject to the powers and policies of the Board of Regents.

**Senate Bill 284 by Senator Cortez (Act 767)** merges the Acadian, Charles B. Coreil, Evangeline, Gulf Area, Lafayette, T. H. Harris, and Teche Area campuses of the Louisiana Technical College with South Louisiana Community College and transfers all funds, obligations, property, programs, facilities, and functions relative to these technical college campuses to South Louisiana Community College, effective July 1, 2012, or at the appropriate time thereafter as determined by formal action taken by the Bd. of Supervisors of Community and Technical Colleges (LCTCS Bd. of Supervisors).

**Senate Bill 645 by Senator Thompson (Act 681)** merges the Bastrop, Delta-Ouachita, North Central, Northeast Louisiana, Ruston, and Tallulah campuses of the Louisiana Technical College with La. Delta Community College and transfers all funds, obligations, property, programs, facilities, and functions relative to these technical college campuses to La. Delta Community College, effective July 1, 2012, or at a time determined by the Bd. of Supervisors of Community and Technical

Colleges.

**Senate Bill 247 by Senator Long (Act 760)** creates the Central La. Technical Community College as a multi-campus, public institution of postsecondary education under the supervision and management of the Board of Supervisors of Community and Technical Colleges (LCTCS Bd. of Supervisors), subject to the appropriate approval of and oversight by the Bd. of Regents. Specifies that the creation is effective July 1, 2012, or at the appropriate time thereafter as determined by formal action taken by the LCTCS board.

Provides that the Central La. Technical Community College:

1. Shall provide a comprehensive educational program which may include career and technical education and training, workforce development training, adult basic education, continuing education, general education, associate degree programs, college transfer degree programs, and other educational programs and opportunities.
2. May grant certificates, diplomas, associate degrees, and associate transfer degrees as authorized by the LCTCS Bd. of Supervisors and the appropriate regional accrediting body as recognized by the U.S. Dept. of Education.
3. Shall provide educational programs and services through the Alexandria, Avoyelles, Huey P. Long, Lamar Salter, Oakdale, and Shelby M. Jackson campuses of the La. Technical

College, and any other postsecondary campus or institution which may become a part of the Central La. Technical Community College or its primary service delivery area.

**Senate Concurrent Resolution 17 by Senator Dorsey-Colomb (Enrolled)** requests the Bd. of Regents and the Bd. of Supervisors of Community and Technical Colleges to study the feasibility of merging Capital Area Technical College and Baton Rouge Community College.

**Senate Bill 527 by Senator Walsworth (Senate Education Committee) and House Bill 964 by Representative Fannin (House Subject to Call)** would have provided for the merger of Louisiana Tech University and Louisiana State University at Shreveport.

**Senate Concurrent Resolution 130 by Senator Peacock (File with Secretary of State)** endorses the LSU Shreveport Commitment Plan as endorsed by the LSU Board of Supervisors on April 27, 2012. Urges all public postsecondary education institutions in the region and the Board of Regents to fully cooperate and support implementation of the plan. Requests the Board of Regents to approve the proposed new role, scope, and mission of LSU-S to increase the institution's capacity to meet the managerial, educational, technical, and scientific workforce needs of the region. Requests the Board of Regents to submit a written report to the legislature and the Senate and House education committees not later than October 1, 2012 on the steps taken by the board since 2006 to expand the role, scope and mission of LSU-S, including added doctoral degree programs. Also establishes the



Louisiana State University Shreveport Commitment Plan Implementation Group to monitor implementation of the Plan and provides that this group shall hold hearings on the LSU-S campus regarding plan implementation for the next five academic years. Requires the LSU Board of Supervisors to submit written reports to the legislature, the Senate and House education committees, on a semi-annual basis for the next five academic years (within one month following completion of the Fall and Spring semesters at LSU-S) regarding plan implementation.

**House Resolution 112 by Representative Carmody (Filed with Secretary of State) and House Concurrent Resolution 168 by Representative Carmody (Senate Calendar)** provides legislative findings relative to the LSU Shreveport Commitment Plan as endorsed by the LSU Board of Supervisors on April 27, 2012. Requests all public postsecondary education institutions in the region to fully cooperate and support implementation of the plan. Requires the LSU Board of Supervisors to submit written reports to the legislature, the Senate and House education committees, and the Board of Regents for the next three academic years regarding plan implementation.

## TOPS

**Senate Bill 579 by Senator Adley (House Education Committee), House Bill 945 by Representative Burns (Act 215), and House Bill 946 by Representative Greene (House Education Committee)** extends the four-year length of time within which a student who is on active duty must claim his TOPS award, if the student reenlists in the U.S. Armed Forces and maintains continuous active duty, for a

length of time equal to the student's active duty service; or unless the student is granted an exception for cause by the Office of Student Financial Assistance.

## TUITION AND FEES

**House Bill 435 by Representative Lorusso (Act 581)** provides (beginning with the 2012-2013 academic year) that a student who is enrolled in or is applying for enrollment in a La. public college or university, who resides in La. during such enrollment, who has served in the U.S. Armed Forces as defined by federal law (10 U.S.C. 101(a)(4)), and who meets certain other eligibility requirements, shall be entitled to resident classification for tuition amount purposes without regard to length of time of residency in the state. The Act does not apply to tuition charged a student under the Yellow Ribbon Program (Title 38 U.S.C., Chapter 33).

Existing law requires any postsecondary, academic degree-granting institution operating or proposing to operate in the state to be licensed by the Board of Regents. Such licensure may be required biennially and may be granted for a period of up to 10 years. **House Bill 883 by Representative Henry Burns (Act 278)** authorizes the Board of Regents to increase the licensure fees charged to postsecondary institutions by up to \$750.

## Vocational/Technical Education

*by: Alan Miller  
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**Senate Bill 247 by Senator Long (Act 760)** creates the Central Louisiana Technical Community College as a multi-campus, public institution of postsecondary education under the supervision and management of the Board of Supervisors of Community and Technical Colleges, subject to the appropriate approval of and oversight by the Board of Regents. The campuses of the Central Louisiana Technical Community College will include Alexandria, Avoyelles, Huey P. Long, Lamar Salter, Oakdale, and Shelby M. Jackson.

**Senate Bill 284 by Senator Cortez (Act 767)** merges the Acadian, Charles B. Coreil, Evangeline, Gulf Area, Lafayette, T. H. Harris, and Teche Area campuses of the Louisiana Technical College with South Louisiana Community College and transfers all funds, obligations, property, programs, facilities, and functions relative to these technical college campuses to South Louisiana Community College, effective July 1, 2012.

**Senate Bill 645 by Senator Thompson (Act 681)** merges the Bastrop, Delta- Ouachita, North Central, Northeast Louisiana, Ruston, and Tallulah campuses of the Louisiana Technical College with La. Delta Community College and transfers all funds, obligations, property, programs, facilities, and functions relative to these technical college campuses to La. Delta Community College, effective July 1, 2012.

**House Resolution 155 by Representative Cox (Filed with the Secretary of State)** requests that BESE and the Board of Supervisors of Community and Technical Colleges jointly study the availability of and need for vocational education programs in preparing high school students for industry-based certification or immediate entrance into a career field and to submit a written report of their findings and recommendations to the House Committee on Education prior to the 2013 regular session. The resolution further requests that BESE and the board seek involvement and information from La. Economic Development, the La. Workforce Commission, the La. Assoc. of Business and Industry and others as deemed necessary by the boards.

## Elections

by: *Lauren Bailey*  
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The 2012 Regular Session saw a handful of legislative instruments which addressed issues related to elections such as a study of the redistricting process, reducing the hours election polls are open for certain elections, increasing compensation for commissioners for certain elections, and term limits for school board members.

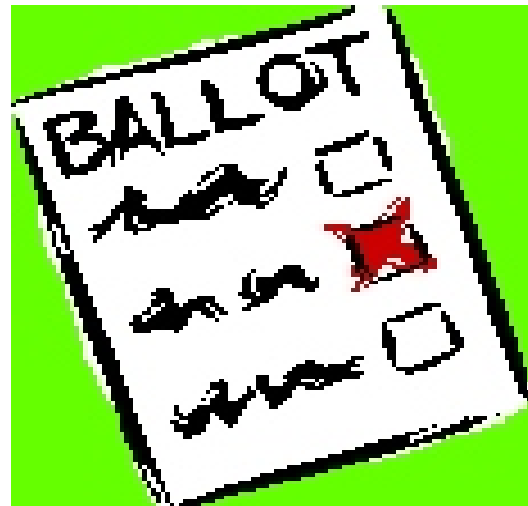
**Senate Concurrent Resolution 11 by Senator Murray (Sent to the Secretary of State)** creates a special committee to study the process of redistricting or reapportionment including creation of precincts, demographer certification, notice requirements for changes in voting, reapportionment and redistricting plans, electronic data requirements for Geographic Information Systems, submission deadlines for changes in voting and to develop recommendations for changes to the Louisiana Election Code to implement such changes.

**House Bill 292 by Representative Pugh (Act 386)** requires local option elections this fall on term limits for school board members which would bar anyone who has served two and a half terms by January 1, 2014, from running for re-election.

**House Bill 209 by Representative Foil (Act 577)** shortens the election day by one hour, to start at 7 o'clock a.m. rather than 6 o'clock a.m. for Saturday elections. Tuesday elections are not affected.

**House Bill 365 by Representative Bishop (Act 707)** requires each person who has qualified for a statewide elective office or the office of state representative or state senator to certify that he has obtained at least one hour of ethics education and training in the same manner as required of public servants.

**House Bill 1036 by Representative Brossett (Act 816)** authorizes an increase in compensation of absentee by mail and early voting commissioners for certain elections.





## Environment

by: Heyward Jeffers  
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### SECONDHAND DEALERS

Purchase/Sale. **House Bill 1187 by Representative Richardson (Act 292)** is an attempt to regulate the sale of junk and secondhand goods by requiring dealers of such materials to obtain an occupational license if they engage in sales of metal property other than copper. Cash sales are limited to \$300 or less under the new law. Sales in excess of \$300 must be made in the form of a check. It also prohibits dealers from allowing a seller to engage in multiple transactions within a 24-hour period totaling more than \$300 for the purpose of circumventing the new restrictions. The law requires dealers to record the license plate number of the seller of the used property. It also removes an exemption in the present law for retail tire outlets or automobile dealing in automobile tires and rims. The new law also requires that dealers photograph of sellers delivering merchandise with a fair market value of \$100 or greater. All transactions of copper must be by check. Also required of dealers is a daily report of all check transactions and these reports must be available to law enforcement agencies upon request. The new law is an attempt to curtail the theft and sale of copper wire and other construction materials which have increased dramatically in recent years.

### SCRAP METAL RECYCLER LAW

Licenses/Permits. **House Bill 1188 by Representative Anders (Act 827)** provides for the "Louisiana Scrap Metal Recyclers Law and is considered a companion measure to **Act 292**. Scrap metals are defined as metal materials which are purchased for resale to be recycled, including but not limited to ferrous material, catalytic converters, auto hulks, copper, copper wire, copper alloy, bronze, zinc, aluminum other than in the form of cans, stainless steel, nickel alloys, or brass, whether in the form of bars, cable, ingots, rods, tubing, wire, wire scraps, clamps or connectors, railroad track materials, water utility material, and used building component. Precious metals, including but not limited to gold, silver, and platinum. Used building components are defined as any object



produced or shaped by human workmanship or tools that is an element of structural, architectural, archaeological, historical, ornamental, cultural, utilitarian, decorative, or sentimental significance or interest, which has been and may be used as an adjunct to or

component or ornament of any building or structure, regardless of monetary worth, age, size, shape, or condition, that is immovable property, or fixture or component parts of immovable property of any nature or kind whatsoever. The Act does not apply to dealers in coins and currency, dealers in antiques, nor to gun and knife shows or other trade and hobby shows. Also not affected are private residential sales commonly known as "garage" or "yard sales". Operators of recycling facilities are also required to either keep a register and file reports or electronically maintain data for the Department of Public Safety and Corrections containing the date and place of each purchase, the name and address of the person or persons from whom the material was purchased, that person's driver's license number or passport, military identification, or other government identification. Without at least one of these documents, the purchaser shall not complete the transaction. Also required in the report is the motor vehicle number of the vehicle on which such scrap material was delivered and a full description of all such material purchased. Operators are required to keep a copy of the register for three years and make it available to any peace officer at any time during the three-year period. Operators would be prohibited from purchasing, without a signed statement from the appropriate company or governmental entity consenting to the sale, infrastructure grade regulated material that has been burned to remove insulation unless the seller has written proof that the regulated material was lawfully burned, burnt wire, regulated material identified as the property of an electrical company, a telephone company, a cable company, a water company or other utility company or governmental entity. Also

prohibited are sales of utility access covers, water meter covers, road or bridge guard rails, highway or street signs, metal beer kegs marked as the property of the beer manufacturer or a catalytic converter that is not part of an entire motor vehicle. Operators shall also be required to produce and deliver by electronic transmission to the chief of police of the town or the sheriff of the parish in which he is doing business, every day before the hour of 12:00 noon, a copy of the entries in the registry during the previous day. Licensed operators who violate the Scrap Metal Recycler Law will be subject to a fine of not less than \$1,000, nor more than \$10,000, or be imprisoned for not less than 30 days nor more than 60 days, or both. An operator who commits a second offense would lose his license to operate for a 30-day period.

## **LOUISIANA PROFESSIONAL**

### **GEOSCIENCE PRACTICE ACT**

Licenses/Permits. **House Bill 128 by Senator Claitor (Act 308)** provides that no person employed or acting as a petroleum geologist shall be required to be licensed or certified by the Louisiana Board of Professional Geoscientists or to pay any fee to the board in order to practice or testify regarding any environmental geology or Geoscientists case on any well or facilities owned by the person or the company for which the petroleum geologist is employed. The law does not apply to fossil fuels. It also prohibits, as of January 1, 2013, an employee of the Department of Natural Resources or the Department of Environmental Quality from serving as a member of the Louisiana Board of Professional Geoscientists Board. The law, however, removes current prohibitions that the board not receive or expend state funds through appropriation, requirements that the

board to be financially self-sufficient, and the present ban on the board from using state funds for a group benefits program for its employees, or an employee retirement system. The law also removes the ban for any employee salaries, per diem payments, travel or expenses, office supplies, rent, or the purchase of any product or service.

### **LEAD TESTING**

Child-Occupied Facilities. **Senate Bill 200 by Senator Morrell (Act 733)** requires owners of licensed day care centers, preschools, or public or non-public elementary school facility that qualifies as a child-occupied facility and was first placed in operation after August 1, 2012, to have an inspector conduct an inspection of the facility and grounds for the presence of lead hazards. The Act provides that such child-occupied facilities or grounds have been inspected or have been the subject of lead abatement or remediation since 1978, then no inspection is required.. If a lead hazard is found to be present, the inspector and the owner shall report those findings to the state health officer and the secretary of the Department of Environmental Quality. The state health officer will then be required to report those findings to the legislature in an annual Louisiana Health Report Card

### **AGRICULTURAL MATERIALS**

Outdoor Burning. **Senate Bill 228 by Senator Morrish (Act 637)** provides for controlled burning, after notice to the local fire department and the sheriff's office, of agricultural materials, including crates used by sweet potato farmers to store or transport their sweet potatoes. Present law provides exemptions from burning restrictions for pastureland or marshland in connection with trapping or livestock production, as well as

controlled burning in connection with timber stand management or cotton gin agricultural wastes created with cotton gin operations

### **NATURAL GAS**

Natural Gas Releases. **Senate Bill 748 by Senator Morrish (Act 853)** provides that natural gas from distribution lines will have a reportable release of 1,000 pounds or more. Existing law requires that owners and operators of such distribution lines will immediately notify the Department of Environmental Quality, but is silent as to reportable amounts.

### **LAND FILLS**

Electronic Waste. **Senate Resolution 83 by Senator Walsworth (filed with the Sec of State)** provides for a study to be conducted on the establishment of a recycling and collection system for electronic waste and ending the current practice of allowing the dumping of electronic wastes into land fills. Twenty-six states now ban the dumping of electronic wastes into land fills.

# Ethics

by: *Lauren Bailey*  
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The 2012 Regular Session brought forth several pieces of legislation aimed at clarifying the comprehensive ethics reforms enacted in 2008 to ensure better enforcement of alleged violations. And as we have seen since the passing of the major ethics overhaul of 2008, the 2012 Regular Session also saw it's share of legislation aimed at modifying the Code of Governmental Ethics.

## CLARIFICATION FOR BETTER ENFORCEMENT

**House Bill 942 by Representative Tim Burns (Act 607)** grants the Board of Ethics a limited right to appeal a final decision on the disposition of the entire matter the Ethics Adjudicatory Board was required to hear. In order to appeal, the board members must unanimously vote to appeal and the board is responsible to pay reasonable attorney fees if the ruling upon which they appeal is upheld.

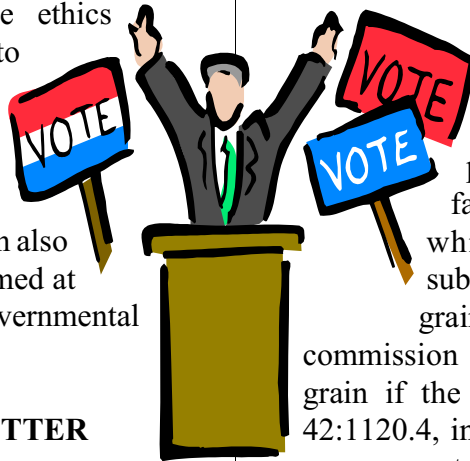
**House Bill 950 by Representative Tim Burns (Act 608)** explicitly establishes that the one year period within which the Board of Ethics must issue charges against a defendant or dismiss the case is prescriptive and prevents the defendant from taking actions that enable arbitrary dismissals. This bill also clarifies the duties and procedures of and provides necessary distinction between the Board of Ethics and the Ethics Adjudicatory Board.

## EXCEPTIONS

**Senate Bill 754 by Senator Mills (Act 737)** provides an exception to the Code of Governmental Ethics for an individual who serves on a port commission, or a related family member, or an entity in which the member has a substantial economic interest to a grain elevator owned by a port commission may contract for the sale of grain if the member complies with R.S. 42:1120.4, including matters related to the management and operations of the grain elevator and the terms and conditions of the sale are the same or substantially the same as a sale to a non-member.

**Senate Bill 226 by Senator Morrish (VETOED)** would have provided an exception to the Code of Governmental Ethics for members of a governing authority of a municipality with a population of 5000 or less to the prohibition of a public servant or a legal entity in which he exercises control or has an interest in excess of 25% from accepting anything of economic value, for services rendered, from a person who has a business relationship with the agency of the public servant.

**Senate Bill 729 by Senator Claitor (Act 689)** provides an exception to the Code of Governmental Ethics for a provider contract entered into with any plan providing medicaid



services to medicaid recipients to the prohibition of public servants, their immediate family members, or legal entities in which they have a substantial economic interest, from entering into or being in any way interested in any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

**House Bill 206 by Representative G. Jackson (Act 699)** provides for an exception to the Code of Governmental Ethics which would allow for employment of an immediate family member of a member of the governing authority or the chief executive of a governmental entity by the governmental entity for any hospital service district if such family member is a qualified applicant who has applied for the position after it has been properly advertised.

**House Bill 279 by Representative Simon (Act 703)** provides for an exception to the Code of Governmental Ethics to allow a licensed physician who is a member or former member of the board of commissioners for St. Tammany Parish Hospital Service District No. 1 to contract, or subcontract with another provider who contracts, owning an interest in an entity that contracts, or accepting employment with St. Tammany Parish Hospital, provided that the contract is related to the licensed physician's practice of medicine or expertise as a licensed physician.

**House Bill 321 by Representative Fannin (Act 488)** exempts from the mandatory ethics education and training requirement any person who is a public servant solely because he serves as an uncompensated volunteer fireman or an uncompensated auxiliary or reserve law

enforcement officer.

**House Bill 1210 by Representative Huval (Act 864)** provides an exception to the Code of Governmental Ethics to all insurance producers providing certain insurance functions and services to governmental entities to receive compensation from other sources.



## Finance

by: Jay Lueckel  
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### Appropriations and Funds

**House Bill 1 by Representative Fannin (Act 13)**, the General Appropriations Act, provides for the ordinary operating expenses of state government for Fiscal Year 2012-2013. As the bill stood following Senate Finance Committee action, HB1 contained \$8.3 billion in State General Fund (Direct) spending and a total means of financing of \$25.6 billion, exclusive of double counts. The proposed FY 2012-2013 budget also provides for 66,209 authorized positions which is 6,477 less than the 12/01/2011 Existing Operating Budget for the current FY 2011-2012.

**Senate Concurrent Resolution 128 by Senators Donahue and Alario (Filed with the Secretary of State)**, provides legislative consent to make available for appropriation from the Budget Stabilization Fund the sum of \$204,700,000, not to exceed one-third of the balance of the Budget Stabilization Fund, due to the reduction of the revenue forecast for the current fiscal year in the amount of \$204,700,000 as adopted by the Revenue Estimating Conference at its meeting on April 24, 2012 and recognized by the Joint Legislative Committee on the Budget at its meeting on May 10, 2012. Further provides that actual revenues for FY 2011-2012 as promulgated by the REC in

excess of the April 24, 2012, revised forecast will be deposited into the Budget Stabilization Replenishment Fund.

**House Bill 822 by Representative Fannin (Act 597)**, provides for the transfer and deposit of monies among state funds. Also creates the Budget Stabilization Replenishment Fund into which the treasurer shall deposit the difference between the official forecast of revenue available for expenditures for Fiscal Year 2011-2012 adopted by the Revenue Estimating Conference on April 24, 2012, and actual collections of revenue available for expenditures in Fiscal Year 2011-2012 as promulgated by the Revenue Estimating Conference, not to exceed the amount of \$204,700,000. Monies in the fund shall be transferred by the treasurer to the Budget Stabilization Fund in the state treasury.

**House Bill 1059 by Representative Fannin (Act 53)**, adjusts supplemental appropriations for the prior fiscal year to balance the FY 2011-2012 budget and provides for reductions to meet the requirements implemented in Executive Freeze Orders BJ 2011-12 and BJ 2012-3. Also provides for supplemental capital outlay appropriations. Further, provides for an appropriation from the Budget Stabilization Fund to the State General Fund in the amount of \$204.7 million to address the FY 2011-2012 year



deficit.

**Senate Bill 352 by Senator Murray and Representative Leger (Act 548)**, establishes the Major Events Fund as a special fund in the state treasury. Provides for depositing into the fund any monies appropriated annually by the legislature including donations, gifts, grants, or any other monies which may be provided by law. Provides that the monies in the fund shall be appropriated and used to provide funding for entities within the state for the costs associated with attracting, hosting, and staging major events of areawide, statewide, regional, national, or international prominence.

#### **Constitutional Changes**

**Senate Bill 82 by Senator Buffington and Representative Hunter (Act 873)**, adds the Medicaid Trust Fund for the Elderly to the list of funds that are exempt from budget reductions in the event of certain mid-year deficits or projected shortfalls in the ensuing fiscal year.

#### **Public Meetings - Revenue Estimating Conference**

**Senate Bill 640 by Senator Alario (Act 37)**, provides that if the economist principal of the REC develops a medical condition which prevents him from being present at a session or meeting of the REC, he must designate a faculty member of a university or college in Louisiana. who has expertise in forecasting revenues as an ad hoc member of the REC to attend the session or meeting and act on his behalf. Provides that if the economist principal is incapacitated to the extent he is unable to designate the ad hoc member, the

president of his college or university shall make the designation.

#### **Contracts**

**House Bill 183 by Representative Leger (Vetoed by the Governor)**, would have required a portion of the monies collected from the operation of a land-based casino to be deposited into a special fund to be used to compensate the parish governing authority for support services as provided in the most recently approved casino support services contract.

# Gaming

by: Cathy Wells  
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## CASINO

**House Bill 183 (Vetoed)** would have required the gaming control board and the parish governing authority enter into a casino support services contract to compensate the governing authority for support services resulting from operation of the land-based casino would have required approval of the Joint Legislative Committee on the Budget (JLCB). If a new contract is not agreed to by March 31, the contract currently in effect shall remain in full force and effect. If the JLCB approves the contract, it shall remain in full force and effect. If JLCB disapproves or does not act upon the amount of the contract, the treasurer shall not deposit any monies into the Casino Support Services Fund which is a special treasury fund to provide compensation to the parish governing authority pursuant to a casino support services contract would have required monies in the fund be appropriated to the parish governing authority and used to compensate the parish for the cost to the parish of providing support services resulting from the operation of the official gaming establishment and the activities therein would have provided that the revenues shall be deposited as follows:

- (1) The first \$1,800,000 shall be deposited into the Casino Support Services Fund.
- (2) The next \$60 million shall



be deposited and credited to the SELF Fund.

- (3) Any revenues in excess of the above amounts shall be divided equally between the Casino Support Services Fund and the SELF Fund until the casino support services contract has been fully funded.
- (4) The remainder shall be deposited into and credited to the SELF Fund.

## CHARITABLE GAMING

**Senate Bill 101 (Act 351)** increases the number of days within a calendar month from 15 to 20 that a licensee may hold, operate, or conduct any charitable game of chance.

**House Bill 446 (Act 710)** prohibits any person associated or affiliated with a charitable gaming licensee to benefit from any part of the net gaming proceeds of that charitable gaming licensee and provides penalties a fine of not more than \$5,000, imprisonment with or without hard labor for not more than one year, or both. Act 710 does not apply to a contribution or disbursement of net gaming proceeds made to, or for the direct benefit of, a group or activity provided that both of the following occur:

- (1) The contribution or disbursement is used for

legitimate charitable gaming purposes.

- (2) Not more than ½ of the participants of the group or activity receiving the contribution are members or immediate family members of members of the charitable gaming licensee making the contribution or disbursement.

### RIVER BOATS

**House Bill 271 (Act 447)** continues to allow vessels to be inspected by third-party inspectors who are required to certify to the La. Gaming Control Board that the vessel is in compliance with the standards necessary to maintain either:

- (1) A U.S. Coast Guard Certificate of Inspection utilizing the inspection criteria in effect at the time of the vessel's original construction; or
- (2) A certificate of compliance utilizing a combination of applicable marine structural and life safety standards, the National Fire Protection Association Life Safety Code, and the International Building Code as adopted in the state of La. and as accepted by the La. Gaming Control Board, which are suitable to the vessel's present location and configuration.

**House Bill 271** requires the Louisiana Gaming Control Board to submit the certificates of compliance to the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B.

### TRUCK STOPS

**Senate Bill 362 (Vetoed)** would have authorized the owner or lessor of a qualified truck stop facility to close the restaurant during certain specified legal holidays, except in Orleans Parish.

### VIDEO POKER

**Senate Bill 575 (Act 161)** generally provides for the statutory reorganization of the provisions regarding the licensing and operation of video draw poker devices and the locations of truck stop facilities. Specifically lists the following three categories of licenses to be issued to qualified establishments to operate video draw poker devices:

1. License to operate a maximum of three video draw poker devices at establishments licensed to sell alcoholic beverages for consumption on the premises.
2. License to operate up to 50 video draw poker devices at qualified truck stop facilities.
3. License to operate an unlimited number of video draw poker devices at a licensed pari-mutual wagering facility or an off track wagering facility.

Prohibits a licensee from having on its premises or making available for play on the premises more video draw poker devices than authorized in **Act 161**.

**Act 161** requires that seating for the 50 patrons be centralized and removed the

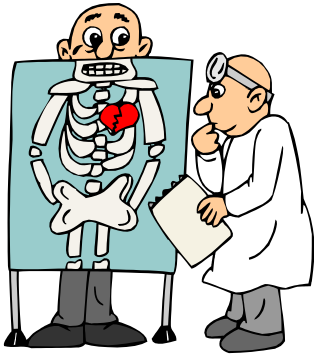
requirement for full table service for sit-down meals except for qualified truck stop facilities located in Orleans Parish. An exception was made for the requirement of an on-site restaurant facility at a qualified truck stop in the event of force majeure which affects the ability to maintain an on-site restaurant facility. Allows this exception for a reasonable period as determined by the gaming division.

**Act 161** provides exceptions to the requirement that qualified a truck stop facility maintain a stable parking area for at least 50 eighteen-wheel tractor-trailer motor vehicles and an on-site repair facility for eighteen-wheelers due to a force majeure for a reasonable period determined by the gaming division.

**Act 161** requires gaming division to allow the continued operation of a licensed establishment which requires a alcoholic beverage license as a condition of receipt of a video draw poker device license is sold or transferred, the devices are allowed to continue operation if the new owner applies for a Class "A" license within 15 days of purchasing the business, and upon issuance of a state Class "A" license, the new owner applies for a video draw poker license within 15 days.

**Act 161** requires that if a person has met the suitability qualifications for the granting of a permit to sell alcoholic beverages on the premises of a restaurant or bar, they shall be granted a license to operate not more than three video draw poker devices without requiring the division to make an additional suitability determination. Requires the division to determine that an applicant meets all other requirements as to a video gaming

license before granting a new license.



## Health & Hospitals

by: *Chris Adams*  
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### ABORTION

**Senate Bill 708 by Senator Broome (Act 685)** requires that the fetal heartbeat be made available to, and ultrasound images be displayed for review, by a pregnant woman prior to an abortion. This legislation changes the statutory time for the required ultrasound from two hours before the abortion to twenty-four hours before the abortion.

**Senate Bill 766 by Senator Alario (Act 738)** provides for the Pain-Capable Unborn Child Protection Act that the abortion of an unborn child of 20 or more weeks postfertilization age is prohibited, unless the pregnancy is diagnosed as medically futile or, in reasonable medical judgment, the pregnant woman has a condition which so complicates her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.

**House Concurrent Resolution 11 by Representative Hoffmann (filed with the Secretary of State)** memorializes congress to defund and appropriate no future funding to Planned Parenthood.

### DEPARTMENT OF HEALTH AND HOSPITALS

**Senate Bill 61 by Senator Mills (Act 347)** authorizes the secretary of the Department of Health and Hospitals (DHH) to issue stop order rules on certain dangerous substances.

**Senate Bill 87 by Senator Buffington (Act 304)** re-creates the DHH.

**Senate Bill 115 by Senator Mills (Act 306)** provides for the secretary of the DHH the authority to immediately suspend the license of a freestanding inpatient psychiatric hospital if the applicant or licensee is in violation of the law or rules and regulations and the secretary determines if the violation poses an imminent or immediate threat to the health, welfare, or safety of a client or patient. The Act provides for obligations of the DHH, notification, appeal, and an injunctive relief process for providers who have a license suspended by the secretary.

**Senate Bill 628 by Senator Buffington (Act 628)** provides that the DHH will have a moratorium on the licensure of level 4 adult residential care providers until July 1, 2017, and the moratorium will not apply to a provider which has received facility need review approval from the DHH for a level 4 adult residential care provider on or before April 25, 2012.

**Senate Bill 762 by Senator Buffington (failed House final passage)** transfers the adult protection services of the office of elderly affairs in the office of the governor to the DHH, office of aging and adult services.

**Senate Concurrent Resolution 111 by Senator Heitmeier (filed with the Secretary of State)** directs the DHH to consult with the appropriate state entities and healthcare stakeholders based on the United Health Foundation's America's Health Rankings 23 measures and to prepare and submit a report no later than February 1, 2013, to the Senate and House committees on health and welfare that addresses raising Louisiana's health ranking as determined by the United Health Foundation's America's Health Rankings to thirty-fifth within the next 10 years.

**House Bill 591 by Representative Simon (Act 269)** transitions certain functions of the Traumatic Head and Spinal Injury Trust Fund Advisory Board to the DHH. The board will have only an advisory role within the DHH.

#### **HEALTHCARE PROVIDERS**

**Senate Bill 755 by Senator Claitor (assigned to Senate Commerce, Consumer Protection, and International Affairs)** would have provided for the licensure of behavioral analysts.

**Senate Bill 320 by Senator Martiny (Act 772)** provides for the use of the title of "doctor" or the abbreviation "Dr." by certain healthcare providers and revises statutory provisions relative to the Midwife Practitioners Act.

**House Bill 947 by Representative N. Landry (assigned to Senate Health and**

**Welfare)** would have revised statutory provisions relative to the Midwife Practitioners Act.

**House Concurrent Resolution 69 by Representative Ligi (filed with the Secretary of State)** directs the Louisiana Register to print an amendment to LAC 46:XLV.3149 in the Louisiana Administrative Code that deletes the requirement that an applicant for certification as an athletic trainer be prohibited to take the qualification examination after four attempts.

**Senate Resolution 159 by Senator Morrell (filed with the Secretary of State)** establishes a commission to study the licensure and regulation of behavior analysts and submit a report to the Senate.

#### **IMMUNIZATION**

**Senate Bill 327 by Senator Broome (Act 645)** requires that, beginning October 1, 2012, and each year thereafter, all general hospitals, during the time period from October first through the following March first, offer immunizations for influenza and immunizations for pneumococcal diseases, if ordered by the patient's attending physician, as recommended by the Advisory Committee on Immunization Practices of the CDC, to inpatients aged 65 or older prior to discharge, unless contraindicated for a patient and contingent upon the availability of a specific payment in addition to the normal or prevailing level of payment, that is equal to the product cost and the administration costs for the immunization over and above the reimbursement for in-patient care and contingent on the availability of the vaccine.

**Senate Bill 378 by Senator Mills (Act 651)** provides that in any parish, wholly or in part, designated as a primary care health professional shortage area, a pharmacist may administer any of the following vaccines - pneumococcal, to any person 18 years of age or older and Zoster, to any person 50 years of age or older. This Act provides for the procedure, the reporting requirements, the record requirements, the credential requirements, and the notice requirements.

#### **MEDICAID**

**Senate Bill 371 by Senator Heitmeier and Representative Brossett (Act 650)** authorizes the DHH to seek approval from the Center for Medicare and Medicaid Services of a program designed to reimburse non-state, governmental entities through the Medicaid program for outpatient behavioral health services to Medicaid recipients under the age of 21 and authorizes the department to develop and maintain a Medicaid upper payment limit financing methodology for the behavioral health services provided for in proposed law.

**Senate Bill 629 by Senator Johns (vetoed by the Governor)** would have required that beginning January 1, 2013, and annually thereafter, the DHH submit an annual report concerning the Louisiana Medicaid Bayou Health Program and the Louisiana Behavioral Health Partnership and Coordinated System of Care Programs to the Senate and House Committees on Health and Welfare which shall include certain information.

#### **SMOKING**

**House Bill 80 by Representative Tim Burns (Act 373)** prohibits smoking in DHH psychiatric facilities and requires that the department establish procedures for treating

patient smokers.

**House Bill 378 by Representative Hoffmann (subject to call - Senate final passage)** would have prohibited smoking within 25 feet of a building entrance or exit if smoking is currently prohibited.





## Homeland Security

by: JW Wiley  
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**House Bill 527 by Representative Champagne (assigned to House Appropriations)** would have required the office of community development and the Governor's Office of Homeland Security and Emergency Preparedness to report to and get approval from the Joint Legislative Committee on the Budget regarding certain expenditures related to disaster recovery and emergency response. These two agencies must make monthly reports to the Joint Legislative Committee on the Budget on any expenditures related to disaster recovery or emergency response which are in excess of \$50,000. In addition, no expenditures in excess of \$100,000 can be made by these two agencies without the approval of the joint Legislative Committee on the Budget.

**House Bill 772 by Representative Arnold (assigned to House Commerce)** would have allowed the Louisiana Public Service Commission to adopt rules authorizing public utility servitudes on railroads for use during a declared state of emergency.

The experiences with recent hurricanes Katrina, Rita, Gustav, and Ike have made clear to Louisianians that those in the state who are at risk or those with special needs require assistance with evacuations, whether voluntary, advisory, mandatory or forced. **Senate Bill 700 by Senator Brown (subject to call House final passage)** would have required each parish office of homeland

security and emergency preparedness to establish a voluntary register of persons with special needs who will require assistance during times of evacuation, including voluntary, advisory, mandatory or forced evacuations. In addition, **Senate Concurrent Resolution 129 by Senator Brown (filed with the secretary of state)** requests parish offices of homeland security and emergency preparedness to maintain a voluntary registry of at risk persons and persons with special needs who will require assistance during times of evacuation and certain other agencies to annually submit names of such persons who have consented to being included in the registry.

The coastal Louisiana provides habitat for millions of migratory birds traversing the Gulf of Mexico, is the nation's top producer of shrimp, crawfish, and blue crabs, has the highest rate of crude oil production and the second highest rate of natural gas production in the nation, and generated approximately two billion in annual revenues from the recreational fishing industry and approximately \$9.3 billion in 2010 in annual revenues from the tourism industry, rendering coastal Louisiana's unique culture, plentiful natural resources, and natural beauty vital to the survival of our region and nation. On April 20, 2010, coastal Louisiana was greatly impacted when the Deepwater Horizon mobile drilling unit, which was being used to drill an exploratory well for BP Exploration and

Production, Inc. (BP), violently exploded, killed eleven Americans, caught fire and eventually sank resulting in the unauthorized discharge of an estimated five million barrels (210 million gallons) of MC252 oil into the Gulf of Mexico and ultimately the majority of which came into and upon the waters and coastline of Louisiana, marking this to be an environmental disaster of unprecedented proportions. Over the course of the Deepwater Horizon oil spill, approximately 660 miles of coastal Louisiana received some degree of oiling and seventy-five percent (270.2 miles) of the total miles of heavy to moderately oiled shoreline (360.3 miles) were located in coastal Louisiana, making Louisiana the most impacted state in the Gulf of Mexico region. Approximately two years after the incident, coastal Louisiana continues to be impacted by the incident as established by April 21, 2012, response data, which indicates that over 214 miles of Louisiana's shorelines continue to show some degree of oiling. The state of Louisiana has reached out to the United States Coast Guard (USCG), the lead federal agency charged with effectively removing the oil caused by the Deepwater Horizon oil spill, requesting that the USCG implement all reasonable containment, countermeasures, cleanup, and removal efforts allowable during active response under the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. §300) (NCP), yet the USCG remains focused on prematurely ending Deepwater Horizon response. **House Concurrent Resolution 185 by Representative Garofalo (filed with the secretary of state)** requests the Department of Homeland Security to direct the United States Coast Guard to implement all reasonable containment, countermeasures, cleanup and removal efforts allowable during

active response while allowing substantive input from and in collaboration with the state of Louisiana and the affected coastal parishes to ensure an efficient, coordinated, and effective cleanup of coastal Louisiana prior to bringing an active response to an end.



## Human Resources

by: *Michael Anne Percy*  
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**House Bill 127 by Representative Dixon (referred to the House Committee on Labor and Industrial Relations)**, would have proposed to repeal La. R.S. 23:966 which prohibits discrimination against smokers in the workplace as long as they comply with applicable laws and policies regarding smoking. Currently, state law prohibits an employer from requiring an employee to abstain from smoking. HB 127 proposed to repeal that law. The bill stated that employers should be free from unreasonable governmental restrictions related to employment and the legislature seeks an opportunity for employers and employees to lead healthy lives and enjoy lower health care costs.

**House Bill 128 by Representative Hensgens (referred to the House Committee on Labor and Industrial Relations)**, would have proposed to prohibit the use of a card-check method to join or certify a labor organization for representation. The proposed law would have required that any vote represented by a labor organization be conducted by secret ballot. The bill defined "card check" as any unsealed card, public ballot, or other nonsecret manner of expressing an employee's choice about labor organization representation.

**House Bill 363 by Representative Thompson (subject to call - Senate Final Passage)** The amended bill would have

required every employer that pays overtime compensation to maintain a record of the overtime hours and amount of overtime compensation paid to employees each year. It also required employers to retain overtime data for at least three years and provide employees of their overtime data upon request. The bill would have removed the requirement that an employer report overtime data to the LDR. That version of the bill was set on House Orders and passed with an additional amendment. The House floor added a requirement that the provisions of the proposed law become void on July 1, 2014.

**House Bill 364 by Representative Leger (failed House final passage)**, would have proposed amendments to Louisiana's whistleblower statute, La. R.S. 23:967. Current law prohibits you from retaliating against an employee who in good faith (1) discloses or threatens to disclose a workplace act or omission that violates state law, (2) provides information to or testifies before any public body conducting an investigation, a hearing, or an inquiry into a potential violation of law, or (3) objects to or refuses to participate in a workplace act or omission that violates the law. Traditionally, courts have found that the law applies only when an employee can prove an actual violation of a Louisiana state law by the employer.

HB 364 proposed to extend those protections to a disclosure of a workplace act or omission that an employee reasonably believes (1) is a violation of a federal, state, or local law, statute, ordinance, rule, or regulation or (2) otherwise endangers public health or safety. Further, the proposed bill provided an exception to the requirement that an employee notify his employer of a violation when the notification would be futile. Finally, the original bill proposed to narrow an employee's liability for an employer's reasonable attorneys' fees and costs when a claim is filed in bad faith (as opposed to when a claim that is filed in bad faith or a court finds there wasn't a violation of the law, as currently allowed.).

**House Bill 494 by Representative Talbot (referred to House Labor and Industrial Relations)**, would have proposed a change to Louisiana's final paycheck law, La. R.S. 23:631. Current law requires an employer, upon an employee's discharge, to pay the amount owed to the employee under the terms of employment (regardless of whether the employment is by the hour, day, week, or month) on or before the next payday or no later than 15 days following the date of termination, whichever occurs first. The proposed amendment specified that the payday be the next regular payday for the pay cycle during which the employee was working at the time of separation.

**House Bill 542 by Representative James (referred to House Labor and Industrial Relations)**, would have addressed the computation of average weekly wage of professional athletes who are entitled to workers' compensation benefits. For workers' comp purposes, present law defines "wage" as

the average weekly wage at the time of the accident or injury. The present law also requires that the weekly wage be figured by dividing the employee's annual salary stipulated in his contract by 52, regardless of when the injury occurred.

**House Bill 691 by Representative Moreno (assigned to Committee on House and Governmental Affairs)** would have made it unlawful discrimination for any state employer to subject an employee to different standards of treatment or otherwise discriminate in employment because of an employee's sexual orientation. Under the bill, "employment" would include recruitment, opportunity for employment, hiring, firing, discipline, promotion, tenure, compensation, or any other term, condition, privilege, or status of an individual's employment.

**Senate Bill 158 by Senator Morrell (Act 148)** provides whistleblower protection to employees who report the sexual abuse of a minor. Specifically, it seeks to protect employees who engage in a lawful act in furtherance of any action taken to report the sexual abuse of a minor child by a fellow employee (e.g., coworker, supervisor, or subordinate). Further the Act allows an employee who is discriminated against in violation of the proposed law to (1) file suit in a court of competent jurisdiction and (2) receive costs, attorneys fees, and triple damages if his claim succeeds.

**Senate Bill 189 by Senator Dorsey-Colomb (assigned to Senate Labor and Industrial Relations)** would have provided for the creation of the Louisiana Equal Pay for Women Act. The proposed statute would affirm that paying unequal wages based on sex

unjustly discriminates against the person receiving the lesser rate and is against public policy. SB 189 defined "employer" as a company employing four or more workers.

The bill would allow for the payment of different wages to employees under (1) a seniority system, (2) a merit system, (3) a system that measures earnings based on quantity or quality of production, or (4) a differential based on a bona fide reason other than sex, such as education or training. An employer paying wages in violation of the Act couldn't reduce the wages of another employee to comply with the Act. The bill also has a retaliation provision that would prohibit discrimination against an employee who (1) files a charge or proceeding under the Act, (2) has provided or is about to provide information in connection with a proceeding related to the Act, or (3) has testified or is about to testify in a proceeding under the Act.

An employee who believes his employer is in violation of the Act would be required to give written notice to the employer, which would have 90 days to remedy the violation. If the employer remedies the violation within 90 days, the employee would be barred from taking action against the employer. Under the proposed law, an employer that fails to remedy the violation would be subject to a lawsuit by the employee.

The bill would also allow for back pay of unpaid wages and an additional amount equal to half the unpaid wages plus attorneys' fees and costs. Employers could be liable for reinstatement, promotion, and lost benefits. The award of monetary relief would be limited to violations occurring in the 36 months before the filing of a civil suit in a district

court of competent jurisdiction. Interim earnings operate to reduce the monetary relief and settle claims for a lesser amount.

Any claim for unpaid wages and liquidated damages based on a violation of the bill would have to be filed within one year of the date the employee learned that his employer violated the bill. If the bill passed, covered employers would be required to create and preserve records documenting the name, address, occupation, and wages of each employee. Records would have to be preserved for at least three years.

**Senate Bill 293 by Senator Murray (assigned to Senate Labor and Industrial Relations)** would have shifted exclusive jurisdiction over all worker' comp retaliation and discrimination claims to worker's comp judges. Currently, the workers' comp office has exclusive jurisdiction over employee death and injury cases (but no workers' comp discrimination or retaliation claims) and claims in which employees or applicants allege they were retaliated against or discriminated against for previously filing a workers' comp claim.

**Senate Bill 577 by Senator Peterson (vetoed by the Governor)** would have established and provided for the Louisiana Equal Pay Task Force to study and make recommendations relating to equal pay issues in Louisiana. The bill would provide for the task force to study the extent of wage disparities between men and women in certain public sectors; study factors that cause wage disparities and the consequences; collect data on women's pay; and develop actions, including legislation, which may eliminate and prevent wage disparities. Monthly reports would be

prepared and reported to the Senate committee on Labor & Industrial Relations, Finance and House committees on Labor & Industrial Relations and Appropriations. The task force would be required to submit its final report to the legislature and governor by March 1, 2013

## RETIREMENT

**Senate Bill 47 by Senator Guillory (pending House final passage)** would have provided for a 60 month (5 year) FAC period. Currently, the law provides for a 36 month (3 year) FAC period. Retirement benefits in Louisiana State Employees' Retirement System (LASERS) and Teachers' Retirement System of Louisiana (TRSL) are determined by a "final salary" formula. In these systems, the "final salary" used is based on the period in which the person's earnings are at their peak, known as the final average compensation (FAC) period.

The implementation of this bill would have begun on July 1, 2013, and be phased in one month at a time. Full implementation would be completed by July 2015. This bill was not retroactive; it preserves the member's benefit computation as it presently exists; however, future salary increases will affect that computation more slowly, causing liabilities to grow more slowly.

All savings resulting from this change would be retained by the systems and applied toward the unfunded accrued liability of those systems. The bill applied to all non hazardous LASERS members (except currently elected judges) and higher ed members of TRSL.

**Senate Bill 52 by Senator Guillory (subject to call - House final passage)** would have provided for an increase in employee

contributions to the retirement systems. Non-hazardous members of LASERS (except currently elected judges) and higher ed members of TRSL would contribute an additional 2% of pay to the system. The contribution would be phased in over a period of 4 years with a 0.5% increase each year. The implementation will begin after the employee receives a 4% merit increase. All savings resulting from this change would be retained by the systems and applied toward the unfunded accrued liability of those systems.

**Senate Bill 740 by Senator Guillory (pending House final passage)** would have provided for a change in the operation of the experience account. The experience account is the legislatively-established mechanism through which the systems fund cost of living adjustments (COLAs). The experience account will be divided into two sub-accounts in each of the systems. In LASERS, one subaccount will be based on service of rank-and-file employees and the other on hazardous duty employees. The rank-and file group may receive a COLA when the system is 80% funded and the sub-account will share in the gains and losses of the system as a whole. The hazardous duty sub-account shall continue to fund COLAs for these retirees under current law. The experience account in TRSL will be broken into two sub-accounts in the same manner. One sub-account will be for higher ed. Those retirees will be eligible to receive a COLA when the system is 80% funded. This sub-account will share in the gains and losses of the system. The other sub-account for K-12 retirees shall continue to function as provided in current law.

**Senate Bill 749 by Senator Guillory (subject to call - Senate final passage)**

would have provided for a later retirement age for current non-hazardous employees of LASERS (except currently elected judges) and high-ed employees of TRSL. The schedule of ages provided for in the current version of this bill was based on the years of service credit each employee has already earned on the date of implementation, June 30, 2013. The bill exempted employees who have 20 years or more of service on the implementation date and those members who are 55 years of age on the implementation date. Nothing in this bill provides for an earlier retirement eligibility than is already provided for in current law. The schedule of ages, based on service credit as of June 30, 2013, was as follows:

- ◆ Employees with less than 20 years of service credit but more than 15 years may retire no earlier than age 55.
- ◆ Employees with less than 15 years of service credit but more than 10 years may retire no earlier than age 60.
- ◆ Employees with less than 10 years of service credit but more than 5 years may retire no earlier than age 63.
- ◆ Employees with less than 5 years of service credit may retire no earlier than age 65.

New employees' earliest retirement eligibility is age 67.

However, employees who go on to earn 30 years or more of service credit are "bumped" back into their old retirement eligibility. For employees who began prior to 2006, this means that they may retire with 30 years of service at any age. For employees who began

after 2006, this means that their earliest retirement eligibility would be age 60.

**House Bill 61 by Representative Pearson (Act 483)** provides for a "cash-balance plan" for new members in LASERS, TRSL, and LASERS hired on or after July 1, 2013. It is only mandatory for non-hazardous members of LASERS and higher-ed members of TRSL. All other members, except members of LASERS's hazardous duty plan, may choose to participate in this plan. The "cash balance plan" is a state-guaranteed pension wealth accumulation instrument. It is considered a "hybrid" retirement plan because it provides for a blend of a 401(k) style benefit and a traditional defined benefit structure. The employee contributes 8% of pay and is credited 12% each year which is placed into an account. The employee will also share in the gains for the system. The employees account can never be reduced. The employees participating in the cash balance plan may, after five years of service, receive the full balance of their account if they choose to separate from service. Participating employees may instead choose to receive an annuity at the retirement age of 60. These members are additionally provided with a survivor and disability benefit under the current structure in the existing plan.

## Information Technology

by: Gary Schaefer  
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### BOARDS/COMMISSIONS

**House Bill 835 by Representative Miller (Act 212)** provides that the State Bond Commission shall establish an online database for posting notices for bond validation suits.

### CHILDREN

**Senate Bill 484 by Senator Perry (Pending Judiciary A Committee)** would have amended the crime of computer-aided solicitation, prostitution of persons under the age of 18, crime against nature by solicitation, and pornography involving juveniles to apply to persons under the age of 18 instead of under the age of 17.

### CRIME

**House Bill 96 by Representative Moreno (Act 375)** creates the crime of online impersonation and provides for penalties, including a fine of \$250 to \$1,000, imprisonment for 10 days to six months, or both.

### CRIME/PUNISHMENT

**Senate Bill 199 by Senator Kostelka (Act 540)** creates the crime of illegal transmission of monetary funds, which is defined as transmitting, attempting to transmit, causing to be transmitted, soliciting a transmission, or

receiving a transmission, with the intent to defraud, by wire or radio signal, any stolen or fraudulently obtained monetary funds. The bill further provides that whoever is convicted of the crime of illegal transmission of monetary funds is to be imprisoned, with or without hard labor, for not more than 10 years, fined not more than \$100,000, or both.

**Senate Bill 616 by Senator Morrell (Act 389)** makes it unlawful for any person knowingly to create, design, manufacture, sell, purchase, lease, install, update, repair, service, transfer, use, or possess or otherwise make available any automated sales suppression devices (“zapper”) or phantomware. The bill defines an “automated sales suppression device” or “zapper” as a software program that falsifies the records of electronic cash registers, including transaction data and transaction reports, that is either carried on a memory stick or other flash memory data storage device, carried on a removable optical disc, accessed through an Internet link, or accessed or stored via any other means.

**Senate Bill 686 by Senator Adley (Act 846)** defines “sexually explicit” as the graphic depiction of sex including but not limited to sexual audio, text, or images, depiction of sexual activity, nudity, or sexually oriented language and defines a “wireless





telecommunication device” as a cellular telephone, a text-messaging device, a personal digital assistant, a tablet computer, or any other similar device. The bill further provides that the transmission or causing the transmission by a person, knowing the content of an advertisement to be sexually explicit as defined in the bill, of an unsolicited advertisement containing sexually explicit materials in an electronic communication to one or more persons within this state that contains sexually explicit materials without including in the advertisement the term “ADV-ADULT” at the beginning of the subject line of the advertisement is a crime, and provides fines of not less than \$100 nor more than \$500.

**Senate Bill 764 by Senator Ward (Act 861)** prohibits bullying at schools or school-sponsored events, and defines bullying as any written, electronic or verbal communication, including but not limited to calling names, threatening harm, taunting, malicious teasing, or spreading untrue rumors. Electronic communication includes but is not limited to a communication or image transmitted by email, instant message, text message, blog, or social networking website through the use of a telephone, mobile phone, pager, computer, or other electronic device.

#### CRIME/THEFT

**House Bill 744 by Representative Hunter (Pending Judiciary C Committee)** would have provided for an additional fine of \$1,000 for persons who committed the crime of identity theft when the crime was the result of the offender’s employment with any public or nonpublic elementary school, secondary school, high school, vocational-technical

school, college, special school, or postsecondary school or institution, or university in the state.

#### CRIMINAL PROCEDURE

**Senate Bill 649 by Senator Gary Smith (Involuntarily Deferred Administration and Criminal Justice Committee)** would have provided for GPS tracing of certain arrestees (e.g., burglary, misappropriation with violence) while out on bail.

#### CURRICULA

**House Bill 236 by Representative Hodges (Act 384)** provides guidelines and teaching materials for Internet and cell phone safety instruction in public schools.

#### ELECTIONS

**House Bill 578 by Representative Danahay (Act 93)** authorizes the registrar to set the hours and days of early voting at additional locations with approval of the secretary of state subject to certain limitations and requires a notice be posted on the secretary of state’s website informing the public of the hours and days during which early voting will be conducted at additional locations.

#### ELECTION CODE

**House Bill 852 by Representative Tim Burns (Act 138)** allows applicants who have a valid Louisiana driver’s license or Louisiana special identification card issued and who are registered to vote to request an application to vote by mail by completing and submitting an electronic application to vote by mail on the secretary of state’s website.

**EMBALMERS/FUNERAL DIRECTORS**

**Senate Bill 223 by Senator Riser (Pending Senate Commerce Committee)** would have created a continuing education program for embalmers and funeral directors and would have provided that continuing education programs may have been offered in person or through other means, including but not limited to distance learning, videotape, audiotape, teleconference, satellite seminar, Web conferencing, Internet course work, correspondence course work, or any other means approved by the board.

**House Bill 659 by Representative Huval (Pending House Commerce Committee)** would have created a continuing education program for embalmers and funeral directors and would have provided that continuing education programs may have been offered in person or through other means, including but not limited to distance learning, videotape, audiotape, teleconference, satellite seminar, Web conferencing, Internet course work, correspondence course work, or any other means approved by the board.

**House Bill 161 by Representative Ritchie (Act 176)** creates a continuing education program for embalmers and funeral directors and provides that continuing education programs may be offered in person or through other means, including but not limited to distance learning, videotape, audiotape, teleconference, satellite seminar, Web conferencing, Internet course work, correspondence course work, or any other means approved by the board.

**ENVIRONMENT QUALITY DEPT**

**Senate Resolution 83 by Senator Walsworth (filed with Sec of State)** urges and requests the Department of Environmental Quality to research and study the establishment of a recycling and collection system for electronic wastes in Louisiana, to determine how the costs of such a system should be funded, and to study the feasibility of banning the dumping of electronic wastes in landfills.

**ENVIRONMENTAL CONTROL**

**Senate Bill 450 by Senator Walsworth (Pending Senate Environmental Quality Committee)** would have prohibited dumping of electronic waste such as computers, televisions, cellular phones, and other electronic devices in landfills.

**ENVIRONMENTAL QUALITY**

**Senate Bill 201 by Senator Morrell (Act 734)** requires each state and local agency engaged in lead hazard reduction activities to publish on its Internet website minimum lead standards allowable. Such standards shall match, follow, and adapt to the minimum lead levels established by the United States Environmental Protection Agency.

**Senate Bill 211 by Senator Morrell (Act 736)** requires child-occupied facilities to disclose lead hazards, lead abatement activities, or lead testing and requires that notifications to parents and legal guardians shall be made by written or electronic means, such as email or posting on the facility's website.

## FISCAL CONTROLS

**Senate Bill 666 by Senator Murray (Pending Senate & Governmental Affairs Committee)** would have provided for access to, and availability of, privileged information of offices subject to audit or review by the legislative auditor for such purposes and would have extended that authority to all books, accounts, papers, documents, records, files, instruments, films, tapes, or any other forms of recordation, including but not limited to computers and recording devices, whether confidential, privileged, or otherwise. The bill further would have required the legislative auditor to comply with any and all restrictions imposed by law on documents, data, or information deemed confidential or privileged by law and furnished to the legislative auditor.

## FISHING/COMMERCIAL

**House Bill 216 by Representative Harrison (Act 61)** authorizes the Department of Wildlife and Fisheries to issue and collect the fee for certain commercial fish licenses via the Internet. An additional fee not to exceed two dollars may be charged to develop and operate the system for the Internet.

## FUNDS/FUNDING

**Senate Bill 590 by Senator Alario (Act 834)** repeals prior law establishing certain special funds in the state treasury, including the Technology Commercialization Fund and the Broadband Infrastructure and Information Technology Fund, and provides for the deposit of monies formerly associated with the funds into the state general fund.

## GOVERNMENTAL REGULATIONS

**Senate Bill 389 by Senator Martiny (Act 653)** requires the Louisiana Department of Justice, office of attorney general, to regulate sweepstakes promotions and provides that, except as otherwise provided by law, computers or computer systems that are used as part of a sweepstakes promotion shall only be used to allow a person to enter his name and contact information for the purpose of entering into the sweepstakes promotion and to display certain information. The bill further prohibits a person from being required or offered the opportunity to enter into any monetary transaction through a computer, computer system, or other electronic system for the purpose of entering into a sweepstakes promotion or winning a sweepstakes promotion.

## HEALTH/ACC INSURANCE

**Senate Bill 744 by Senator Peterson (Pending Finance Committee)** would have created the Louisiana Health Insurance Exchange and would have required the Department of Insurance and the Medicaid Agency to create and maintain an Internet website through which enrollees and prospective enrollees of qualified health plans and qualified dental plans could have obtained standardized comparative information on such plans and could have enrolled in such plans.

## HEALTH CARE

**Senate Bill 239 by Senator Murray (Act 759)** provides for the use of medical disclosure lists by healthcare providers as an acceptable method of obtaining informed consent and requires the DHH to maintain a

searchable database of all current medical disclosure lists that is available to the public through the department's website. The Act further provides an exception to the Open Meetings Law whereby if any member of the panel is physically present at a meeting, any number of the other members of the panel may attend the meeting by use of telephone conference call, videoconferencing, or other similar telecommunication methods for purposes of establishing a quorum or voting, or for any other meeting purpose.

**House Bill 866 by Representative Abramson (Act 600)** provides for the use of medical disclosure lists by healthcare providers as an acceptable method of obtaining informed consent and requires the DHH to maintain a searchable database of all current medical disclosure lists that is available to the public through the department's website. The bill further provides an exception to the open meetings law whereby if any member of the panel is physically present at a meeting, any number of the other members of the panel may attend the meeting by use of telephone conference call, videoconferencing, or other similar telecommunication methods for purposes of establishing a quorum or voting, or for any other meeting purpose.

### HEALTH SERVICES

**House Concurrent Resolution 96 by Representative Simon (Adopted)** requests the DHH to study means by which to expand access by Louisianans to telehealth services and to report its findings to the legislative committees on health and welfare.

### HIGHER EDUCATION

**House Bill 848 by Representative Hunter (Pending House Education Committee)** would have authorized postsecondary education management boards to grant resident status for tuition purposes for distance learning and out-of-state commuters, and would have defined distance learning as instruction via the Internet.

### HOSPITALS/CHARITY

**House Bill 1161 by Representative Katrina Jackson (Pending House Health and Welfare Committee)** would have provided for fairness in hospital billing by requiring hospitals to provide discount programs, installment plans, collection criteria, and information on financial assistance and charity programs and would have required the hospital to post the information conspicuously on its website.

### INSURANCE DEPARTMENT

**Senate Bill 281 by Senator Johns (Act 642)** provides for confidentiality of records and reporting of complaints against persons and entities subject to jurisdiction of the Department of Insurance and includes electronic mail addresses, Web Universal Resource Locators (URLs), Internet Protocol (IP) address numbers, and biometric identifiers (i.e., finger- and voice-prints) as confidential records.

### INSURANCE/HEALTH

**House Bill 908 by Representative Ritchie (Pending House Insurance Committee)** would have provided for review and approval

of rates of health insurance issuers, including health maintenance organizations (HMOs), and would have amended present law to comply with the federal Patient Protection and Affordable Care Act (PPACA). The bill further would have provided that, within 15 days of submission of any proposed rate increase which met or exceeded the federal review threshold, the department would have published a summary of the rate increase information provided by the health insurance issuer on the department's website.

### **INSURANCE/HOMEOWNERS**

**House Bill 258 by Representative Henry (Pending House Insurance Committee)** would have required every insurer that delivers or issues homeowners' insurance policies in this state to display prominently on its website, in clear and unambiguous language, a list of the discounts or credits that the insurer voluntarily offers to its insureds as well as the discounts and credits mandated by statute, which may apply to its insureds and policies.

### **INSURANCE POLICIES**

**Senate Bill 167 by Senator Gary Smith (Act 311)** provides for portable electronics insurance policies and defines portable electronics insurance as insurance providing coverage for the repairs or replacement of portable electronics which may provide coverage for portable electronics against any one or more of the following causes: loss, theft, inoperability due to mechanical failure, malfunction, damage, or other similar causes of loss.

### **LAW ENFORCEMENT**

**Senate Bill 710 by Senator Perry (Pending Conference Committee)** would have provided that it is unlawful for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of existing law, to intercept a wire, electronic communication, or oral communication transmitted by radio or to disclose or use the information thereby obtained. The bill further would have provided that, except as specifically provided by law, it would have been unlawful for any person willfully to manufacture, assemble, possess, or sell any electronic, mechanical, or other device knowing or having reason to know that the design of such device renders it primarily useful for the purpose of surreptitious interception of wire, verbal, or electronic communications.

### **LEGISLATIVE AFFAIRS**

**House Concurrent Resolution 58 by Representative Norton (filed with Sec of State)** urges and requests the legislature to recognize on the legislative website the sacrifices of our Armed Forces in the fight of War on Terror.

**House Concurrent Resolution 59 by Representative Carmody (Pending Senate & Governmental Affairs Committee)** would have required the House of Representatives and the Senate to display prominently the most recently calculated amount of the total amount of Unfunded Accrued Liability (UAL) for the state retirement systems in each

chamber and on the homepage of the joint legislative website, with a link to an explanation thereof and to pending legislation addressing the UAL.

#### **MTR VEHICLE/OFFICE**

**House Bill 505 by Representative Hoffman (Pending House Transportation Committee)** would have authorized the Department of Public Safety and Corrections, office of motor vehicles, to sell advertisement space on official mailings of the office of motor vehicles, public facilities, or websites owned and maintained by the office of motor vehicles. The bill further would have provided that fees collected for advertisements would have been deposited into the Office of Motor Vehicles Customer Service and Technology Fund and would have been used exclusively for the procurement of new technology.

#### **PROPERTY/UNCLAIMED**

**House Bill 537 by Representative Robideaux (Pending Appropriations Committee)** would have provided the state treasurer (administrator) to cause a notice to be published not later than November 30 of the year following the year in which abandoned property was paid or delivered to the administrator and would have required the notice to be published in a newspaper of general circulation in the parish of this state in which the last known address of any person named in the notice was located. The bill further would have provided that, in a parish where the number of reported owners of abandoned property exceeded 5,000 in a year, the administrator may have elected to publish the notice on the Internet website or portal of

the designated newspaper of general circulation, and if he elected to do so, also would have published a minimum of 5,000 owners of abandoned property as a notice in the traditional newspaper advertisement.

#### **PUBLIC CONTRACTS**

**Senate Bill 501 by Senator Thompson (Pending Senate Transportation Committee)** would have required public entities to include all bid documents as defined in the statutes on an electronic website selected by the public entity and would have specified such selected website's address in the advertisement for bids.

#### **PUBLIC EMPLOYEES**

**House Bill 89 by Representative Ligi (Act 168)** prohibits collective bargaining agreements involving public employers from being accepted or presented for acceptance until the agreement has been made available to the public via the Internet for at least five days.

#### **PUBLIC MEETINGS**

**House Bill 580 by Representative Abramson (Act 747)** requires a public body which has a website to give at least a 24-hour notice of a meeting via its website in addition to posting a notice at its principal office, where the meeting is held, or publication in the official journal. The failure to post an agenda timely by electronic means or the inability of the public to access the public bodies' Internet website because of a technical failure shall not be considered a violation of the Open Meetings Law.

## PUBLIC PRINTING

**House Bill 46 by Representative Pearson (Failed House Final Passage)** would have redefined “Official Journal of the State” as defined in current law to include the website of the official journal or the website of the legislature for the constitutional requirements of notice of introduction of retirement bills.

## PUBLIC RECORDS

**Senate Bill 595 by Senator Crowe (Act 835)** creates the “Business Identity Theft Prevention Act,” requires the secretary of state to keep confidential any electronic mail addresses given to, or captured by, the secretary of state pursuant to electronic filings made by businesses, and provides that the electronic mail addresses shall not be disclosed by the secretary or his staff. The Act further provides that the secretary of state shall notify any person who subscribes to the secretary of state’s electronic mail service and who is an officer of a corporation that the person’s name has been removed from the documents and records of the secretary of state pursuant to a filing of business records by another individual purporting to have the authority to remove the officer from the documents and records of the secretary of state.

## REDISTRICTING

**Senate Concurrent Resolution 11 by Senator Murray (filed with Sec of State)** creates a special committee to study the process of redistricting or reapportionment including the creation of precincts, demographer certification, notice requirements for changes in voting,

reapportionment and redistricting plans, electronic data requirements for GIS, submission deadlines for changes in voting and makes recommendations for changes to the Louisiana Election code to implement such recommendations.

## SCHOOLS

**Senate Bill 619 by Senator Dorsey-Colomb (Pending Senate Education Committee)** would have required each city, parish, and other local public school board to adopt and incorporate into its code of conduct a policy prohibiting the harassment, intimidation, and bullying, including cyberbullying, of a student or a school employee by a school employee. Cyberbullying was defined as harassment, intimidation, or bullying of a student on school property by another student using a computer, mobile phone, or other interactive or digital technology, or harassment, intimidation, or bullying of a student while off school property by another student using any such means when the action or actions were intended to have an effect on the student when the student was on school property.

## SCHOOLS/BOARDS

**House Bill 11 by Representative Ligi (Pending House Education Committee)** would have required public school governing authorities to publish certain information on the school’s website, including but not limited to the student code of conduct, all controlled and other prohibited substances or contraband policies, the dress code for the school, the grade-change process, and harassment or bullying prohibition and prevention procedures.

## SECRETARY OF STATE

**Senate Bill 493 by Senator Peterson (Pending Senate & Governmental Affairs Committee)** would have required the secretary of state to collect and maintain on the department's website a listing of email addresses for all current and future serving statewide and local officials (e.g., candidates).

## SEX OFFENSE/REGISTRY

**House Bill 249 by Representative Thompson (Act 385)** requires sex offenders and child predators to provide notification on certain networking websites of their status as sex offenders or child predators.

**House Bill 556 by Representative Lopinto (Act 200)** requires a convicted sex offender to provide certain notifications and to register with law enforcement and provide information, including but not limited to every email address, online screen name, or other online identifiers used by the offender to communicate on the Internet. The Act further requires a sex offender to appear in person at the sheriff's office where the offender is currently registered to update information when a change is made to any information previously provided by the offender.

**House Bill 620 by Representative Thierry (Act 205)** redefines the crime of unlawful use of social media by certain sex offenders and provides for the offense of unlawful use of a social networking website. The Act further provides that it shall be unlawful for certain sex offenders who are required to register as a sex offender to use social networking websites and provides that a social networking website shall only include those Internet websites,

which has as its primary purpose facilitating social interaction with other users of the website, allows users to create web pages or profiles about themselves that are available to the public or other users, and offers a mechanism for communication among users.

## STATE AGENCIES

**Senate Bill 333 by Senator Mills (Pending Finance Committee)** would have required that all state agencies that issue any license, certificate, registration, permit, or other form of approval pursuant to state law or a rule or regulation to establish and maintain information regarding such issuance on a secure electronic interactive environment accessible through a mobile Web application authorized by rule or regulation promulgated by the division of administration.

**House Bill 1069 by Representative Tim Burns (Pending Senate & Governmental Affairs Committee)** would have required certain enumerated state departments that provide services to the public through a website that enabled a website user to submit information, questions, or comments to provide on the website: the ability for users to submit and post on the website a rating of the service received and comments on such service; the ability for the department, office, or agency to submit and post responses to such comments; and contact information.

## STATE DEPARTMENTS

**Senate Bill 552 by Senator Peterson (Pending House Health and Welfare Committee)** would have required certain state departments and agencies to develop and submit annual reports providing statistics on



women by race and ethnic groups and would have required each agency to post its annual report on the official website of the agency.

### **TAX/AD VALOREM**

**Senate Bill 177 by Senator Adley (Act 539)** provides relative to statutorily required publication of notice of ad valorem taxation millage adjustments and provides for publication of the notice on the Internet website of the taxing authority.

### **TAX/SALES & USE**

**House Bill 1027 by Representative Lambert (Pending House Referral, Subject to Call)** would have expanded the definition of “dealer,” with respect to sales and use tax, to include persons who had certain substantial relationships and similarities with Louisiana retailers or who engaged in business in Louisiana through the use of certain affiliated agents. The bill further would have defined engaging in business in the taxing jurisdiction to include the solicitation of business through an independent contractor or any other representative pursuant to an agreement with a Louisiana resident or business under which the resident or business, for a commission, referral fee, or other consideration of any kind, directly or indirectly referred potential customers, whether by link on an Internet website or otherwise, to the seller.

**House Bill 1114 by Representative Patrick Williams (Pending Ways and Means Committee)** would have expanded the definition of “dealer,” with respect to sales and use tax, to include persons who had certain substantial relationships and similarities with Louisiana retailers or who

engaged in business in Louisiana through the use of certain affiliated agents. The bill further would have defined engaging in business in the taxing jurisdiction to include the solicitation of business through an independent contractor or any other representative pursuant to an agreement with a Louisiana resident or business under which the resident or business, for a commission, referral fee, or other consideration of any kind, directly or indirectly referred potential customers, whether by link on an Internet website or otherwise, to the seller.

### **TEXTBOOKS/MATERIALS**

**House Bill 277 by Representative Hoffmann (Pending House Education Committee)** would have required the Department of Education to ensure that all textbooks being considered for state recommendation were placed in public libraries, and the locations and dates of availability of such textbooks were posted by the Department of Education on its website in the form of a press release, which shall remain posted online for the duration of the review period. This provision would have been applicable only to such a textbook for which an electronic copy was not available online for inspection and review.

### **TRANSPORTATION DEPT**

**House Bill 421 by Representative St. Germain (Act 496)** provides that all orders issued by the Department of Transportation and Development relative to the determination of a maximum or minimum speed limit on a highway or advisory weight limit on a bridge shall be published on the official website of the department.

## Insurance

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**HB 308 by Representative Thierry (Act 78)** is of great import to automobile insurance providers and consumers. Prior to this Act becoming law, it was considered an unfair method of competition, as well as unfair and deceptive, for insurers to establish a contract or agreement with any company to arrange for insurance repairs, where the insurer and the repair company agreed to a price for a repair that would allow the insurer to retain a percentage of the repair costs. Also, it was an unfair method of competition, as well as unfair and deceptive, for an insurer to establish a contract or agreement with any individual or company to manage, subcontract, broker, or arrange insurance repair for any glass repair or replacement on a motor vehicle.

The La. Supreme Court in *Globe Glass & Mirror Co. v. Brown*, 917 F. Supp. 447 (E.D. La 1996) declared that the practice of limiting which company an insurer may contract with for repairs is an impermissible violation of the dormant Commerce Clause and is unconstitutional. Therefore, **Act 78** repeals prior law declared to be unconstitutional thereby permitting insurers the ability to contract with a company to arrange for insurance repairs where the insurer and the repair company agree to a price for repairs that will allow the insurer to retain a percentage of the repair costs. It is now also lawful for an insurer to establish a contractor agreement with any individual or company to manage,

subcontract, broker, or arrange insurance repairs for damaged glass on a motor vehicle.

**HB 1195 by Representative Katrina Jackson (Act 221)** can be considered good news for individuals involved in an automobile accident. Currently, motor vehicle operators in this state are required to report to the commissioner of the Department of Public Safety and Corrections a claim for property damages and damages for physical injury in the event that the operator is involved in an accident in which any person is killed or injured or in which property damage of more than \$500 is sustained. **Act 221** removes the \$500 property damage threshold thereby expanding the circumstances in which motor vehicle operators may report claims for damages to the Department of Public Safety and Corrections.

**Senate Bill 167 by Senator Gary Smith (Act 311)** is timely in its inception given the onslaught of portable electronic devices used by virtually all ages. **Act 311** authorizes portable electronics insurance to be offered on a month-to-month or other periodic basis as a group or master commercial insurance policy issued to a vendor of portable electronics for its enrolled customers. For the sake of clarity, this bill provides the following definitions:

1. "Customer" means a person who purchases portable electronics or services.

2. "Enrolled customer" means a customer who elects coverage under a portable electronics insurance policy issued to a vendor of portable electronics.
3. "Location" means any physical location in the state of Louisiana or any website, call center site, or similar location directed to residents of the state of Louisiana.
4. "Portable electronics" means electronic devices that are portable in nature, their accessories, and services related to the use of the device.
5. (a) "Portable electronics insurance" means insurance providing coverage for the repairs or replacement of portable electronics which may provide coverage for portable electronics against any one or more of the following causes of loss: loss, theft, inoperability due to mechanical failure, malfunction, damage, or other similar causes of loss.
- (b) "Portable electronics insurance" does not include any of the following:
- (i) A service contract or extended warranty providing coverage limited to the repair, replacement, or maintenance of property for the operational or structural failure of such property due to a defect in materials, workmanship, accidental damage from handling, power surges, or normal wear and tear.
  - (ii) A policy of insurance covering a seller's or a manufacturer's obligations under a warranty.
  - (iii) A homeowner's, renter's, private passenger automobile, commercial multi-peril, or similar policy.
6. "Portable electronics transaction" means any of the following:
- (a) The sale or lease of portable electronics by a vendor to a customer.
  - (b) The sale of a service related to the use of portable electronics by a vendor to a customer.
7. "Vendor" means a person in the business of engaging in portable electronics transactions directly or indirectly.

**Senate Bill 765 by Senator Morrish (Act 862)** specifies giving the Louisiana Attorney General and his assistants the ability, authority, and resources to pursue civil monetary penalties, including liquidated damages, or other remedies to protect the integrity of the insurance industry from persons who engage in fraud, misrepresentation, abuse or other illegal practices.

Prior law prohibited presenting or causing to be presented any written or oral statement, including computer-generated documents, as part of or in support of or denial of a claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains any false, incomplete, or fraudulent information concerning any fact or thing material to such claim or insurance policy. It also prohibits assisting, abetting, soliciting, or conspiring with another to prepare or make

any written or oral statement that is intended to be presented to an insurance company, insured, the Department of Insurance, or other party in interest or third party claimant in connection with or in support of or denial, or any claim for payment of other benefit pursuant to an insurance policy, knowing that such statement contains any false, incomplete, or fraudulent information concerning any fact or thing material to such a claim or insurance policy.

**Act 862** retains prior law and permits the attorney general to institute a civil action in the courts of this state to seek recovery from any person or persons who violate the law. **Act 862** also provides that each violation may be treated as a separate violation or may be combined into one violation at the option of the attorney general. As well, the Act provides for a civil fine for a violation of present law in an amount not to exceed \$10,000 per violation. Additionally, a civil monetary penalty shall be imposed on the violator in an amount which equals three times the benefit pursued, including actual damages as a result of the violation.

**Act 862** requires all monies collected pursuant to these law suits to be dedicated to and deposited into the Insurance Fraud Investigation Fund. Forty percent of the monies recovered shall be allocated from the fund to the attorney general's office. However, there shall be no reduction or recalculation of the Insurance Fraud Investigation Fund allocation that currently exists.



## Judiciary

by: Tom Wade  
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### BUDGET

**House Bill 1058 by Representative Fannin (Act 63)** provides funding for the operations of the judicial branch. It appropriates funds for Fiscal Year 2012-2013 for the ordinary operating expenses of the judicial branch of government with total funding of \$165,080,427 from the following sources: \$142,862,434 out of the State General Fund (Direct); \$10,436,500 through interagency transfers from the Dept. of Children and Family Services; and, \$9,650,831 from statutory dedications out of the Judges' Supplemental Compensation Fund and the Trial Court Case Management Fund.

Funding for the ordinary operating expenses of the judicial branch of government is provided as follows:

|     |   |                             |
|-----|---|-----------------------------|
| (1) | La. Supreme Court                               | \$ 76,107,854               |
| (2) | Courts of Appeal                                | 43,442,668                  |
| (3) | District Courts                                 | 33,863,555                  |
| (4) | Criminal Court, Parish of Orleans               | 5,852,588                   |
| (5) | Juvenile and Family Courts                      | 2,342,586                   |
| (6) | Other Courts ( <i>Required by Statute</i> )     | 2,801,870                   |
| (7) | Other Courts ( <i>Not Required by Statute</i> ) | <u>669,306</u>              |
|     | <b>TOTAL</b>                                    | <b><u>\$165,080,427</u></b> |

It also provides that the appropriations out of the State General Fund (Direct) contained in the act shall be reduced by a total amount of \$2,130,662 pursuant to a plan adopted by the Judicial Budgetary Control Board or as approved by the Louisiana Supreme Court.

### FEES/FUNDING

**Senate Bill 65 by Senator Morrish (Act 301)** requires the clerk of court of the 38<sup>th</sup> Judicial District Court to establish an indigent transcript fund for the deposit of certain monies. It provides that the monies shall be used for the payment of court reporter fees for transcripts prepared in certain juvenile proceedings, civil actions, and criminal proceedings. It further provides that if funds are available at the end of the fiscal year, the clerk of court may retain up to \$2,000 from the fund as compensation for administration of the fund. The fund is established to pay court reporters for transcription in all cases where the party is indigent or a pauper, and the new law establishes that the rate for payment may not exceed \$3.50 per thirty-two line page. The new law also provides that the court reporter shall be paid 25 cents per page for each copy.

In addition, the new law provides that in criminal cases over which the court has original, appellate, supervisory, or concurrent jurisdiction, not to include traffic violations, there shall be taxed as costs against every defendant who is convicted after trial or after

a plea of guilty or nolo contendere or who forfeits his bond a sum not to exceed \$10.00. This cost shall be transmitted to the clerk of court for disposition in accordance with law. It also provides that in civil cases, except actions filed in forma pauperis, an additional filing fee not to exceed \$20.00 shall be collected. The fee shall be transmitted to the clerk of court for further disposition in accordance with law. It also requires the clerk of court to have an annual audit conducted of the fund in accordance with law. It becomes August 1, 2012.

**Senate Bill 72 by Senator Mills (Act 722)** relates to two judicial districts, the 16<sup>th</sup> Judicial District and the 1<sup>st</sup> Judicial District. Current law provides that jurors in criminal cases who attend may demand and receive from the parish treasury compensation and an allowance for mileage necessarily traveled going to and from the courthouse to be fixed by the district judges of each judicial district, sitting en banc, subject to approval by the parish governing authority. The compensation shall be \$25 for each day of attendance in court, and the mileage allowance shall be not less than 16 cents per mile nor more than the rate in effect for state officials.

The act retains current law but provides that in the 16<sup>th</sup> Judicial District and in the 1<sup>st</sup> Judicial District, the parish governing authorities may adopt an ordinance which provides that surplus monies in the juror compensation fund in their respective parishes that exceeds \$50,000 at the end of each calendar year may also be used to defray the costs of providing courthouse security and all expenses associated with the trial of a capital case. The act defines "special fund" as the special fund provided for in current law and defines

"surplus monies" as the amount of money that is in each special fund at the end of each calendar year and that is in excess of the total amount paid from each special fund as juror compensation in that calendar year. It also provides that no money obligated to be paid to any juror is to be considered surplus money. The act further provides that the balance of \$50,000 required to be maintained in the juror compensation fund means \$50,000 in unexpended and unencumbered funds, and under no circumstances is the balance in the juror compensation fund to be reduced below \$50,000 as a result of an expenditure made under the provisions of the act.

Currently, the law provides that whenever a law enforcement officer is required to be present, in his official capacity, as a witness in any criminal case or delinquency adjudication in any district or parish court, or any court exercising juvenile jurisdiction, during any time he is not required to report to work or perform the duties of his office, the law enforcement officer is to be paid \$50 for each day per case, up to \$150 in any one day regardless of the number of cases for which he is present or whether he actually testified in the case. It further provides that the witness fees are to be paid from costs of court collected in individual cases tried in district or parish courts or in any court exercising juvenile jurisdiction, to be assessed as a part of the costs of court to be collected in such cases and collected for each case in which there is a plea of guilty or in which there is a conviction. It further provides that all of these costs are to be placed in a special fund that is to be maintained and administered by the governing authority.

The act retains current law but further provides that in the 16<sup>th</sup> Judicial District, all surplus monies in the special fund in each of the parishes in that district that exceed \$50,000 at the end of each calendar year are to be transmitted by the governing authorities of those parishes to the criminal court fund of the 16<sup>th</sup> Judicial District Court. It further provides that no single parish can transfer more than \$150,000 per year to the criminal court fund of the 16<sup>th</sup> Judicial District Court.

The act further provides that in the 1<sup>st</sup> Judicial District, all surplus monies in the special fund that exceed \$50,000 at the end of each calendar year are to be transmitted by the governing authority of Caddo Parish to the criminal court fund of the 1<sup>st</sup> Judicial District Court. It further provides that no more than \$150,000 per year can be transferred by the governing authority of Caddo Parish to the criminal court fund of the 1<sup>st</sup> Judicial District Court.

The act further provides that the surplus monies that are required to be transferred by the act are to be transferred no later than January 31<sup>st</sup> of each year, and may be used for any purpose for which the other monies in the criminal court fund of the 16<sup>th</sup> Judicial District Court and the 1<sup>st</sup> Judicial District Court may be used.

The act defines "special fund" as the special fund provided for in current law and defines "surplus monies" as the amount of money that is in each special fund at the end of each calendar year and that is in excess of the total amount paid from each special fund as witness fees for off-duty law enforcement officers in that calendar year.

The act provides that no money obligated to be paid to any officer or agency for an off-duty law enforcement officer's court appearance is to be considered surplus money pursuant to the act.

The act further provides that the balance of \$50,000 required to be maintained in the witness fee fund means \$50,000 in unexpended and unencumbered funds, and under no circumstances is the balance in the witness fee fund to be reduced below \$50,000 as a result of a transfer made under the provisions of the act.

**Senate Bill 434 by Senator Peterson (Act 330)** relates to the funding of the district indigent defender fund. Prior law required every court of original criminal jurisdiction, except in the town of Jonesville, in the city of Plaquemine, and in mayors' courts in municipalities having a population of less than 5,000, to remit special costs to the district indigent defender fund for certain violations, under state statute as well as under parish or municipal ordinance, except a parking violation. It required the sum of \$35 to be assessed in cases in which a defendant is convicted after a trial, a plea of guilty or nolo contendere, or after forfeiting bond and that it shall be in addition to all other fines, costs, or forfeitures imposed. It further required such amounts to be remitted by the respective recipients to the judicial district indigent defender fund monthly by the 10th day of the succeeding month. The act retains those provisions and further requires that such amounts remitted in the parish of Orleans include all of the following data:

1. Name and case number of each defendant.
2. Date of order assessing the costs.
3. Date by which the defendant is ordered to pay such costs.
4. Date of collection of such costs.
5. Actual amount collected.

The act also requires the office for the district public defender for the parish of Orleans to notify the office of the inspector general, city of New Orleans, in writing, if such required amounts and data have not been remitted by the 15th day of the month.

**House Bill 101 by Representative Edwards (Act 46)** provides with regard to authorized filing fees in certain judicial districts. Current law authorizes the judges of the 21<sup>st</sup> Judicial District Court to determine an amount of not more than \$10 to be collected by the clerk of court from every person filing any type of civil suit or proceeding. The act changes the amount authorized for collection by the clerk of court in each parish within the 21<sup>st</sup> Judicial District Court from an amount not to exceed \$10 to an amount not to exceed \$20.

Current law further authorizes the judges of the 21<sup>st</sup> Judicial District Court to determine an amount of not more than \$10 to be collected in all criminal cases over which the 21<sup>st</sup> Judicial District Court has jurisdiction, from every defendant who is convicted after trial or after he pleads guilty or who forfeits his bond in addition to all other fines, costs, or forfeitures lawfully imposed. It also requires these costs to be transmitted to the clerk for

distribution. The act increases these criminal court costs from an amount not to exceed \$10 to an amount of not more than \$20 and requires the costs to be collected by the sheriff of each parish within the 21<sup>st</sup> Judicial District Court.

Current law requires the clerk of court to place all sums collected or received pursuant to current law into the judicial expense fund for the 21<sup>st</sup> Judicial District Court and the 22<sup>nd</sup> Judicial District Court. The act requires the clerk of court and the sheriff in each parish within the 21<sup>st</sup> Judicial District Court to place all sums collected or received into the Judicial Expense Fund for the 21<sup>st</sup> Judicial District Court.

Current law requires the judges, en banc, of the 21<sup>st</sup> Judicial District Court and the 22<sup>nd</sup> Judicial District Court to have control over the judicial expense fund and its disbursements. It also requires the judges to conduct an annual audit of the fund, the books, and accounts related to the fund and to file the audit with the legislative auditor for public inspection. The act retains those provisions with regard to the judges of the 21<sup>st</sup> Judicial District Court and provides that the judges of the 22<sup>nd</sup> Judicial District Court no longer have control over the fund and no longer are required to conduct audits.

## JURISDICTION

**Senate Bill 174 by Senator Morrell (Act 312)** relates to three courts in New Orleans. Current law provides for the jurisdiction of the Traffic Court of New Orleans, the First City Court of New Orleans and the Second City Court of New Orleans. The act provides that the traffic court shall have exclusive



jurisdiction of appeals by any person aggrieved by an administrative hearing officer's decision concerning a traffic violation enforced by the city of New Orleans' automated traffic enforcement system. It further provides that such appeals to the traffic court shall be made within 30 days from the date of decision, and that the court shall have de novo review over such appeals. The act further provides that the First or Second City Court of New Orleans shall have jurisdiction of appeals by any person aggrieved by a decision of the traffic court concerning a traffic violation enforced by the city of New Orleans' automated traffic enforcement system. It limits the city court's review to alleged errors of law. Those appeals to the first or second city court shall be made within 30 days from the date of decision. Such appeals from the traffic court shall be on the law and the facts and shall be tried upon the records made and the evidence offered in traffic court.

**Senate Bill 457 by Senator Perry (Act 331)** relates to the jurisdiction of certain city courts. Current law provides that specified city courts, including the city courts of Abbeville and Kaplan, have civil jurisdiction concurrent with the district court where the amount in dispute or the value of property involved does not exceed \$25,000. The act removes the city courts of Abbeville and Kaplan from such civil jurisdiction as provided in current law and instead provides for those city courts to have civil jurisdiction concurrent with the district court where the amount in dispute or the value of the property involved does not exceed \$35,000.

## ORGANIZATION

**Senate Bill 625 by Senator Murray (Act 474)** relates to the consolidation of certain courts and related offices in Orleans Parish. Act 621 of the 2006 Regular Session, consolidated the civil, criminal, and juvenile courts, and the clerks of the respective courts into the 41st Judicial District Court; established one clerk of court for Orleans Parish; and established the salaries, composition, jurisdiction of such judicial officials, including magistrates and commissioners; transferred all the duties, powers, and functions of the former offices to the consolidated office; and created the Consolidated Judicial Expense Fund for the 41st Judicial District Court for the civil and criminal district courts, the juvenile court for the parish of Orleans, and the First and Second City Court of the city of New Orleans. It also provided that such fund and all disbursements shall be administered and controlled by a committee composed of certain judicial officials, and otherwise established consolidated public offices similar to the other existing judicial districts in the state. It also transferred the offices of the custodian of notarial records, register of conveyances, and recorder of mortgages and their respective duties and functions to the clerk of civil district court as parish recorder and abolished such offices effective Jan. 1, 2009. It also provided for the consolidation of the offices of the civil and criminal sheriffs of the parish of Orleans into one office.

**Act 474** essentially halts the consolidation of the civil, criminal, and juvenile courts in Orleans Parish. The changes related to the civil and criminal sheriffs have occurred, as have the transfers of the offices of the

custodian of notarial records, register of conveyances, and recorder of mortgages. These changes are not affected by the new law.

One additional point is important to note. Current law requires the first judge for the additional judgeship of the juvenile court for the parish of Orleans to be elected for a term of eight years commencing on January 1, 1961, at the congressional election, and his successor to be elected every eight years thereafter. **Act 474** retains this provision but changes the terms of office from eight years to six years and extends the terms of those juvenile court judges currently in office on August 1, 2012 to December 31, 2014.

#### **OTHER MATTERS**

**Senate Bill 91 by Senator John Smith (Act 305)** authorizes each duly elected constable of a justice of the peace court in Calcasieu Parish to appoint one deputy constable, for whose acts the constable shall be responsible. The act authorizes each constable to fix the compensation of his deputy and to pay from the fees generated by his office any compensation due the deputy, the premium on bonds required by him of a deputy in charge of public funds, insurance premiums and any expenses necessary for the performance of duties required of the deputy.

The act prohibits a deputy constable from being paid any compensation from any local governing body or political subdivision, other than the constable's office, and provides that a deputy constable shall not be entitled to any compensation from the state. It requires each deputy constable to have the same qualifications as required by law for a

constable of a justice of the peace court and be a resident of Calcasieu Parish.

**Senate Bill 596 by Senator Kostelka (Act 563)** prohibits the issuance of a subpoena or court order that requires a judge or his representative to appear or testify in any civil, criminal, or juvenile matter, including pretrial discovery or administrative hearing, without a contradictory hearing to determine if the information is protected from disclosure by the judicial deliberative process privilege.

The new law provides the following requirements to be determined in the contradictory hearing:

1. The information sought is essential to the case of the party seeking the information and is not merely peripheral, cumulative, or speculative.
2. The purpose of seeking the information is not to harass the judge, nor for the mere purpose of seeking recusal of the judge.
3. With respect to a subpoena, the subpoena lists the information sought with particularity, is reasonably limited as to subject matter and period of time, and gives timely notice.
4. There is no practical alternative means of obtaining the information.

It further provides that failure to object timely to a party's non-compliance with those provisions constitutes a waiver of the procedural protections but does not constitute a waiver of any privilege.

It also provides that the new procedural protections extend to any judge of any court provided for by Article V of the Louisiana Constitution and to any commissioner or special master of such court.

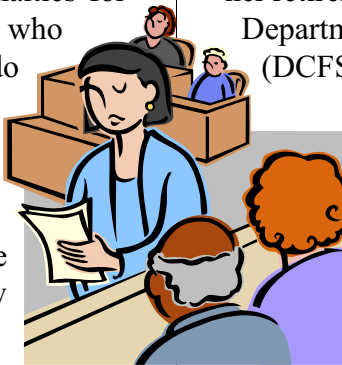
**Senate Bill 621 by Senator Murray (Act 337)** provides with respect to the municipal court in New Orleans. Current law specifies certain position titles and monthly salaries of various deputy clerks in the Municipal Court of New Orleans. The act removes references to specific salaries and retains current law requiring that there shall not be less than 20 deputy clerks and other employees of the Municipal Court of New Orleans, and that all salaries of the clerks and deputy clerks of the Municipal Court of New Orleans shall be paid by the city of New Orleans.

Current law further provides that in the Municipal Court of New Orleans cases in which a defendant is convicted after trial or after he pleads guilty or who forfeits his bond, the Municipal Court of New Orleans shall tax as costs a nonrefundable sum of \$15, which shall be in addition to all other fines, costs or forfeitures lawfully imposed. The act provides that in cases of their jurisdiction, the Municipal Court of New Orleans shall assess costs against a defendant convicted after trial or after he pleads guilty or who forfeits his bond. It also increases the sum the defendant shall pay from \$15 to \$30.

## Juvenile Justice

by: Julie Baxter  
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In the 2012 Regular Legislative Session, Louisiana legislators sought to respond to a number of high-profile crimes-against-children that made national headlines over the past year. Lawmakers voted for better protection against and harsher penalties for human traffickers, sex offenders who victimize children, coaches who do not report child abuse, and parents or caregivers who do not report missing children. Online predators who open an e-mail or Facebook account with harmful intent to pose as someone they are not will now face fines and jail time.



Louisiana legislators continued to push for "smart on crime," cost-saving collaboration between courts, correctional facilities and state agencies who are responsible for juvenile justice in Louisiana. The overall goal was not only to realize economic savings from coordinated efforts between government agencies, but also to use a more tailored, "whole person" approach to helping each child at risk or in trouble with the law. While fighting stiff budgetary constraints, legislators urged state agencies, where possible, to choose community-based family crisis intervention and mental health treatment, rather than the more-costly route of sending children to jail. However, when it comes to those juveniles who commit violent "adult" crimes, legislators seemed to favor releasing more information to the public than previously allowed under the law.

Finally, during the 2012 Regular Legislative Session the legislature learned of the departure of two figures critical to the future of juvenile justice in Louisiana. Louisiana Supreme Court Chief Justice Kitty Kimball announced her retirement effective at the end of the year.

Department of Children and Family Services (DCFS) Secretary Ruth Johnson resigned to take a job in South Carolina state government. Chief Justice Kimball's leadership has shaped the oversight role of the Juvenile Justice Reform Act Implementation Commission (JJIC), as she consistently prompted increasing collaboration between state agencies responsible for caring for Louisiana's children and juvenile offenders. Secretary Johnson's close working relationship with the governor's Office of Juvenile Justice Deputy Secretary Mary Livers has been key in continuing Louisiana's long-term quest to keep at-risk juveniles out of the correctional system.

### CRIMES INVOLVING YOUNG PEOPLE

#### Human Trafficking

Three different bills were filed this session adding harsher penalties for the crime of trafficking children for sexual purposes. The governor's legislative package included **House Bill 49 by Representative Abramson (Act 446)**. Passed unanimously, **Act 446** increases penalties for prostitution-related offenses involving persons under the age of 18,

enhances penalties for prostitution involving persons under the age of 14, increases to 30 years the time limit for prosecuting prostitution offenses, and allows certain defenses and expungement procedures when a young person is involved in prostitution against their will.

**Senate Bill 435 by Senator Broome (Act 154)** requires that certain massage parlors, spas, and hotels, as well as every strip club, sexually oriented business, highway truck stop and highway rest stop must now display the National Human Trafficking Resource Center (NHTRC) hotline (1-888-3737-888) and other assistance information in English, Louisiana French and Spanish on a poster at the business and on the business' website, or face a \$500 fine for each violation.

#### "Caylee's Law"

Responding to the tragic death of Florida two-year old Caylee Anthony and subsequent acquittal of her mother Casey Anthony in a highly-publicized trial, legislators followed other state legislatures around the country in filing at least three different bills creating the crimes of *failure to report a missing child* and *failure to report the death of a child*. **Senate Bill 75 by Senator Kostelka (Act 477)** provides that a child over the age of 13 and under the age of 17 who is missing for 24 hours, or a child under the age of 13 missing for more than 12 hours, is presumed missing. The child's caretaker is then presumed to have known, or should have known, that the child is missing, and is required then to report to a state or local law enforcement agency or a 911 Public Safety Answering Point (defined in law). A violation is punishable by two to 10 years in jail without parole and up to \$25,000 in fines. If the child missing is found dead,

then the punishment increases to a possible two to 50 years in jail without parole and up to \$50,000 in fines.

#### Reporting Sexual Abuse of Minors

With former Penn State assistant football coach Jerry Sandusky facing trial on charges he sexually abused ten young boys over his career, at least two bills were filed addressing coaches and failure to report suspicions of child abuse. **House Bill 166 by Representative Leger (Act 380)** passed unanimously through the legislature. Coaches are now on the list of at least ten different categories of persons – including teachers, health care workers, counselors and police officers – who are legally required to by virtue of their job to report to authorities any suspicion of child abuse. The penalty for not reporting such suspicions of abuse is up to \$500 in fines and six months in jail.

**House Bill 577 by Representative Lopinto (Act 268)** requires anyone over 18 years of age who witnesses someone sexually abusing a child to report the incident to authorities. For those in violation, this new law imposes fines of up to \$10,000 and 5 years in jail.

**Senate Bill 158 by Senator Morrell (Act 148)** provides whistleblower protection to any employee of a public or private entity who reports the sexual abuse of a minor child by any fellow employee (whether supervisor or subordinate) to law enforcement. That employee – if discharged, suspended, demoted, threatened, harassed or in any way discriminated against – is now authorized to seek treble damages plus court costs and attorney's fees in a civil action against the employer.

### Online Acts Against Children

**House Bill 96 by Representative Moreno (Act 375)** makes it against the law to open an e-mail or Facebook account intentionally impersonating another actual person with the intent to harm, intimidate, threaten or defraud. Violation of the law is punishable by up to \$1,000 in fines and from 10 days to six months in jail.

**House Bill 620 by Representative Thierry (Act 205)** bans convicted sex offenders from using or accessing social networking websites or electronic chat rooms. At the governor's request, this bill proposed a narrower version of Representative Thierry's previously-passed law, which was struck down by U.S. District Judge Brian Jackson as an unconstitutional "near-total ban on Internet access." Now, this new law will allow sex offenders to use common internet sites like Google and Yahoo, where the website's primary purpose is not socializing. **House Bill 249 by Senator Thompson and Representative Thompson (Act 385)** further requires that any convicted sex offender not otherwise prohibited from using a networking website (meaning a website with a primary purpose of social interaction) must include in his profile notice that he is a sex offender or child predator, notice of the crime for which he was convicted, the jurisdiction of conviction, a description of his physical characteristics and his residential address.

### Sex offender laws

**House Bill 70 by Representative St. Germain (Act 42)** makes it unlawful for a convicted sex offender to live within three miles of his victim, or to communicate or knowingly physically be present within 300 feet of his victim.

Previously, sex offenders convicted of committing any "sex offense" defined as an "aggravated offense" against anyone under the age of 13 could not live or physically be present within 1,000 feet of that victim. Now, under **House Bill 353 by Representative Lopinto (Act 191)** legislators expanded that 1,000-foot prohibition to extend to those offenders convicted of *any* "sex offense" (not only "aggravated" offenses) *and* to within 1,000 feet of any *day care facility*.

**Senate Bill 122 by Senator White (Act 536)** adds to the legal definition of "sexual abuse against a victim who is a minor" any type of sexual abuse against a "*person with physical or mental disabilities*." **Senate Bill 623 by Senator LaFleur (Act 840)** expands the list of sex offense crimes for which a victim's name, address or identity are not allowed to be publicly disclosed to include victims of *misdemeanor carnal knowledge of a juvenile* and *obscenity*, as well as any other crime defined as a "sex offense" under Louisiana law.

Other Crimes and Related Criminal Law Matters Affecting Juveniles **Senate Bill 121 by Senator Kostelka (Act 535)** created the crime of "domestic abuse aggravated assault," punishable by one to five years in jail and up to \$5,000 in fines. "Domestic abuse aggravated assault" is defined as an assault with a dangerous weapon committed by one household member upon another household member. The definition of "household member" includes any child presently living in the same residence or having lived there within five years immediately prior to the occurrence of the crime, or any child of the offender *regardless of where the child resides*. The provisions of **Act 535** include the

**"Domestic Abuse Aggravated Assault Child Endangerment Law,"** which requires that when the state proves to a court that, in addition to the elements of the crime, a minor child 13 years old or younger was present at the home or any other scene at the time the offender committed the domestic abuse aggravated assault, then the mandatory minimum sentence imposed must be two years in jail without benefit of parole, probation or suspension of sentence.

Previously, Louisiana law provided that anyone 18 years old or older who solicited, procured or counseled a person *under 18 years of age* to distribute or attempt to distribute any controlled dangerous substance, including cocaine, oxycodone or methadone, was in violation of the law, punishable by 10 to 30 years in jail, if convicted. **Senate Bill 59 by Senator Morrell (Act 616)** has now added to that list of drugs included in that crime *methamphetamine* and *heroin*.

**Senate Bill 96 by Senator Morrell (Act 532)** changes the name of the electronic criminal offender tracking system used by the Department of Public Safety and Corrections from "CAJUN" (the "Corrections and Justice Unified Network") to the "*Corrections Offender Management System*." **Act 532** also changes the name of the "JIRMS," or "Juvenile Information Records Management System," operated by the Department of Public Safety and Corrections to "JETS" or the "*Juvenile Electronic Tracking System*."

## JUVENILE COURT PROCEEDINGS

Jurisdiction over Juveniles in Court  
**House Bill 202 by Representative Richardson (Act 698)** and **Senate Bill 390 by**

**Senator White (pending conference committee)** by the end of the session were very similar bills highlighting the continuing public battle over *where* to try juvenile offenders who commit "*adult crimes*" and in *which court* to determine the juvenile's sanity or capacity to proceed to trial.

Previously, if a child who is 15 years of age or older commits certain violent offenses, he was subject to the exclusive jurisdiction of the juvenile court until an indictment on one of those offenses was returned or the juvenile court finds probable cause that he committed one of those offenses. Then the juvenile's case moved exclusively to the court exercising criminal jurisdiction and was transferred to an adult detention facility prior to trial as an adult. If a competency or sanity exam was ordered, the criminal proceedings stopped, except for *filing of a delinquency petition*. Counsel was appointed for the child and the court determined the juvenile's mental capacity to proceed.

Recent questions had arisen over whether it is the juvenile court or the district court exercising criminal jurisdiction that should hold sanity or mental capacity hearings. **Act 698** changed the law to say that now no longer does a child *have* to be transferred to an adult detention facility prior to trial as an adult, but the district court *may* so order. Further, **Act 698** requires that, after the court orders a competency or sanity examination, criminal proceedings are stopped. However, even after those criminal proceedings are stopped, not only may a delinquency petition still be filed (as previously allowed), but an *indictment may be returned* or a *bill of information may be filed*. The Act now says that it is the *court exercising criminal jurisdiction* which *must*

appoint counsel and determine the child's mental capacity to proceed, and that the determination of the child's capacity to proceed to trial must be governed by the Louisiana Children's Code's mental capacity provisions. This new law also allows any juvenile transferred for criminal trial to seek a special sanity hearing or determination of capacity to proceed to trial pursuant to Children's Code provisions.

#### Release of Information from Juvenile Court Proceedings

**Senate Bill 519 by Senator Martiny (Act 792)** allows a district attorney, a law enforcement agency or a court, when the offender is a child at least 14 years old, to release to the public the *name, age, and type of delinquent act* for which the child is being charged whenever the court finds probable cause that the child committed a crime of violence. Public release of this specific information is currently allowed by law at a *continued custody hearing*, where a child is before the court for a delinquent act or for violating a condition of his probation or release. Act 792 will now also allow this information to be released publicly when the court issues an order (upon verified complaint) that a child be *taken into custody* after the court finds that there is probable cause to believe either that the child has committed a delinquent act or the child has violated terms of probation or release.

**Senate Bill 761 (began as SB 517) by Senator Morrell (Act 859)** authorizes the specialized juvenile courts in Caddo, East Baton Rouge, Jefferson and Orleans Parishes to report every two years to the Louisiana Supreme Court, the local district attorney and

the local sheriff data on the number of pre-adjudication and post-adjudication court interventions resulting from taking a child into custody for alleged delinquent acts. Act 859 allows this data to be reported for each child who is: released to the custody of their parents; placed on probation; committed to secure custody; referred to placement in shelters or detention facilities or referred to an alternative program. Although the bill started out requiring mandatory reporting, it passed the legislature as only *permitting (but not requiring)* this reporting.

#### Juvenile Sentencing

**Senate Bill 444 by Senator Peterson (subject to call, Senate Final Passage)** would have by August 2014 eliminated in Families in Need of Services (FINS) proceedings any commitment of children to secure detention facilities – instead allowing at most limited placement in a shelter care facility for not more than 15 days. **Senate Bill 536 by Senator Peterson (Act 669)** did change the required fee that the DPS&C may charge a child/his family for probation or parole supervision from a minimum of \$10 a month to not more than \$50 per month.

**Senate Bill 156 by Senator Murray (Act 629)** requires that the Department of Public Safety and Corrections (DPS&C) will, within 30 days of admitting a child to a secure care detention facility, use a diagnostic test to measure and assess the child's academic grade level. DPS&C must then develop a *written academic plan* that maps a path for the child to – by the time he is scheduled to leave DPS&C custody – either earn his G.E.D. (if he is already at grade-level reading) or reach the appropriate academic grade-level or as



close to that level as possible (if he is below grade-level reading when entering custody). The DPS&C must submit that academic plan to the court for approval within 45 days of the child's admission to a secure facility, and must also submit quarterly progress reports to the court.

#### Juvenile Offender Parole Eligibility

In 2010, the United States Supreme Court in *Graham v. Florida*, 130 S. Ct. 2011 (2010), ruled that the Eighth Amendment "cruel and unusual punishment" clause does *not permit* a juvenile offender to be sentenced to life in prison without a reasonable opportunity for parole for a non-homicide crime.

In the 2012 Regular Legislative Session, legislators filed four different bills to address parole eligibility for juvenile offenders. In the end, it was **Senate Bill 317 by Senator Martiny (Act 466)** was enacted. Act 466 removes the current requirement that a jailed juvenile offender must have served at least 25 years in jail and be at least 45 years old before he is eligible for parole. The new law requires 30 years served in jail, and that the offender: had no disciplinary offenses in the 12 consecutive months prior to the parole eligibility date; completed at least 100 hours or pre-release programming; obtained a GED certification or completed a literacy program; obtained a low-risk level designation; and completed a DPS&C approved re-entry program.

#### Juvenile Detention Facilities

Funding cuts to the Office of Juvenile Justice (OJJ) during the 2012 Regular Legislative Session forced the elimination of OJJ funding

in the coming year for day-treatment alternative education programs for juveniles who are expelled from traditional public school. That meant a loss of as much as \$9 million for those day-treatment programs. The bulk of those programs are currently provided by AMIKids, a Florida-based private not-for-profit that operates day-treatment programs in eight Louisiana cities. During the legislative session, AMIKids did, through **House Bill 1209 by Representative Richard (Act 831)** and other legislation, retain the ability to draw down Minimum Foundation Program (MFP) state education dollars for Department of Education-approved services. Therefore, AMIKids anticipates it will continue to offer alternative education (mental and behavioral health services) to students expelled from other public or publicly-funded schools. AMIKids, while not currently operating charter schools, may at some point consider forming charter schools to offer those services as well.

**Senate Bill 456 by Senator Amedee (Act 365)** created a multi-jurisdictional board of commissioners authorized to operate and run the juvenile detention facility housed in St. James Parish.

In addition to the three OJJ operated secure-care facilities in Louisiana, there are some 17 locally-run or parish-run juvenile detention facilities. Coming into the 2012 Regular Legislative Session, current law provided that all of those locally-operated juvenile detention facilities in Louisiana were required *by January 1, 2013* to be licensed according to newly-promulgated Department of Children and Family Services regulations. This was part of the Juvenile Justice Reform Act goal of holding all of Louisiana's juvenile detention

facilities to the same regulatory standards. **Senate Bill 462 by Senator Amedee (Act 366)** was initially drafted to allow only the St. James juvenile detention facility an additional six months – or until July 1, 2013 – to meet those newly promulgated juvenile detention standards. As it was sent to the governor, Act 366 moves the licensure deadline for *all Louisiana juvenile detention facilities* to July 1, 2013.

#### **FAMILIES IN NEED OF SERVICES (FINS)**

**House Concurrent Resolution 129 by Representative Leger (Filed with the Secretary of State)** asks the Louisiana Supreme Court Families in Need of Services Assistance Program (FINSAP) and the Governor's Children Cabinet to formally develop tracking records and to share information related to status offending youth and their families. Those agencies are urged to work with the Louisiana Behavioral Health Partnership to develop a list of agencies to which the state can refer truants, runaways and other youths with ungovernable behavior for mental health and family problem-solving, crisis response and respite services. HCR 129 asks the Louisiana Supreme Court, the Department of Children and Family Services, the Department of Health and Hospitals, the Department of Education, the Governor's Children's Cabinet, the Department of Public Safety and Corrections and the Office of Juvenile Justice to report to the Louisiana legislature's Juvenile Justice Reform Act Implementation Commission (JJIC) by March 1, 2013 how far these agencies have progressed in this project.

**Senate Bill 467 by Senator Broome (Act 660)** requires that when a caretaker or school official files a complaint asking a court to bring a young person into a "Families in Need of Services" (FINS) voluntary informal family services plan, that there now be presented to the court documentation of all the steps addressing the delinquent behavior that were taken prior to filing the complaint, as well as a list of all the state agencies currently involving in supervising or serving that child.

#### **FOSTER CARE**

**Senate Bill 152 by Senator Broome (Act 730)** is a Louisiana State Law Institute legislation reflecting the growing national trend for states to grant children the right to be *present in court* and their *testimony considered*. This new law now requires that, barring certain circumstances, the child must be present in court and the court take into account the child's testimony (whether in person or by video) when deciding child-in-need-of-care, adjudicatory or disposition hearings. The law further requires that the court must now take into account information regarding the care and treatment of the child from any *foster parent, pre-adoptive parent or relative* caring for the child. When the child is 15 years old or older and the court is developing the child's care plan, the law now requires that the plan must include a written, individualized transition plan for how that child will move from foster care to independent living upon reaching adulthood. The plan must be developed in collaboration with the child and any agency involved in that child's care.

**House Bill 269 by Representative Barrow (Act 249)** also seeks to provide stability for children in Louisiana's foster care system. Previously, the law had required that the governing authority of every public and elementary school establish a policy to allow a child who is in foster care to remain enrolled in the public school in which the child was enrolled at the time he entered foster care, if the Department of Children and Family Services (DCFS) determined that remaining in that school was in the best interest of the child. Now the law specifies that such a policy must allow that foster child to remain enrolled in that public school *for as long as the child stays in the custody of the state or until he completes the highest grade offered at that school*, if DCFS determines that remaining in that school is in the best interest of the child.



## Labor/Employment

by: *Carla Roberts*  
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**Senate Bill 577 by Senator Peterson (Vetoed by the Governor)** would have set up the Louisiana Equal Pay Task Force to assist the Louisiana Workforce Commission in studying wage disparities between men and women. The governor's veto message letter advised that the governor vetoed the bill because the implementation of the task force would have cost the Louisiana Workforce Commission at least \$300,000 and no funding for the task force was appropriated by the legislature.

**Senate Bill 763 by Senator Donahue (Act 860)** provides for a new standard of judicial review for workers' compensation cases. Act 860 provides that the provisions of the Act are to be based on the mutual renunciation of legal rights and defenses by employers and employees alike. The Act further states that the specific intent of the legislature is that workers' compensation cases will be decided on their merits, whereas, previous case law had held that workers' compensation cases were to be given liberal construction in favor of the injured worker. Act 860 also sets up a new system whereby an injured worker who believes that the amount of his workers' compensation weekly benefit check is inaccurate can obtain an expedited hearing by phone with a workers' compensation judge.

**Senate Bill 521 by Senator Johns (Act 667)** provides that no parish or municipality may

establish employee benefits in the form of a mandatory, minimum number of vacation or sick leave days, whether paid or unpaid, which is different from state law. Present law already provides that a parish or municipality cannot establish its own minimum wage rate that is different from state law.

**Senate Bill 520 by Senator Broom (Act 793)** relates to the \$75,000 workers' compensation death benefit which a deceased worker's dependents are entitled. Previous court cases had held that, in a case where a deceased worker was a "deadbeat parent," (i.e. a parent who paid no child support) the biological child could receive no part of the deceased worker's death benefit because the child was not an "actual" monetary dependent. The same court cases also held that, while the "deadbeat parent's" biological child could receive no part of the death benefit, the deceased worker's concubine and her children (i.e. the children which the concubine bore in a previous sexual relationship) could receive the entire \$75,000 death benefit. The previous court cases based its decision on actual monetary "dependence" and not legally obligated dependence. Act 793 provides that the deceased worker's biological or adopted children are entitled the death benefit and not the concubine or the concubine's children who have no legal relationship to the deceased worker.

## Legislative Affairs

by: *Laura Gail Sullivan*  
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### PUBLIC HEARINGS AND TESTIMONY

**Senate Resolution 15 by Senator Peterson (Pending Senate and Governmental Affairs Committee) and House Resolution 14 by Representatives Pat Smith, Hunter, and Katrina Jackson (Pending House and Governmental Affairs Committee)** would have required the house of origin to provide for additional public hearing and testimony on various education bills from the 2012 Regular Session on Fridays after 5 p.m. or on Saturdays or Sundays.

### RECOMMITAL

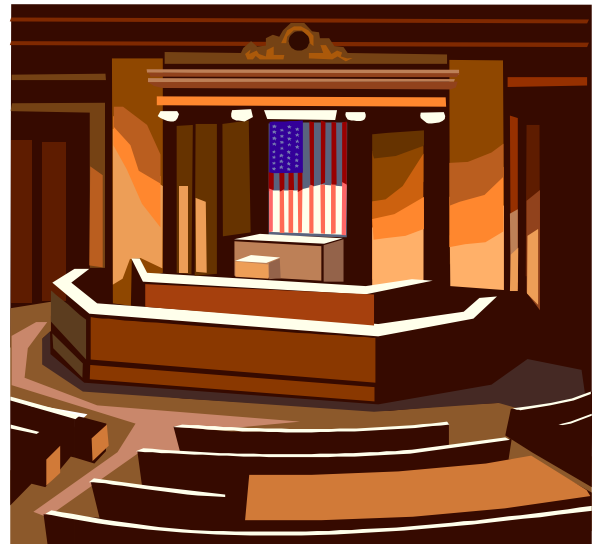
**House Resolution 59 by Representative Lopinto (Filed with Sec of State)** removes the House of Representatives requirement of recommittal to the House Committee on the Administration of Criminal Justice of certain legislative instruments relative to felonies.

**House Resolution 20 by Representative Tim Burns (Subject to Call - House Final Passage), House Resolution 8 by Representative Norton (Pending House and Governmental Affairs Committee), and House Resolution 12 by Representative Hunter (Pending House and Governmental Affairs Committee)** would require recommittal of any legislative instrument with an estimated cost of \$100,000 annually to the House Committee on Appropriations.

Present House Rules require dual referral of Senate instruments only, with a threshold of \$500,000.

### LEGISLATIVE AFFAIRS

**House Concurrent Resolution 59 by Representative Carmody (Pending Senate and Governmental Affairs Committee)** would have adopted a Joint Rule requiring the legislature to display the most recently calculated amount of the unfunded accrued liability for the state retirement systems on the homepage of the legislative website, with links to explanatory information and pending legislation addressing the debt.



## Local Government

by: *Michael Bell*  
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### ASSESSORS

**Senate Bill 60 by Senator Riser (Act 299)** provides relative to the payment of certain insurance premium costs for certain retired assessors and assessors' employees in Caldwell and Lincoln parishes.

**Senate Bill 140 by Senator Alario (Act 114)** increases the amount the Jefferson Parish Assessor is allowed for clerical and other expenses.

### COURTS

**Senate Bill 535 by Senator Johns (Act 333)** expands jurisdiction of the mayor's court in the town of Westlake concurrent with the city and district court, over suits by the municipality, water district, sewerage district, or any public utility operated by a political subdivision to enforce the collection of an open account regarding property located with the town.

### LOCAL EMPLOYEES

**Senate Bill 91 by Senator J.R. Smith (Act 305)** authorizes each duly elected constable to of a justice of the peace court in Calcasieu Parish to appoint one deputy constable, for whose acts the constable shall be responsible; and to fix the compensation of his deputy and to pay from the fees generated by his office any compensation due the deputy, the premiums and any expenses necessary for the performance of duties required of the deputy.

This Act also prohibits a deputy constable from being paid any compensation from any local governing body or political subdivision, other than the constable's office, and provides that a deputy constable shall not be entitled to any compensation from the state.

**Senate Bill 405 by Senator Buffington (Act 656)** authorizes the governing authority to create, by ordinance, the position of chief of administration of fire department and requires the governing authority to establish the duties and responsibilities of the chief of administration of fire department in the ordinance. Additionally, this Bill provides that the chief of administration of fire department shall have not less than 10 years of full-time fire service experience.

### LOCAL OFFICIALS

**Senate Bill 80 by Senator Cortez (Act 303)** authorizes the chief of police for the city of Youngsville to appoint, promote, discipline, and dismiss police personnel subject to the budgetary limitations of the mayor and city council, pertaining to the number of allotted positions of the police department; and specifies that a police department employee may make a direct appeal to the Youngsville Civil Service Board, which shall have the authority to modify or reverse any actions of the chief of police.

**Senate Bill 312 by Senator Cortez (Act 312)** provides that the position of assistant police chief, relative to the towns of Broussard,

Carencro, Scott and Youngsville, shall be in the unclassified service; and such selection, appointment, supervision and discharge of the position of assistant police chief is vested with the police chief. Additionally, this legislation provides that any person who is appointed from a position in the classified police service to serve as assistant chief of police will not forfeit his seniority accumulated to the date of his appointment and will continue to accumulate seniority during the time he holds the position of assistant chief of police.

### **SPECIAL DISTRICTS**

**Bill 395 by Senator White (Act 654)** creates the Carmel Acres Crime Prevention and Improvement District in East Baton Rouge Parish to aid in crime prevention and improvement of areas within the district. Further provides for the levy, subject to voter approval, of a parcel fee on improved and unimproved parcels within the district. The fees shall be as provided by duly adopted resolution of the board and shall not exceed \$100 per parcel per year.

**Senate Bill 564 by Senator Gallot (Act 798)** creates the Grambling Legends Square Taxing District within Lincoln Parish. Further provides for the cooperative economic development between the city of Grambling, the district, the state, owners of property within the district and other entities as permitted by law. Additionally, the district shall be administered and governed by a board of commissioners comprised of nine members who shall serve without salary or per diem.

**Senate Bill 589 by Senator Lafleur (Act 671)** provides relative to the Evangeline-Ville Platte Recreation District in that for the first

36 months of operation, all revenue generated by the assets of the district be dedicated to operation and maintenance of, equipment for, and improvements to the district. Additionally, the legislation provides for the district, acting through its board of commissioners, to have the authority and duties to hire staff, adopt and implement a policy regarding all revenue generated by the assets of the district and to develop and deliver recreational programming and enrichment activities that encourage the use of the district's assets by the residents.

**Senate Bill 627 by Senator Broome (Act 340)** creates the Live Oak trace Subdivision Crime Prevention and Improvement District in the city of Zachary within East Baton Rouge Parish and provides that the district's purpose is for the enhancement of security within the district and for the beautification and improvement of the district. Furthermore, the legislation authorizes the East Baton Rouge Sheriff's Office to collect a parcel fee within the district, which shall be no less than \$180 dollars per parcel per year.

## Military/Veterans Affairs

by: Heyward Jeffers  
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### LICENSES

Military Training. **House Bill 732 by Representative Burns (Act 276)** provides that individuals with military training and experience shall be granted a license, certification, or registration to lawfully practice an occupation by the appropriate professional or occupational licensing board in this state if the applicant satisfies all of the following conditions:

- (1) Has completed a military program of training, been awarded a military occupational specialty, and performed in that specialty at a level that is substantially equivalent to or exceeds the requirements for licensure, certification, or registration of the professional or occupational licensing board for which the applicant is seeking licensure, certification, or registration in this state.
- (2) Has engaged in the Active practice of the occupation for which the person is seeking a license, certification, or permit from the professional or occupational licensing board.
- (3) Has not been disciplined in any jurisdiction for an Act that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this state at the time the Act was committed.

The law also provides that spouses of individuals with military training and experience shall be granted a license, certification, or registration to lawfully practice and occupation by the appropriate professional or occupational licensing board in this state if the spouse satisfies all the following:

- (1) Holds a current license, certification, or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure, certification, or registration in this state.
- (2) Can demonstrate competency in the occupation through methods as determined by the board, such as having completed continuing education units or having had recent experience.
- (3) Has not been disciplined in any jurisdiction for an Act that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this state at the time the Act was committed.

The law also requires a professional or occupational licensing board to issue a license, certification, or registration to a military-trained applicant to allow the



applicant to lawfully practice and occupation in this state if, upon application to a professional or occupational licensing board, the individual holds a current license, certification, or registration from another jurisdiction and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure, certification, or registration in this state. The law further provides that a military-trained applicant or spouse shall be issued a temporary license until a permanent license is issued. The applicant or the spouse shall not be issued a license if the applicant has received a dishonorable discharge from the military.

### MILITARY AFFAIRS

Louisiana Military Forces. House Bill 936 by Representative Danahay (Act 810) creates the Louisiana Military Advisory Council within the Department of Economic Development. The council would provide a public forum for issues concerning the installations and units of the armed forces located in Louisiana and the military and retired military personnel and their families who reside in Louisiana. The council would meet biannually to formulate goals and objectives to enhance cooperation, coordination, communication, and understanding the military, United States Department of Defense, the Louisiana congressional delegation, the communities in the state interfacing with the military, and state and local government agencies. The council would consist of 25 members comprised as follows:

- (1) The governor or his designee.
- (2) The adjutant general or his designee.

(3) The president of the Senate or a designated senator.

(4) The speaker of the House of Representatives or a designated state representative.

(5) The secretary of the Department of Economic Development or his designee.

(6) The secretary of the Department of Veterans Affairs or his designee.

(7) The following members as appointed by the governor:

(a) The chair of the Louisiana Employer Support of the guard and reserve.

(b) The president of Barksdale Forward or an advocate.

(c) The president of Fort Polk Progress or an advocate.

(d) The president of Callendar Commitment or an advocate.

(e) The chair of the New Orleans Mayor's Military Advisory Council or an advocate.

(f) Five from retired flag, general or O-6 officers, or a command sergeant major representing each of the armed services, national, and the reserves.

(g) Nine members to be appointed at-large representing certain organizations.

the bill requires the council to submit an annual status and progress report on January 1 annually to the governor.

The council would also be authorized to receive and expend funds made available from any source, including donations or gifts of money or services from public or private organizations, to be utilized for the purposes of the council

## MILITARY AFFAIRS

Need-Based Claims. **Senate Bill 614** by **Senator Adley (Act 156)** strengthens prior law by providing that undue hardship to a military family can be indirectly related to the Activation of the military person. All such claims would be decided by the Louisiana Military Family Assistance Board.

## VETERANS AFFAIRS

Student Loans/scholarships. **House Bill 435** by **Representative Larusso (581)** provides, beginning in the 2012-2013 academic year, that a student who is enrolled in or is applying for enrollment in a Louisiana public college or university, who resides in the state during such enrollment, who has served in the U.S. Armed Forces as defined by federal law and who meets certain other eligibility requirements, shall be entitled to resident classification for tuition amount purposes without regard to length of time of residency in the state. The bill does not apply to tuition charged a student under the federal Yellow Ribbon Program. Additionally, the student must meet at least one of the following conditions:

- (1) Has served on Active duty for a continuous period of no less than two years and received an Honorable Discharge, as verified by a U.S. Department of Defense Form 214, within one year of enrolling in a Louisiana public college or university.
- (2) Is currently serving in a Reserve Component of the U.S. Armed Forces as defined by federal law and as verified by a memorandum from the student's commanding officer.
- (3) Has been assigned a service-connected disability by the U.S. Department of

Veterans Affairs.

The bill also requires that the Board of Regents and each public postsecondary education management board adopt rules and guidelines to implement its provisions.



## Natural Resources

by: *McHenry Lee*  
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### ENERGY/MINERALS

A substantial part of the committee's work during the 2012 Regular Session was dedicated to the remediation of oilfield sites. The so-called "legacy lawsuits" have been a contentious issue between oil and gas operators and landowners since the passage of Act 312 of the 2006 Regular Session. Although several bills were filed dealing with the subject matter, two instruments reached final passage. **Senate Bill 555 by Senator Adley (Act 779)** allows for oil and gas companies to admit responsibility for contaminated sites and requires the courts to develop a plan for the cleanup for such sites. If the plan structured by the office of conservation applies standards of another agency, then that plan will be reviewed by the departments of Natural Resources, Environmental Quality, and Agriculture and Forestry. Act 779 allows DNR to issue compliance orders to the responsible party to implement the most feasible cleanup plan

**House Bill 618 by Representative Abramson (Act 754)** provides for the development of a management order, the limited admission of liability for environmental damage, and the procedures after filing a limited admission for damages beyond regulatory standards.

**Senate Bill 257 by Senator Amedee (Act 641)** requires companies who wish to lease land from ports for the purposes of hydrokinetic energy to reimburse the ports for

the costs of any studies on the feasibility of such alternative energy installations.

**Senate Bill 525 by Senator Allain (Act 795)** requires the commissioner

of conservation to promulgate rules that will require oil and gas drillers and operators to provide 30 days "pre-entry" notice to surface owners of land that will be affected by their operations.

**Senate Concurrent Resolution 136 by Senator Morrish** requests the Federal Energy Regulatory Commission to immediately reject any requests for a rehearing regarding Cheniere Energy's Sabine Pass Liquefaction Project and memorializes Congress to express their support for LNG exports and to streamline and expedite the approval process.

**House Bill 504 by Representative Dove (Act 743)** requires the commissioner of conservation to unitize ultra deep wells and pools. This new law applies to ultra deep drilling structures deeper than 22,000 feet and authorizes the commissioner to unitize, force pool, and consolidate all separate tracts of land within the unit. The bill was amended in committee to include legislation regarding risk charges on drilling units and payments participating and non-participating royalty owners.



**House Bill 957 by Representative Edwards (Act 812)** requires the operator of fracking wells to report the composition and volume of fracking fluids to the commissioner of conservation within 20 days of completing the well.

**House Bill 1211 by Representative St. Germain (Act 832)** provides relative to the Oil Spill Coordinator's responsibilities.

**House Concurrent Resolution 94 By Representative Jones** memorializes Congress to encourage and enable the Federal Energy Regulatory Commission to review and approve Cheniere's Sabine Pass Liquid Natural Gas Facility.

## WATER

**Senate Bill 495 by Senator Long (Act 471)** renames the "Ground Water Resources Commission" to the "Water Resources Commission" and changes the membership to include representatives who also have a stake in surface water issues. The Act directs the commission to come up with a comprehensive master plan for the use and conservation of the state's water that will include both ground and surface water.

**Senate Bill 436 by Senator Long (Act 784)** requires the Sabine River Authority to first receive approval from the House and Senate natural resources committees, two-thirds of the governing authorities of the parishes within its jurisdiction, and concurrence by at least two-thirds of the membership of the governing authority of each parish within its jurisdiction before selling its water to any out-of-state entity.

**Senate Bill 502 by Senator Claitor (Act 790)** requires each conservation district, fresh water district, and ground water district submit a report on April 1<sup>st</sup> of each year to the House and Senate natural resources committees, the commissioner of conservation, the Ground Water Resources Commission, and the Ground Water Management Advisory Task Force that will include data on water usage, salt water intrusion, and potential sales for each district.

**Senate Bill 289 by Senator Allain (Act 464)** directs the Coastal Protection and Restoration Authority to provide engineering assistance, advice, and services to the Teche-Vermillion Fresh Water District.

**Senate Concurrent Resolution 40** by Senator Perry requests the Coastal Protection and Restoration Authority, in conjunction with the appropriate state agencies, to study the freshwater needs of the Mermentau Basin and the feasibility of diverting Atchafalaya River water into the basin.

**House Bill 532 by Representative J. Morris (Act 261)** extends the opportunity for the state to enter into cooperative agreements for the sale of surface water.

**House Bill 571 by Representative St. Germain (Act 92)** provides relative to the appointments to the Atchafalaya Basin Research and Promotion Board and the technical advisory group.

**House Bill 651 by Representative Dove (Act 133)** redraws the line for the coastal zone boundary.

**House Bill 720 by Representative Leger (Act 414)** establishes the Louisiana First Hiring Act to promote the hiring of residents of Louisiana's coastal parishes for public works projects for coastal restoration and protection.

**House Bill 896 by Representative Dove (Act 601)** provides for the respective responsibilities of the Department of Transportation and Development and the Coastal Protection and Restoration Authority in the coastal area.

**House Bill 916 by Representative St. Germain (Act 604)** renames the state entities responsible for coastal protection and restoration.

**House Bill 918 by Representative Guinn (Act 809)** provides for the imposition of fines and penalties upon persons who tamper with water control structures owned by the state.

**House Concurrent Resolution 7 by Representative S. Bishop** specifies accreditation requirements for exemption from Wildlife and Fisheries Commission rules governing possession of exotic cats.

**House Concurrent Resolution by Representative St. Germain** approves the Atchafalaya Basin Annual Plan for FY 2012-2013.

**House Concurrent Resolution 49 by Representative Ortego** requests the Department of Wildlife and Fisheries to study Bayou Teche for the possible inclusion into the Historic and Scenic River program.

**House Concurrent Resolution 123 by Representative Thibaut** creates the False River Watershed Council.

## HUNTING & FISHING

Current law requires the Department of Wildlife and Fisheries to issue a limited number of special annual permits for harvesting oysters in Calcasieu Lake until June 30, 2014. **Senate Bill 202 by Senator Morrish (Act 541)** provides that after July 1, 2014, no special permits will be necessary for harvesting oysters in Calcasieu Lake.

**Senate Bill 341 by Senator Claitor (Act 364)** changes exceptions for hunter education course requirements. Current law exempts anyone who holds a valid hunters license from the hunter education course requirement. This bill restricts anyone born after September 1, 1969 from hunting until after they have attended a hunter education course. The bill also requires that in order for a hunter to qualify for an exception to the education course requirement, they must be under the direct supervision of someone born before September 1, 1969 or must be accompanied by and in the presence of someone aged 18 or older who has completed a hunter education course.

**Senate Bill 375 by Senator G. Smith (Act 153)** requires the treasurer to deposit \$20 for every resident trapping license sold and \$145 for every non-resident license into the Louisiana Fur Public Education and Marketing Fund.

**Senate Bill 387 by Senator Ward (Act 327).** Current law requires hunters to retain the head of any deer or turkey killed while at a hunting

camp or in transport to cold storage. This bill further requires that the sex organs of the animals must also be retained for the purposes of positive sex identification.

**Senate Bill 468 by Senator Allain (Act 469)** attempts to clarify the current exceptions for bait fish species. Current law requires that certain body parts of finfish must be retained for positive species identification, but makes an exception for any species used for bait. This Act changes the exception to mean only species with no possession or size limits. The bill makes further exceptions for certain other fish species.

**Senate Bill 670 by Senator LaFleur (Act 844)** requires charter boat fishing guides and charter vessels to carry liability insurance.

**Senate Concurrent Resolution 114 by Senator Peacock** requires the Department of Wildlife and Fisheries to study entering into recreational fishing and hunting license reciprocity agreements with Arkansas, Mississippi, and Texas, and to submit its findings to the House and Senate natural resources committees.

**House Bill 216 by Representative Harrison (Act 61)** authorizes the Department of Wildlife and Fisheries to issue certain commercial fish licenses via the internet.

**House Bill 230 by Representative Thibaut (Act 68)** allows for the use of certain primitive firearms during primitive firearm hunting season.

**House Bill 401 by Representative Gisclair (Act 83)** provides relative to the Wildlife and Fisheries Commission's powers to manage the

control and taking of shrimp.

**House Bill 406 by Representative Greene (Act 804)** authorizes the Wildlife and Fisheries Commission to establish recreational reefs where oyster harvest is prohibited.

**House Bill 431 by Representative Garofalo (Act 85)** extends the application period for an oyster seed ground vessel permit.

**House Bill 486 by Representative H. Burns (Act 128)** provides relative to expenditure of the funds received from the sale of Wild Louisiana Stamps.

**House Bill 557 by Representative Hensgens (Act 90)** authorizes the taking of certain nuisance animals.

**House Bill 570 by Representative Montoucet (Act 267)** requires certain information relative to shipments of alligator parts or skins and exempts from the Public Records Act certain records held by the Department of Wildlife and Fisheries relative to specific shipments of alligator parts or skins.

**House Bill 643 by Representative Montoucet (Act 131)** Provides relative to the Alligator Resource Fund.

**House Bill 651 by Representative Lanbert (Act 133)** provides for the uniformity from fishing gear authorized to be used on certain freshwater lakes.

**House Bill 1190 by Representative Dove (Act 293)** provides relative to alternative oyster culture.

## LANDS

**Senate Bill 454 by Senator LaFleur (Act 785)** provides for the leasing and ratification of certain leases of school lands and sixteenth section lands.

Numerous land transfer bills were filed during the session. The land transfer bills authorized certain state agencies to transfer state-owned state property to local political subdivisions or to private individuals. The following are some of the land transfer bills: **Senate Bill 219 by Senator Johns (Act 542)** (McNeese State University), **Senate Bill 355 by Senator Amedee (Act 325)** (Ascension Parish), **Senate Bill 583 by Senator Gallot (Act 236)** (Lincoln Parish), **Senate Bill 661 by Senator Johns (Act 569)** (Lake Charles), **House Bill 111 by Representative M. Guillory (Act 48)** (Eunice), **House Bill 143 by Representative Gisclair (Act 51)** (Lafourche Parish), **House Bill 255 by Representative Leger (Act 74)** (Orleans Parish), **House Bill 346 by Representative Chaney (Act 190)** (Ouchita Parish), **House Bill 809 by Representative Havard (Act 102)** (East Feliciana Parish), **House Bill 1041 by Representative Dove (Act 295)** (Terrebonne Parish),

## MISCELLANEOUS

**Senate Bill 249 by Senator Long (Act 362)** recreates the Department of Wildlife and Fisheries.

**Senate Bill 370 by Senator Crowe (Act 550)** creates a permit for the entertainment industry for the possession or transportation of certain wildlife.

**Senate Bill 733 by Senator Chabert (Act 852)** provides for the membership and powers and duties of the Louisiana Seafood Promotion and Marketing Board.

**House Bill 71 by Representative Berthelot (Act 371)** authorizes the state fire marshal to issue and enforce burn bans.

**House Bill 656 by Representative Dove (Act 588)** recreates the Department of Natural Resources.

## Property

by: *Danielle Doiron*  
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### COMMUNITY DEVELOPMENT

**Senate Bill 548 by Senator Riser (assigned to Senate Finance)** would have created the Competitive Projects Payroll Incentive Program which provides certain “qualified businesses” a contract to receive certain rebates under a five-year contract.

**Senate Bill 567 by Senator Riser (assigned to Senate Finance)** would have created the Corporate Headquarters Relocation Program which grants a “qualified business” a contract to receive a relocation rebate of 25% of “relocation costs” to relocate or expand its headquarters in Louisiana.

**Senate Bill 608 by Senator Murray (assigned to Senate Local & Municipal Affairs)** would have created the New Orleans Hospitality Zone District to provide for cooperative economic and community development among the district, city, state, organizations and owners of property within the zone. Provides for the boundaries, board of commissioners, requirements, and rights of the district.

**Senate Bill 617 by Senator Donahue (Act 336)** changes the composition of the St. Tammany Parish Development District from 15 members to 13 members, and provides for four appointments by the St. Tammany Parish President, four appointments by the St. Tammany Parish council, three appointments by the St. Tammany Economic Development

Foundation, the St. Tammany Parish President or his designee and the executive director of the St. Tammany Economic Development Foundation. Provides for terms of appointments, meeting requirements, and board transition.

**Senate Bill 677 by Senator Morrell (vetoed by governor)** would have created the New Orleans Regional Business Park (NORBP) as a political subdivision of the state to stimulate industrial and commercial development in Orleans Parish and adjacent parishes. Provides for district boundaries, board of commissioners, requirements, finances and authority.

**Senate Bill 723 by Senator Appel (Act 687)** creates the Louisiana International Commerce Initiative and creates the office of international commerce within the Department of Economic Development. Provides for terms, authority, board members, and necessary requirements for establishment.

**Senate Bill 767 by Senator Murray (subject to call-Senate final passage)** (Substitute bill of SB 608) would have created the New Orleans Hospitality Zone to improve the quality of life for residents and provide cooperative economic and community development within the area. Would have provided for boundaries, requirements, fund, levy of taxes, authority, distribution of tax avails, and reporting.



**House Bill 924 by Representative W. Bishop (Act 606)** creates the Downman Road Economic Development District in Orleans Parish. Provides governing authority, functions, affairs, administration, boundaries, and requirements.

**House Concurrent Resolution 170 by Representative Montoucet (filed with the secretary of state)** requests the governor and the Dept. of Economic Development to embrace and support any and every activity, project, or opportunity that could provide monetary aid to local political subdivisions to provide infrastructure or services supporting businesses interested in locating or in the process of building or expanding in a rural or lower populated area.

## EXPROPRIATION

**House Bill 26 by Representative Connick (Act 445)** provides with respect to the expropriation of property for public purposes. Provides that if residential property expropriated by the state or a political subdivision of the state remains in the possession of and is maintained by the original owner or his heir for a period of more than 30 years, the expropriated property shall be transferred back to the original owner or his heir upon payment of the fair market value of the property. Provides for payment procedures of the fair market value of the property and act of transfer of ownership. Further provides for procedures for opposing the act of transfer of ownership. Provides that the state or political subdivision shall not be required to execute the act of transfer of ownership if the court finds that the original owner or his heir failed to tender fair market value of the property, retain possession of the property, or maintain

the property. Provides that the state or political subdivision shall be required to execute the act of transfer of ownership and pay court costs and attorney fees if the court finds that the original owner or his heir tendered the fair market value of the property, retained possession of the property, and maintained the property. Provides for exclusions for property expropriated for the construction, operation, or maintenance of levees, levee systems, flood control, drainage, or hurricane or coastal protection projects, and shall not apply to property expropriated by DOTD.

**House Bill 274 by Representative Foil (Act 702)** provides relative to location of expropriated property, acquisition, payment and time period requirements. Provides the court may for good cause extend the 30-day time period within the expropriation matter may be set for hearing and for good cause extend the five-day time period it is to render a decision. Provides for evidence of severance damages to requirement that plaintiff present evidence as to highest amount offered for property, and adds severance damages as compensable damages available to the owner from whom the property is expropriated. Provides with respect to payment of costs of expropriation proceedings by the defendant if the defendant rejected an offer which was equal to or higher than the final award.

## HOUSING

**Senate Bill 714 by Senator Broome (Act 686)** provides for the powers and duties of the Louisiana Housing Corporation (LHC). Changes the definition of "persons or families of low or moderate income" as an individual or household whose income qualifies as

defined by HUD: low income as individuals or household earnings less than 50% of the area median income; moderated income as individuals or household earnings between 50%-80% of the area median income. Provides the board of directors of the (LHC) to determine qualification consistent with federal housing programs. Adds the division of administration to the statewide housing policy agency of financing persons or families of low or moderate income, senior citizens, and persons with disabilities. Further provides for policies, duties, requirements necessary to access funds provided through HUD's Community Development Block Grants, and changes appointees to the Housing and Transportation Planning and Coordinating Commission.

**House Bill 1029 by Representative Ponti (Act 112)** creates the New Manufactured and Modular Home Warranty Act which requires all new manufactured or modular homes sold or offered for sale in Louisiana to be in compliance with the standards adopted in existing law. Provides for the definitions relative to the Act and requirements for builders, manufacturers, retailers, installers, and buyers.

#### **PUBLIC PROPERTY**

**Senate Bill 219 by Senator Johns (Act 542)** authorizes McNeese State University to transfer certain state property to the Chennault International Airport Authority.

**Senate Bill 583 by Senator Gallot (Act 236)** authorizes the commissioner of administration to transfer certain state property in Lincoln Parish to Grambling State University and to Louisiana Tech University.

**Senate Bill 661 by Senator Johns (Act 569)** authorizes the Chennault International Airport Authority to transfer certain property to the governing authority of the city of Lake Charles.

**Senate Bill 702 by Senator Heitmeier (Act 687)** provides for the transfer of certain property in Orleans Parish. Limits the transfer of the property from the division of administration to a lease. Provides for further requirements to any lease; requires the lease to Children's Hospital to be executed by February 1, 2013, thereafter the division of administration may offer to lease the property to the highest bidder. Further provides that if the property is not leased after being offered to the highest bidder by August 1, 2013, or 6 months of Children's Hospital refuses to enter a lease, whichever is sooner, the property shall revert to the Board of Supervisors of the Louisiana State University System and Agricultural and Mechanical College and LSU Health Science Center.

**House Bill 111 by Representative M. Guillory (Act 48)** authorizes the transfer or lease of certain state property in St. Landry Parish from the Dept. of Health and Hospitals to the city of Eunice. Provides for the reservation of mineral rights to the state.

**House Bill 143 by Representative Gisclair (Act 51)** authorizes the transfer of property in Lafourche Parish to the Greater Lafourche Port Commission.

**House Bill 255 by Representative Leger (Act 74)** authorizes the Orleans Parish School Board, in accordance with certain conditions, to transfer specified property to Kingsley House, Inc., Further provides relative to the

sale of the purchased property back to the school board (prior to it being offered by Kingsley House to others) if Kingsley House, Inc., determines the property is no longer needed for the purpose of providing educational and other programs operated by Kingsley House, Inc.

**House Bill 346 by Representative Chaney (Act 190)** authorizes the exchange of certain state property in Ouachita Parish from the Dept. of Wildlife and Fisheries. Authorizes the transfer of certain state property in Union Parish from the division of administration to the Girl Scouts of Louisiana-Pines to the Gulf. Provides for the reservation of mineral rights to the state.

**House Bill 411 by Representative Abramson (Act 708)** provides relative to the sale of educational facilities and property in Orleans Parish. Provides that if a chartering group determines that a facility or property that was purchased from the Orleans Parish School Board is no longer needed for an educational purpose, the group shall first offer to sell the facility or property back to the Orleans Parish School Board prior to seeking to dispose of it to any other person or entity.

**House Bill 809 by Representative Harvard (Act 102)** authorizes the transfer or lease of certain state property in East Feliciana Parish from the Dept. of Health and Hospitals to the East Feliciana Parish Economic Development District. Provides for the reservation of mineral rights to the state.

**House Bill 1041 by Representative Dove (Act 285)** authorizes the transfer or lease of certain state property in Terrebonne Parish from the division of administration to

Terrebonne Parish. Provides for the reservation of mineral rights to the state. Requires that the transfer agreement provide that the cost to remove any improvements on the property shall be paid by the state.

**House Bill 1051 by Representative P. Smith (Act 432)** relative to the Downtown Development District of the city of Baton Rouge, makes changes to the boundaries and governing board of the district. Provides for expansion of boundaries of district. Further provides for appointed members and nominations of governing board members of the district.

#### SEIZURE/SALES

**House Bill 940 by Representative Abramson (Act 504)** provides that no additional notice of rescheduled sale dates shall be required for seizure of property. Further provides that no additional notice is required, including notice of rescheduled sale dates.

## Public Safety

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### CHILDREN

**House Concurrent Resolution 5 by Representative Schroder (Filed with the Secretary of State)** continues the Task Force on Legal Representation in Child Protection Cases through final adjournment of the 2013 Regular Session. Provides that the purpose of the task force is to make final recommendations for sustainable continuation of an effective and efficient system of legal representation in child protection cases.

### CONTROLLED DANGEROUS SUBSTANCES

**Senate Bill 61 by Senator Mills (Act 347)** defines "dangerous substance" as a substance which is not otherwise listed as a controlled dangerous substance and has been determined to be an imminent hazard to the public health, safety, and welfare by the secretary of the department using specified criteria and standards. Defines "dangerous substance stop order" as a rule adopted by the department declaring that a substance is a dangerous substance which shall not be sold, distributed, manufactured, or dispensed. Provides a mechanism for the secretary of DHH, by rule, to declare a substance a dangerous substance under certain circumstances and requires the secretary to consider specific criteria when determining whether to declare that a substance is a dangerous substance. Provides that prior to the adoption of a rule declaring that a substance is a dangerous substance, the

secretary shall make certain findings and determinations, and also provides that if the secretary determines that a substance must be classified as a dangerous substance the rule shall also include a dangerous substance stop order prohibiting the sale, distribution, manufacture, or dispensing of the dangerous substance.

Provides that upon adoption of the rule declaring a substance a dangerous substance and the issuance of the dangerous substance stop order, any law enforcement officer may seize any products containing the dangerous substance that are in plain view, and provides for the application and execution of a warrant when an officer has probable cause to believe that any dangerous substance is located within the territorial jurisdiction of such officer. Provides that if any dangerous substance is seized by a law enforcement officer, the officer shall appraise the value of the property seized and deliver to the person found in possession a receipt showing the fact of seizure, the date of the seizure, the name of the person from whom the property was seized, the location of the seizure, the description of the property seized, and the appraised value of such property.

Provides that property seized shall not be subject to sequestration or attachment but is deemed to be in the custody of the law enforcement agency making the seizure,

subject only to the order of the court. The seized property shall be immediately returned to the owner upon expiration of the dangerous substance stop order unless the legislature has enacted a provision to designate the dangerous substance as a controlled dangerous substance.

Provides for judicial action for declaratory judgment in the 19th Judicial District Court to determine the validity of a rule declaring a substance to be a dangerous substance. Authorizes the secretary to adopt a rule declaring a substance a dangerous substance and issue a dangerous substance stop order if necessary. Requires the department to publish a notice of intention to adopt a rule declaring a substance to be a dangerous substance and to issue a dangerous substance stop order regarding the sale, distribution, manufacture, or dispensing of the dangerous substance, in the official state journal at least twice within a 15-day period prior to the adoption of the rule, and provides for the content of the notice and the rule. Requires the secretary to provide to all interested persons a reasonable opportunity to submit data, views, comments, or arguments, orally or in writing. The opportunity for oral presentation or argument shall be granted if requested within five days after the initial publication of the notice. Provides for legislative oversight and the effective dates of the rule.

Criminalizes the act of any person who sells, distributes, manufactures, or dispenses a dangerous substance following the adoption of the dangerous substance stop order, and provides that if such stop order is violated, the person shall be fined not more than \$500, or may be imprisoned for not more than two years in the parish jail, or both. Further

provides that each day of continued violation shall constitute a separate offense.

Provides that the legislation not be construed to apply to any substance regulated by the Louisiana Pesticide Law.

## CRIME/PUNISHMENT

**Senate Bill 427 by Senator Kostelka (Act 556)** adds the offenses of assault by drive-by shooting, rioting or inciting to riot, aggravated criminal damage to property, simple burglary, and looting to the offenses to the definition of "pattern of criminal gang activity" and changes the definition of "pattern of criminal gang activity" to remove the reference to offenses which occurred after 9/7/90.

## CRIMINAL RECORDS

**Senate Bill 96 by Senator Morrell (Act 532)** changes the name of the component system from the Corrections and Justice Unified Network (CAJUN) to the Corrections Offender Management System operated by the Department of Public Safety and Corrections and changes the name of the component system from the Juvenile Information Records Management System (JIRMS) to the Juvenile Electronic Tracking System (JETS).

## DISTRICT ATTORNEYS

**House Bill 370 by Representative Hoffman (Act 579)** authorizes a district attorney in a parish with a population of not less than 27,000 and not more than 30,000 and a parish with a population of not less than 150,000 and not more than 160,000 to convene a multidisciplinary team to assist in making a determination of the appropriate disposition of

a case where a pregnant woman under arrest tests positive for controlled dangerous substances for which she does not have a valid, legal prescription, as provided for in the Uniform Control Dangerous Substance Law. Authorizes certain qualifications of members of the multidisciplinary team and requires those team members to serve two-year terms. Authorizes "appropriate disposition" to include the filing of a petition for involuntary commitment and requires the authority of the multidisciplinary team to exist from the time of arrest to the time of dismissal, acquittal, or conviction.

#### **HUMAN TRAFFICKING**

**House Bill 49 by Representative Abramson (Act 446)** makes comprehensive revisions to current law regarding human trafficking, trafficking of children for sexual purposes, and the commercial sexual exploitation of children.

**Senate Bill 435 by Senator Broome (Act 154)** provides that certain massage parlors, spas, and hotels, as well as every strip club, sexually-oriented business, highway truck stop, and highway rest stop shall display a posting alerting citizens to the assistance of the National Human Trafficking Resource Center (NHTRC) hotline. Requires such posting to be in English, Louisiana French, and Spanish, as well as any other language mandated by the Dept. of Public Safety and Corrections. Requires the Dept. of Revenue and the Dept. of Transportation and Development to notify the described establishments over which that department exercises any regulatory authority, to post on their respective websites a sample of the posting, and to enforce these provisions.

Provides for a civil penalty of \$500 for each violation to be assessed by the appropriate state department or agency.

#### **MOTOR VEHICLES**

**House Bill 214 by Representative Seabaugh (Involuntarily Deferred in House Civil Law & Procedure)** would have repealed the provision of law which provides that in an action to recover damages arising out of the ownership, common maintenance, or operation of a motor vehicle, failure to wear a safety belt shall not be considered evidence of comparative negligence or admitted to mitigate damages.

**House Bill 330 by Representative Howard (Assigned to House Transportation, Highways, and Public Works)** would have provided that vehicles traveling under a special permit issued to transport timber cutting or logging equipment shall not be limited to a speed limit other than the posted speed limit.

**House Bill 1002 by Representative Sam Jones (Assigned to House Commerce)** would have abolished the La. Used Motor Vehicle Commission and transferred all its powers and duties to the La. Dept. of Public Safety and Corrections, office of motor vehicles.

**House Bill 1053 by Representative Garofalo (Act 512)** repeals the provision of law prohibiting the impoundment of a private vehicle or motorcycle by a law enforcement officer when the vehicle is being operated by a La. resident and no imminent danger to the public is present.

**Senate Bill 601 by Senator Buffington (Act 674)** requires persons operating an official inspection station to offer certificates of inspection that are valid for both one-year and two-year periods. Requires that the owner of the vehicle have the option of purchasing a one-year or a two-year certificate, and requires a charge or fee of \$10 to be charged for each year of validity of the certificate of inspection and approval issued.

Provides that the option for a two-year inspection certificate does not apply to inspection programs for vehicles in non-attainment parishes and municipalities pursuant to the federal Clean Air Act or regulations promulgated by the United States Environmental Protection agency, to commercial vehicles, and to student transportation vehicles.

**Senate Concurrent Resolution 3 by Senator Erdey (Filed with the Secretary of State)** requests the Dept. of Public Safety and Corrections, public safety services, office of motor vehicles, and the Louisiana state police, to apply and enforce R.S. 32:303(D) which provides that headlamps on motor vehicles shall emit a white light only, including light emitted by white high intensity discharge forward lighting, and prohibits a motor vehicle from being equipped with headlamps that are off-road colored lights.

## PAROLE

**House Bill 283 by Representative Honore (Subject to Call - House Final Passage) and House Bill 344 by Representative Lopinto (Subject to Call - House Final Passage)** would have allowed persons who were under 18 years of age at the time of the commission

of an offense, except those serving a sentence for a conviction of first degree murder or second degree murder, to be eligible for parole consideration upon serving 30 years of the imposed sentence when certain conditions are met. Would have required the parole board to meet in three-member panels and requires each panel member to be provided with, and to consider, a written evaluation of the offender by a person who has expertise in adolescent brain development and behavior and any other relevant evidence pertaining to the offender. Would have further required the panel render specific findings of fact in support of its decision.

**House Bill 753 by Representative Hunter (Assigned to House Criminal Justice)** would have allowed persons who were under the age of 18 at the time of the commission of certain violent crimes to be eligible for parole consideration upon serving 20 years of the sentence imposed when certain conditions have been met, and provides for the procedure by which such parole decisions shall be made.

**House Bill 531 by Representative Honore (Assigned to House Criminal Justice)** would have reduced the length of time offenders convicted of violent crimes must serve from 85% of the sentence imposed to 50% of the sentenced imposed before becoming eligible for parole.

## PUBLIC SAFETY/CORRECTIONS DEPARTMENT

**Senate Bill 105 by Senator Morrell (Act 727)** prohibits the introduction of contraband into correctional facilities and provides for imprisonment with or without hard labor for no more than five years per violation and

authorizes the imposition of a fine of not less than \$250 or more than \$2000 for each violation. Requires any funds collected to be placed in a fund located within the division of probation and parole to be used solely for the purchase of reentry services.

## SEX OFFENDERS

**Senate Bill 377 by Senator Gary Smith (Act 552)** requires a sex offender to appear in person at the sheriff's office where the offender is currently registered to update information when a change is made to any information previously provided by the offender.

## SEX OFFENSE REGISTRY

**House Bill 249 by Representative J. Thompson (Act 385)** retains the requirements of current law which require sex offenders and child predators to provide certain notifications to local law enforcement and the community, and which provide penalties for the failure to comply with sex offender registration and notification requirements. The legislation requires notification on a networking website by any sex offender or child predator, who is otherwise not prohibited from accessing the networking website pursuant to current law, who creates a profile or who uses the functionality of the networking website to contact other networking website users to the list of current notification requirements. Additionally, it provides for the contents of the notification and defines "networking website".

**House Bill 566 by Representative Brossett (Act 402)** authorizes certain persons convicted of crime against nature to be relieved of the

sex offender registration and notification provisions and provides for a procedure by which such relief is granted. Authorizes any person convicted of crime against nature (R.S. 14:89) prior to Aug. 15, 2010, to file a motion in the court of conviction to be relieved of the sex offender registration and notification requirements if the offense for which the offender was convicted would be defined as crime against nature by solicitation (R.S. 14:89.2) had the offender been convicted on or after Aug. 15, 2010. Further provides that the legislation shall not apply to persons whose offense involved the solicitation of persons under the age of 17, or for any person who was convicted of one or more offenses which otherwise require registration in the sex offender registry.

Requires a copy of the motion be provided to the district attorney, the office of state police, and the Department of Justice. Requires the motion to be accompanied by supporting documentation which proves that the person filing the motion meets the requirements necessary to have the authority to file such motion. Requires the court to grant the person's motion, upon his providing the required proof, unless the district attorney objects and proves by clear and convincing evidence that the conviction involved the solicitation of a person under the age of 17.

**Senate Bill 122 by Senator White (Act 536)** makes changes to certain definitions in current law relative to the registration of sex offenders in order to conform to certain provisions of current law relative to sex offenses. Adds a provision to make definitions applicable to the crime of molestation of a juvenile when the victim is under the age of 13 years.



**TRANSPORTATION DEPARTMENT**

**House Concurrent Resolution 65 by Representative Gisclair (Filed with the Secretary of State)** requests study by DOTD to assess varying from federal speed guidelines by lowering the speed on La. Highway 1 with its intersection with La. Highway 3090. The study should also include a traffic study to determine if a full traffic light or a four-way stop is warranted at this intersection.

**WEAPONS**

**House Bill 261 by Representative Henry Burns (Involuntarily Deferred in House Criminal Justice)** would have created an exception to the prohibition against carrying firearms in an alcoholic beverage outlet for law enforcement officers even though they are not acting in the performance of their official duties.

**House Bill 290 by Representative Henry (Withdrawn from the Files of the House)** would have reserved the regulation of firearms, firearm accessories, ammunition, and related matters to the state (with certain exceptions), voids local government regulation in violation, and provides penalties for violations.

## Retirement

by: Margaret Corley  
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### COST-OF-LIVING ADJUSTMENTS (COLAs)

**Senate Bill 740 by Senator Guillory (Pending House Floor) and House Bill 1132 by Representative Pearson (Pending House Retirement)** would provide for a change in the operation of the experience accounts for two retirement systems: Louisiana State Employees' Retirement System (LASERS) and Teachers' Retirement System of Louisiana (TRSL). The experience account is the legislatively-established mechanism through which the four state retirement systems fund cost of living adjustments (COLAs). The experience accounts for LASERS and Teachers' will be divided into two sub-accounts. The rank-and file group of LASERS and the higher education group of Teachers' may receive a COLA when their system is 80% funded. Their sub-account will share in the gains and losses of the system as a whole. The hazardous duty sub-account for LASERS and the K-12 sub-group of Teachers' shall continue to fund COLAs for these retirees under current law. The experience accounts for the Louisiana School Employees' Retirement System (LSERS) and the Louisiana State Police Retirement System (Police) are unaffected.

Additionally, **Senate Bill 1 by Senator Long and Senate Bill 41 by Senator Guillory (Pending Senate Finance)** both recognized the need to address the need for preserving the purchasing power of retirees. These bills would have granted a "13<sup>th</sup> check" for certain

retirees of LASERS and Teachers'. The bills provided that retirees who have been retired for 20 years, were employed for 30 years, and are at least age 75 may receive one additional check of not less than \$300. The funding for these supplemental checks comes from the experience account of each system. The experience accounts currently have a zero balance, so it is unclear when a supplement can be paid.

### BENEFIT CALCULATION

**Senate Bill 47 by Senator Guillory (Pending House Floor) and House Bill 55 by Representative Pearson (Pending House Retirement)** would provide for a 60 month (5 year) final average compensation (FAC) period for current members of LASERS and Teachers'. Currently, the law provides for a 36 month (3 year) FAC period for anyone hired on or before December 31, 2010. Retirement benefits in (LASERS) and (TRSL) are determined by a "final salary" formula. In Louisiana, the "final salary" used is based on the period in which the person's earnings are at their peak, known as the FAC period. The implementation of this bill would have begun July 1, 2013, and would have been phased in one month at a time. Full implementation would be completed by July 2015. This bill was not retroactive; it preserves the member's benefit computation as it presently exists; however, future salary increases will affect that computation more slowly, causing liabilities to grow more slowly. All savings resulting from this change will be retained by

the systems and applied toward the unfunded accrued liability of those systems. The bill applies to all non hazardous LASERS members (except currently elected judges) and higher ed members of TRSL.

**Senate Bill 7 by Senator Guillory (Act 524) and Senate Bill 12 by Senator Guillory (Act 525)** both provide for a shift from a 36 month FAC to a 60 month FAC on active employees in the Municipal Employees' Retirement System and the Registrar of Voters Employees' Retirement System, respectively.

#### **EMPLOYEE CONTRIBUTIONS**

**Senate Bill 52 by Senator Guillory (Pending House Floor) and House Bill 56 by Representative Pearson (Pending House Retirement)** would provide for an increase in certain employees' contributions to LASERS and TRSL. The rank-and-file members of LASERS and the higher ed members of TRSL will contribute an additional 2 percent of pay. This increase in contributions begins for a member on the July first after he has received a 4% increase in base pay. Once started, the increase will be phased on over a period of four years, 0.5% increase each year till 2% is reached.

#### **RETIREMENT ELIGIBILITY**

**Senate Bill 749 by Senator Guillory (Pending Senate Floor) and House Bill 53 by Representative Pearson (Pending House Retirement)** would provide for a later retirement age for current non-hazardous employees of LASERS (except currently elected judges) and higher ed employees of TRSL. The schedule of ages provided would be based on the years of service credit each employee has already earned on the date of

implementation, June 30, 2013.

The bill would exempt employees who have at least 20 years or more of service on the implementation date and those members who are at least 55 years of age on the implementation date. Nothing in this bill would provide for an earlier retirement eligibility than is already provided for in current law. The schedule of ages, based on service credit as of June 30, 2013, is as follows:

*Employees with less than 20 years of service credit but more than 15 years may retire no earlier than age 55.*

*Employees with less than 15 years of service credit but more than 10 years may retire no earlier than age 60.*

*Employees with less than 10 years of service credit but more than 5 years may retire no earlier than age 63.*

*Employees with less than 5 years of service credit may retire no earlier than age 65.*

*New employees' earliest retirement eligibility is age 67.*

However, employees who continue in service and retire with 30 years or more of service credit are "bumped" back into their old retirement eligibility. For employees who began prior to 2006, this means that they may retire with 30 years of service at any age. For employees who began after 2006, this means that their earliest retirement eligibility remains age 60.

## RETIREES RETURNING TO WORK

Multiple bills were filed this session to address the issue of reemployment of retirees. **Senate Bill 19 by Senator Cortez (Act 297)** and **House Bill 19 by Representative Hoffmann (Pending Senate Retirement)** both address the reemployment of retired teachers. The Act provides that a retired teacher may return as a substitute Pre K - 12 teacher and earn up to 25% of his retirement benefit in any fiscal year. If he or she remains employed after reaching the earnings limitation, the benefit is reduced according to the percentage earned over 25%.

**Senate Bill 20 by Senator Cortez (Act 228)** and **House Bill 20 by Representative Hoffmann (Pending Senate Retirement)** both address the reemployment of retired professors. The Act provides that a retired professor may return to work as an adjunct professor and earn up to 25% of his retirement benefit in any fiscal year. If he or she remains employed after reaching the earnings limitation, the benefit is reduced according to the percentage earned over 25%.

## RETIREMENT SYSTEM BOARDS

### Consolidation

**House Bill 1198 by Representative Pearson (Pending House Floor)** and **Senate Bill 56 by Senator Guillory (Pending Senate Retirement)** would provide for the consolidation of the Louisiana School Employees' Retirement System (LSERS) with (TRSL). The systems' administration would be merged; however each system will be maintained as an individual plan within the combined system. This bill requires the elimination of 30 positions within the first year of implementation. The new board would be charged with formulating a strategy to

merge the two plans. The strategy must be presented to the Public Retirement Systems Actuarial Committee by December 31, 2012.

### Education

**Senate Bill 16 by Senator Cortez (Act 718)** provides for an increase in the annual educational requirements for the members of Louisiana public retirement system boards. Currently the members must have education in the areas of investment training; actuarial science; laws, rules, and regulations regarding his system; and fiduciary duty and ethics. The members will now be required to complete four hours of actuarial science education; two hours of system laws, rules and regulations; and two hours of fiduciary duty and ethics education. This requires the addition of six hours from the previous law's requirement. Additionally, no new board member is permitted to vote on any matter until he has complete one hour of education in each of the four required areas.

## FORFEITURE

**House Bill 9 by Representative Ligi (Act 868)** and **House Bill 10 by Representative Ligi (Act 479)** provide for the forfeiture of public retirement benefits when a public employee or elected official is convicted of certain public corruption crimes. House Bill 10 will not become effective until House Bill 9, the constitutional amendment, is approved by the voters. These bills are prospectively only and allow the sentencing judge in his discretion to order the forfeiture of the retirement benefits. The sentencing judge may also award the forfeited benefits to the public servant's spouse, former spouse, or dependant as an alternate payee.

**BENEFIT STRUCTURE REFORM**

**House Bill 61 by Representative Pearson (Act 483) and Senate Bill 53 by Senator Guillory (Pending Senate Retirement)** provides for a "cash-balance plan" for new members in LASERS, TRSL, and LSERS employed on or after July 1, 2013. Participation is mandatory for non-hazardous members of LASERS and higher ed members of TRSL'. All other members employed on or after July 1, 2013, except members of LASERS' hazardous duty plan, may choose to participate in this plan. The "cash balance plan" is a state-guaranteed pension wealth accumulation instrument. It is considered a "hybrid" retirement plan because it provides for a blend of a 401(k) style benefit and a traditional defined benefit structure. The employee contributes 8% of pay and is credited 12% each year. These amounts are credited to an account. The employee will also share in the gains of the system. The employees account can never be reduced. The employees participating in the cash balance plan may, after five years of service, receive the full balance of their accounts if they choose to separate from service. Participating employees may instead choose to receive an annuity at the retirement age of 60. The active members are additionally provided with a survivor and disability benefits under the current structure in the defined benefit plan.

In a continuing effort to provide a more cost effective plan, many statewide retirement systems' boards proposed changes for active employees as well as future employees. **Senate Bill 38 by Senator Guillory (Act 719)** provides the Registrar of Voters Employees' Retirement System (ROVERS) with a less expensive plan for employees hired after January 1, 2013. **Senate Bill 49 by**

**Senator Guillory (Act 720)** provides the Municipal Employees' Retirement System (MERS) with a less expensive plan for employees hired after January 1, 2013. Act 524 and Act 525 (see above) made changes for current members of these systems.

**LEGISLATIVE PROCESS**

**Senate Bill 21 by Senator Guillory (Act 872)** proposes for a constitutional amendment requiring retirement legislation to be prefiled for introduction shall be prefiled no later than five o'clock in the evening of the 45th calendar day prior to the first day of a regular session. Currently there is both a House and Senate rule which require an early prefilng deadline for retirement bills. These rules were implemented on the recommendation of the Commission on Streamlining Government. The constitutional amendment is the final step in the implementation of the recommendation.

**SOCIAL SECURITY OFFSETS**

**House Concurrent Resolution 57 by Representative Hoffmann (Filed with Secretary of State)** memorializes the Congress of the United States to review and consider eliminating provisions of federal law which reduce Social Security benefits for those receiving public pension benefits for federal, state, or local government service during which they do not contribute to Social Security. This resolution specifically aim at two different offsets which can reduce Louisiana public employees' Social Security benefits, called the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP). These offsets were enacted by the federal government in the late 1970s and early 1980s.



## Revenue & Taxation

by: *Riley Boudreaux*  
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As it was last Session, the unexplained weakness of state revenue growth (even for a period of lagging recovery from recession) made the large cost of tax benefits an important background topic in the Senate during the session. As a result, **Senate Concurrent Resolution 103 by Senator Donahue (enrolled)** proposes a study which would recommend the temporary or permanent reduction or elimination of low-performing or antiquated tax exemptions, suspensions, exclusions, deductions, credits, refunds, rebates, and preferential tax calculation methods.

Despite the concern, and even though the Louisiana Constitution prohibits "legislating with regard to [state] tax exemptions, exclusions, deductions or credits" in the 2012 Regular Session, "economic incentive" legislation which bore a close resemblance to such matters continued to be enacted.

For instance, the Administration proposed five bills which would allow the Department of Economic Development [DED] to grant contracts for "rebates" of various costs, a favorable tax apportionment formula, or exemptions from local property taxes in order to target specific business activities identified in the legislation. The targeted businesses would be required to have over 50% of their sales out-of-state, or for resale out of state, or to the federal government, and DED would have to determine that the resulting project

will result in a "significant positive economic benefit" based on a "standard economic impact methodology". It should be noted that the bills require an "independent third party economist" to be selected by the legislative fiscal office and DED and approved by the Joint Legislative Committee on the Budget to verify the "standard economic impact methodology" prior to implementation of the program.

The two rebate programs were:

- (1) **House Bill 954 by Representative Danahay (Act 811)** which creates the Competitive Projects Payroll Incentive Program that authorizes DED to grant a rebate of up to 15% of "new payroll" determined to be eligible by DED if the number of new jobs and amount of "new payroll" required to be created and maintained, along with any other performance obligations under the contract, are met. In addition, the eligible business may claim the same rebate of state and local sales tax authorized for Enterprise Zone-eligible businesses, or a "project facility expense rebate" equal to one and one-half percent of the amount of "qualified capital expenditures" on the facility. No new contracts may be granted after July 1, 2017.
- (2) **House Bill 937 by Representative Robideaux (Act 503)** which creates

the Corporate Headquarters Relocation Program that authorizes DED to grant contracts for rebates of 25% of the "relocation costs" to relocate or expand a business' "headquarters" to a location within Louisiana. No new contracts may be granted after July 1, 2017.

The two tax programs were:

- (1) **House Bill 729 by Representative Robideaux (Act 415)** which creates the Corporate Tax Apportionment Program that authorizes DED to grant contracts for an initial term of up to 20 years (renewable for another 20) for a business to utilize a favorable "single sales factor" to determine how much income or "taxable base" to apportion to Louisiana for income and franchise tax purposes, if the business is certified by DED and approved by the Joint Legislative Committee on the Budget. No new contracts may be granted after July 1, 2017.
- (2) Because the Louisiana Constitution requires all property tax exemptions to be listed in the Constitution, the last tax program required two bills.

**House Bill 674 by Representative Robideaux (Act 871)** proposed a constitutional amendment to authorize contracts for a property tax exemption for property owned or leased by, and used by, a "targeted non-manufacturing business" in the operation of its facility, according to a program and pursuant to contracts of exemption which contain such terms and conditions "as provided by law". Land

underlying the facility and other property pertaining to the facility on which property taxes were previously been paid, inventories, consumables, and property eligible for the current property tax exemption for "manufacturing establishments" are not to be exempt. In addition, the first \$10 million of the "assessed valuation" or 10% of fair market value, whichever is greater, is not to be exempt. A contract for exemption is to be "available" only in parishes which "have agreed" to participate, in the manner provided by the legislature by law. The definition of "targeted non-manufacturing business" contains the 50% requirement above.

The constitutional amendment gives the legislature a large amount of authority to craft the property tax exemption program and to define how a parish "agrees to participate" in the program. Pursuant to that authority, **House Bill 694 by Representative Robideaux (Act 499)** was enacted. It authorizes the property tax exemption contracts if the business makes capital expenditures of \$25 million dollars for a facility, and creates and maintains at least 50 "new direct jobs". The "parish" indicates its "agreement to participate" if all of these local governmental entities agree: the parish governing authority; the municipalities which levy a property tax; the school boards which levy a property tax; the parish law enforcement district; and the assessor. Any one of them may withdraw the "participation" of a parish, effective 90 days after the date upon which it provides written notification to the secretary of its intention to discontinue participation. However, the withdrawal of a participating parish does not affect existing contracts.

The Administration also promoted a non-business rebate bill. **House Bill 969 by Representative Talbot (Act 25)** authorizes a rebate for donations a taxpayer makes to a school tuition organization which provides scholarships to attend nonpublic elementary or secondary schools to children who are members of families with a total household income that does not exceed 250% of the federal poverty level. The maximum amount of a scholarship for a student is the lesser of the actual amount of tuition and fees charged by the school or 80% of the previous year's state average MFP funding per pupil for grades K through 8, and 90% for grades 9-12.

A complimentary non-Administration rebate for public schools was enacted in **House Bill 1106 by Representative K. Jackson (vetoed by the governor)** but did not meet Administration approval. That bill would have authorized a rebate of 75% of the donations a taxpayer made during a taxable year to a public school which received a letter grade of "B", "C", "D", or "F". The total amount of rebates which may have been issued to taxpayers was limited to \$10 million per calendar year; however, in any year that the amount of rebates awarded reached 90% of the annual cap, the annual cap for the next year would have been increased by 20%.

Another business rebate bill was **House Bill 754 by Representative Robideaux (Act 800)** which authorizes the secretary of DED to enter into a contract which has a term of up to 20 years with a "procurement processing company" [PPC] which manages unrelated "purchasing companies" in Louisiana. The rebates will be issued to the PPC in an amount to be determined by the secretary based upon the taxable sales of goods and services which

are generated in the state because of the operation of the PPC in the state. The bill dedicates \$27 million per year from the monies deposited into the state general fund which are generated from the "new taxable sales" as follows:

- (1) 50% for supplemental payments on the Unfunded Accrued (Retirement System) Liability, which are in addition to those required for the amortization schedule.
- (2) 50% to be allocated as follows, unless the amount available is insufficient, in which case the allocations are to be reduced proportionately:
  - (a) \$5 Million for the La. Cancer Research Center of Health Sciences Center in New Orleans/Tulane Health Sciences Center.
  - (b) \$5 Million for the Feist-Weiller Center of LSU Health Sciences Center-Shreveport.
  - (c) \$10 Million for the LSU Agricultural Research and Extension Center.
  - (d) \$5 Million for the Pennington Biomedical Research Center.
  - (e) \$2 Million for the Southern Univ. Agricultural Research and Extension Center.

There were some specialty rebates enacted. **House Bill 1072 by Representative Henry (Act 219)** authorizes the extension of an



existing Quality Job Program contract for an NBA franchise [Hornets] for up to 10 years. **Senate Bill 475 by Senator Dorsey-Colomb (Act 787)** authorizes a rebate of parish or municipal sales tax collected on the sale of tickets and parking at a musical or other entertainment undertaking in a public facility owned and operated by the state, used for sport events, with a seating capacity of over 90,000, if the event has been held for no less than two consecutive years, is conducted over two consecutive days, and has an average attendance of at least 25,000 per day - which fits the Bayou Country SuperFest held in Tiger Stadium.

Finally, **Senate Bill 337 by Senator Amedee (Act 875)** extends to the spouse of a deceased veteran who had a service-connected disability rating of 100% by the U.S. Dept. of Veterans Affairs the double homestead exemption from property tax for property which is owned and occupied by the spouse, even if the veteran passed away prior to the enactment of the exemption.

The only revenue raising bills enacted during the Session were an effort to capture for local governments both the 2.5% state and the 0.5% local tax levied on automobile rentals which expire on July 1, 2012. Despite the fact that all the bills required approval by the local electorate, they did not survive the Administration's "no new taxes" policy: **SB 350 by Senator Murray (vetoed by the governor)**, **SB 351 by Senator Murray (vetoed by the governor)**, **House Bill 934 by Representative Ligi (vetoed by the governor)**, and **House Bill 971 by Representative Barrow (vetoed by the governor)**.

Because of the uproar caused by the Department of Revenue's issuance of debit card refunds, **House Bill 1092 by Representative Fannin (Act 818)** should be mentioned. It requires the paper form of an individual income tax return to include an option for taxpayers to choose to receive a refund of an overpayment by check, debit card, or direct deposit for tax years 2013 through 2015.

## State Government

by: Dawn Watson  
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### PUBLIC CONTRACTS

Several bills were introduced this session to modify provisions of law regarding the state's letting of public contracts. Some of the more noteworthy bills on public works include **Senate Bill 338 by Senator Appel (Act 647)** which provides a time line of within 45 days for a contract to be executed between the public entity and lowest responsible bidder when the contractor timely submits necessary documentation and there are no bid challenges filed with the entity. **Senate Bill 404 by Senator Martiny (Act 655)** amends the provisions of law regarding public works contract to exclude contracts regarding the "operation" of a public facility or immovable property owned, used, or leased by a public entity. Regarding the Orleans Hospital Service District, **House Bill 367 by Representative Leger (Act 493)** created an exemption from current law to allow a construction manager or any other third-party consultant employed by a public entity to manage a construction project as a general contractor or to act as a general contractor to oversee, direct, or coordinate individual trade contractors on behalf of the public entity.

### STATE SYMBOLS

Louisiana will have a new symbol from this session. **House Bill 746 by Representative Chaney (Act 134)** designates the pirogue as the official state boat.

### STATE BUILDINGS AND GROUNDS

This session included a few bills specifically relative to state buildings and grounds. This year marked the 80<sup>th</sup> anniversary of the dedication of the Louisiana State Capitol building. **Senate Concurrent Resolution 110 by President Alario (filed with Secretary of State)** commemorated the anniversary and **House Concurrent Resolution 44 by Representative Smith (filed with Secretary of State)** recognized the capitol as a great place to visit.

In keeping with the trend of being environmentally conscious, **House Concurrent Resolution 152 by Representative Ortego (filed with Secretary of State)** requests the office of facility planning and control and the office of state buildings to study the use of products which have been determined to have low volatile organic compound content in the maintenance, renovation and construction of public buildings and report its findings.

Aware of the fiscal strains the state is currently under, **Senate Concurrent Study Request 1 by Senator Gallot (Approved)** requests the Senate and House governmental affairs committees to jointly study utilization by the various agencies of state government of state owned buildings, state leased buildings, state agency owned buildings, and state agency leased buildings and to reports their findings and recommendations.

### STATE OFFICIALS AND EMPLOYEES

While there were several high profile bills debated during the session either regarding or affecting state officials and/or state employees, one bill which may not be covered under other topics is **House Bill 1045 by Representative Seabaugh (Act 509)** which expands the requirement that the state indemnify public official and employees in the performance of their duties to certain individuals who contract with the state. The Act specifically provides coverage to physicians or dentists who either contract with or provide services on behalf of the state, whether compensated or not, in the treating or performing evaluations of persons when such treatment or evaluation causes harm to a third party or provides professional assistance to the contracting agency when the professional assistance is alleged to cause harm to a third party.

Another bill is **House Bill 89 by Representative Ligi (Act 168)**. This Act provides that no collective bargaining agreement to which a public employer is a party shall be accepted or ratified by the public employer until the collective bargaining agreement has been made available to the public via the website of the public employer for at least five business days.

### PUBLIC RECORDS

One of the more significant pieces of legislation regarding public records from this session is **Senate Bill 707 by Senator Amedee (Act 850)** which provides an exception to the public records for records in the custody or control of the legislature, or either house or any committee or officer thereof relative to any case, cause, charge, or investigation conducted by the legislature or

either house or any committee or officer thereof. Provides that such information and any confidential source of information is privileged and prohibits any member, officer, or employee of the legislature from disclosing or producing such records except pursuant to court order. Finally, provides that after final disposition, the records are public and subject to the public records law with the exception of confidential sources. The legislation does authorize the disclosure of any information relevant to the education, employment history, or work experience of an appointee or nominee.

Another bill is **Senate Bill 111 by Senator Johns (Act 534)**. Current law provides for a list of entities to whom the Department of Public Safety and Corrections may release confidential records of arrest or conviction which have been expunged. This Act adds to that list the Louisiana Board of Pharmacy and the office of financial institutions.

### PUBLIC MEETINGS

In recognition of how technology is changing our world, **House Bill 580 by Representative Abramson (Act 747)** provides that in addition to current law's notice requirements for public meetings, a public body which has a website shall provide notice of the meeting on the public body's website for no less than 24 hours immediately preceding the meeting. Also provides that failure to timely post an agenda by electronic means or the inability of the public to access the public body's internet website caused by technological failure shall not be considered a violation of the Open Meetings Law.

In further guaranteeing the public's notice of actions by public bodies, **House Bill 1143 by**

**Representative Nancy Landry (Act 461)** expressly provides that a meeting agenda cannot be changed less than 24 hours prior to the meeting. The legislation also requires that each item on the agenda be listed separately and described with reasonable specificity and that before a public body takes any action on an item, the presiding officer shall read aloud the description of the item.

#### STATE AGENCIES

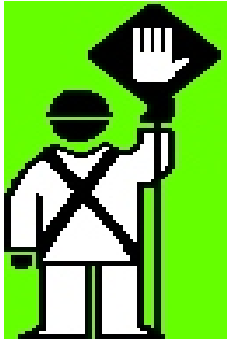
One theme that dominated the session was the serious fiscal challenges the state is facing. To that end, **Senate Bill 268 by Senator LaFleur (Act 765)** authorizes the Secretary of State to temporarily close the Old Sate Capitol and certain specific museums when sufficient funds necessary for the operation of the facilities is not appropriated and funds from other local, public or private sources are not available.

**House Bill 741 by Representative Broadwater (Act 500)** allows the sale and securitization of long-term delinquent accounts receivable and other obligations due to the state. This new law requires the commissioner of administration to recommend for sale and securitization, and present to the Cash Management Review Board for approval, pools of up to 25% of the aggregate face dollar amount of such accounts and obligations existing on the first day of the year for the next two calendar years. The legislation sunsets at the end of 2014.

Another matter which has been of concern to the legislature has been recent reports on the comparable wages of women and minorities in Louisiana. Private employers, unions and labor organizations are required to periodically report on demographics of their

workforce or membership. **Senate Bill 552 by Senator Peterson, et al (pending House Health and Welfare Committee)** would have required several state agencies, including the Louisiana State University Health Science Center, Health Care Services Division, to report annually statistics on the state of women in Louisiana by race and ethnic group to the Senate Select Committee on Women and Children and the Louisiana Women's and Research Commission. **House Concurrent Resolution 174 by Representative Katrina Jackson, et al (filed with Secretary of State)** requires the same state agencies to study and submit a report on the number of women in their workforces based on age, race, and job category. This resolution requires that information on job classification be submitted along with an analysis of whether the department finds its hiring and promotion practices equitable.





## Transportation & Development

by: Sharon Lyles  
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### CONTRACTS

**House Bill 422 by Representative St. Germain (Act 195)** reduces the time period from 96 hours to 72 hours for DOTD to issue any addendum which materially modifies plans and specifications prior to the advertised time for the opening of bids on construction contracts.

**House Bill 652 by Representative Leger (Act 755)** authorizes a pilot program for any port to utilize the design-build method on any production related construction project. Such design-build authorization is limited to 10 projects. Proposed design-build port projects are required to be submitted to the Joint Committee on Transportation, Highways, and Public Works 10 days prior to the advertisement of a notice of intent. The program sunsets December 31, 2015, if a port authority has not issued an advertisement of a notice of intent. DOTD is required to promulgate rules and regulations pursuant to the Administrative Procedure Act, subject to the oversight of the House and Senate committees on transportation, highways, and public works, as may be necessary for the program's implementation which rules are to be effective not later than 120 days from the effective date of the Act.

### CRESCENT CITY CONNECTION BRIDGE - NEW ORLEANS

Tolls on the Crescent City Connection Bridge expire December 31, 2012, as provided in R.S. 47:820.5. The final debt service payment on outstanding bonds is due and payable November 1, 2012.

The Task Force on the Crescent City Connection created by **Senate Concurrent Resolution 47 of the 2011 Regular Session by Senator Heitmeier** submitted its final report to the Joint Transportation and Joint Legislative Committees on the Budget on February 1, 2012, and recommended to the Legislature that tolls be renewed and not allowed to expire on December 31, 2012, to ensure continued maintenance and services, including a dedicated police force, bridge lighting, and ferry service. Upon convening of the 2012 Regular Session, no bills were filed to renew the tolls. It was May 7, 2012, when **HB 1212** reached the House floor as a substitute bill for **House Bill 935 by Representative St. Germain**.

**House Bill 1212 by Representative St. Germain (Act 865)** provides for an election to be held on November 6, 2012, in the parishes of Jefferson, Orleans, and Plaquemines on the proposition to determine whether tolls shall be collected beginning on January 1, 2013, and

ending on December 31, 2033, on the Crescent City Connection Bridge, at the rate provided by law. If the proposition is approved by the voters, the Act requires DOTD to continue to collect tolls for the next 20 years. Toll collections would provide funds to operate and maintain the bridge and to provide funds for certain capital projects. Each fiscal year, ten million dollars of tolls collected would fund construction of named capital projects. If approved, tolls collected would **not** provide funding to continue operation of the three (3) Crescent City Connection ferries currently in operation; however, 50% of current Highway Fund No. 2 collections in Orleans Parish which are currently dedicated to the Crescent City Connection Bridge would be deposited by the treasurer into a special fund, subject to appropriation to DOTD, to continue operating the Algiers-Canal Street Ferry.

Section 1 of **Act 865** which provides for the election is effective June 15, 2012.

**IF** the election results in renewal and collection of tolls on the Crescent City Connection Bridge, Sections 2 and 3 of **Act 865** which provide for new 'tolls' and DOTD operations are effective January 1, 2013.

Section 4 of **Act 865** requires the Legislative Auditor to perform an audit of DOTD operations of the Crescent City Connection Bridge and to provide a written report to the House and Senate Transportation Committees by March 1, 2014, to determine DOTD's compliance with state laws and rules relative to procurement of supplies and materials and professional services such as engineering, inspections, and examination services. Section 4 is effective August 1, 2012.

Section 5 of **Act 865** requires the Legislative Fiscal Office to issue an opinion by March 1, 2014, on whether DOTD procurement policies and systems relative to the Crescent City Connection Bridge have resulted in the most cost effective operations and to determine the sources of revenue used by DOTD for Crescent City Bridge operations. Section 5 is effective August 1, 2012.

**Senate Bill 599 by Senator Adley (Act 866)** provides for termination of the Crescent City Connection Division of the DOTD upon expiration of the tolls. It repeals the Crescent City Connection Oversight Authority, the Mississippi River Bridge Authority, and creates as a special fund the Crescent City Connection Transition Fund (CCCTF). The first \$4 million in the fund is subject to appropriation by the legislature upon recommendation of the secretary of the DOTD for use by DOTD to capitalize the ferry service formerly operated by the CCCD in the Marine Trust Program. Whether or not tolls are extended on the Crescent City Connection Division, the balance of the money in the fund as of December 31, 2012, shall be appropriated to the New Orleans Regional Planning Commission for lighting of the eastbank and westbank approaches to the Crescent City Connection Bridge including General DeGaulle and the Westbank Expressway approach through ground level, improvements to ingress and egress points, lighting, maintenance, grass cutting, and landscaping of the westbank expressway and connecting arteries.

Section 4 of the Act which repeals the Crescent City Connection Oversight Authority is effective June 15, 2012. All other sections of the Act are effective January 1, 2013.

## FUNDING FOR TRANSPORTATION

Efforts to increase revenues available for transportation in the face of Louisiana's budgetary struggles have been futile. The DOTD continues to report a \$12.5 billion dollar backlog of funding needs for highway projects. To date, revenue sources to address the backlog of highway needs have not materialized.

**House Bill 358 by Representative St. Germain (Pending House Ways and Means)** proposed a constitutional amendment to require annual adjustments in the tax on gasoline, motor fuels, and special fuels in accordance with the Consumer Price Index beginning January 1, 2014.

**House Concurrent Resolution 146 by Representative Connick (Sent to the Secretary of State)** requests DOTD to study the need for the creation of local transportation districts in order to assist the department in addressing the state's transportation needs.

**House Bill 1019 by Representative Connick (Withdrawn from the files of the House)** proposed creation of local transportation districts and authorized imposition of a motor vehicle fee equivalent to the motor vehicle license tax imposed under current law upon approval by a majority of registered voters of the district. The proposed fee if approved was to expire December 31, 2018. **House Bill 1019** was withdrawn as LA Constitution Article 7, §5 provides "No parish or municipality may impose a license fee on motor vehicles." Similarly, Representative Connick proposed a House Floor Amendment which was rejected by the House to **Senate**

**Bill 351 by Senator Murray (Vetoed by the Governor)** to authorize creation of local transportation districts and authorize imposition of a motor vehicle tax equivalent to the motor vehicle license tax imposed under current law upon approval by a majority of registered voters of the district. The proposed tax if approved was to expire December 31, 2032.

### Priority Programs

The Joint Committee on Transportation, Highways, and Public Works approved the four (4) priority programs funded from the Transportation Trust Fund prior to the convening of the 2012 Regular Session. Appropriations for these programs are contained in Schedule 07 of **House Bill 2 by Representative Robideaux (Act 23, effective June 13, 2012)**, as follows:

Airport Construction and Development Priority Program - \$28,805,906.

Highway Priority Program - \$858,900,000 of which \$121,700,000 is TTF-Regular

Port Construction and Development Priority Program - \$19,700,000

Statewide Flood Control Program - \$9,900,000

Additional appropriations in **House Bill 2 (Act 23)** include the following:

### Interstate 49

Funding for I-49 North and South is proposed in the total amount of \$22.3 million with \$15 million payable from the Unclaimed Property Leverage Fund and \$7.3 million in Priority 1 General Obligation Bonds, provided that fifty

percent (50%) of these funds are to be used for I-49 North and fifty percent (50%) of these funds are to be used for I-49 South.

Funding for I-49 North is proposed in the total amount of \$117 million with \$36.5 million in Priority 1 General Obligation Bonds, \$73 million in Priority 5 General Obligation Bonds, and \$7.5 million from the Unclaimed Property Leverage Fund.

**Senate Concurrent Resolution 38 by Senator Adley (Sent to the Secretary of State)** requests the DOTD to study the feasibility of authorizing the collection of tolls to fund completion of I-49 South. The resolution raised the ire of many south Louisiana House members who wondered why a Senator from north Louisiana would propose a toll to complete I-49 South when I-49 North is under construction without tolls?

#### Roads Ineligible for Federal Funds

Louisiana's 16,675 mile state highway system contains more than 6,000 miles that are not eligible for federal funds. Several years ago, DOTD elected to utilize available TTF-R to match TTF-Federal, neglecting improvements to these miles of "rural" roads, resulting in creation of the State Highway Improvement Fund (SHIF) that dedicates motor vehicle license taxes on trucks and trailers to fund improvements.

**House Bill 2 (Act 23)** appropriates \$52.8 million with \$51.8 million payable from SHIF and \$1 million in Priority 1 General Obligation Bonds.

**House Bill 783 by Representative Fannin (Act 135)** authorizes the State Bond

Commission on behalf of DOTD to issue revenue bonds for highway projects ineligible for federal funds secured by the revenues which are dedicated to the State Highway Improvement Fund. The expenditure of bond proceeds shall be limited to projects included in the highway priority program.

On June 20, 2012, the State Bond Commission approved agenda items to authorize the director of the State Bond Commission to develop and issue a Solicitation for Offers for Bond Counsel(s) Services and for Offers for Underwriter(s) Services both in connection with the proposed State Highway Improvement Bond Program as authorized by **Act 135**. The expenditure of bond proceeds is limited to projects included in the highway priority program. A list of projects and a draw schedule must be furnished by DOTD before the State Bond Commission may proceed; as of June 20, 2012, the list was not yet available. The Treasurer requested sale of the bonds before the end of 2012.

#### Parish Transportation Fund

Schedule 20-903 in **House Bill 1 by Representative Fannin (Act 13, effective July 1, 2012)** appropriates a total of \$46.4 million from TTF-Regular to the Parish Transportation Fund (PTF). The Louisiana Constitution dedicates at least one cent of the gasoline and special fuels tax to the PTF. One cent is equivalent to approximately \$30 million. Historically, appropriations to the PTF from TTF-R exceed the minimum of at least one cent. Within the PTF, the Parish Road Program is appropriated \$34 million and \$4.445 million; the Mass Transit Program is appropriated \$4.955 million; and, the Off-



system Roads and Bridges Match Program is appropriated \$3 million. The Parish Road and Mass Transit Program funds are distributed pursuant to formula directly by the treasurer to parish and municipal governments.

### **MEMORIAL HIGHWAYS AND BYWAY DESIGNATIONS**

**House Bill 324 by Representative Danahay (Act 121)** designates a portion of Highway 12 from its intersection with Old River Road, west to the intersection of Highway 12 and Debert Clark Road as the "Purple Heart Recipient Highway" and designates the interchange of I-20 and U.S. 371 in Webster Parish as the "Sergeant Joshua Barrett Madden Interchange."

**House Bill 882 by Representative Howard (Act 24)** designates a portion of Highway 463 from its intersection with Highway 10 north to the entrance of Pitkin High School as the "B.R. Harvey Memorial Highway."

**House Bill 1054 by Representative Hill (Act 513)** adds routes to the Myths and Legends Byways and to the Wetlands Cultural Trail, and creates the Southern Swamp Byway.

### **PHOTO ENFORCEMENT OF TRAFFIC SIGNALS AND SPEED**

Several bills were filed to address the continuing controversial issue of the use of cameras to enforce traffic signals and speed. None advanced. Municipalities collect significant revenues annually from violations imposed. Constituents complain about high fines imposed, the flow of such dollars to an out-of-state vendor, the lack of due process to contest such fines, and whether or not the use

of camera enforcement reduces accidents and enhances public safety or just raises revenue for municipalities. Legislation to finally resolve this issue, which has been ongoing for at least six years, is expected in the 2013 Regular Session.

**Senate Bill 102 by Senator Morrell (Pending Senate Transportation, Highways, and Public Works)** proposed to prohibit an unpaid traffic citation that was issued by an automated traffic enforcement system from being sent to a collection agency.

**Senate Bill 172 by Senator Martiny (Pending Senate Transportation, Highways, and Public Works)** proposed to restrict local governments' use of electronic vehicle speed enforcement systems.

**House Bill 773 by Representative Arnold (Involuntarily deferred in House Transportation)** proposed to limit the types of citations which can be issued.

**House Bill 880 by Representative Arnold (Pending House Transportation, Highways, and Public Works)** proposed to require traffic camera systems use a standardized caution light time.

### **RAILROADS**

Reducing the number of at-grade railroad crossings in Louisiana and nationwide to minimize fatalities and injuries resulting from rail-crossing accidents in the name of public safety competes with access issues, particularly where railroad crossings have been in place for many years and provide access in rural areas for farming communities.

**House Bill 623 by Representative St. Germain (Act 406)** requires DOTD to notify any and all affected persons owning land which is within a two-mile radius of a public grade crossing proposed to be improved, changed, or closed and post a notice at the grade crossing proposed to be improved, changed, or closed.

**Senate Concurrent Resolution 20 by Senator Adley (Sent to the Secretary of State)** requests DOTD to hold a public meeting relative to proposed closure of a public railroad grade crossing on non state maintained parish and municipal roadways.

#### SIGNS AND SIGNALS

**House Concurrent Resolution 23 by Representative Ortego (Sent to the Secretary of State)** creates the Uniform Bilingual Signage and Map Task Force to study the feasibility of providing an official state map in the French language and uniform bilingual highway signage to encourage the preservation of south Louisiana's French cultural heritage and to provide important services to French-speaking residents and visitors.

**House Bill 421 by Representative St. Germain (Act 496, effective June 5, 2012)** provides that orders issued by DOTD's chief engineer to regulate speed and weight limit restrictions on state highways shall be published on the website of the department and provides that such orders become effective upon the erection of signs on the affected highways and bridges.

#### TRAFFIC

##### Cell phones

**House Bill 695 by Representative Badon (Pending Senate Transportation, Highways, and Public Works)** proposed to prohibit the use of hand-held cell phones while driving.

**House Bill 787 by Representative Barrow (Subject to call - House final passage)** proposed to prohibit the use of hand-held cell phones while driving.

##### Golf Carts

**Senate Bill 483 by Senator Perry (Act 661)** allows golf carts to be driven by licensed and insured drivers on the roadways of Palmetto Island State Park.

##### Left-turn lanes

**House Bill 1135 by Representative Billiot (Act 520)** enacts rules of the road applicable to driving on highways with two-way left-turn lanes and dedicated left-turn lanes.

#### WEIGHT AND SIZE

**Senate Bill 79 by Senator Morrish (Act 723)** authorizes ready-mixed concrete trucks to exceed maximum allowable gross vehicle weight limits under certain conditions

**Senate Bill 138 by Senator Allain (Act 462)** provides that the prohibition effective August 1, 2012, to DOTD issuing any annual special permit to any owner or operator of a vehicle hauling sugarcane who has not added an additional single axle on the sugarcane trailer

applies only to a special annual permit issued pursuant to the provisions of R.S. 32:387.7 and authorizes DOTD to issue an annual special permit to any owner or operator of a vehicle hauling sugarcane pursuant to other provisions of law.

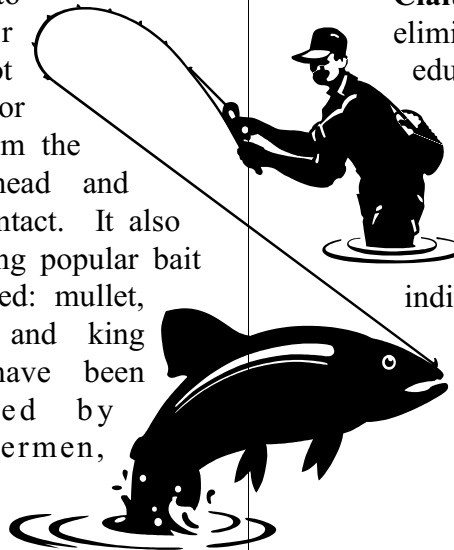
## Wildlife & Fisheries

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The 2012 Regular Legislative Session provided numerous bills of importance regarding the Louisiana Department of Wildlife and Fisheries (LDWF). Some of the departmental bills include:

- Senate Bill 468 (Act 469) by Senator Allain** improves the definition of bait fish to eliminate confusion as to which species apply and whether head and caudal fin need be intact. It amends R.S. 56:325.2(c) to exclude saltwater recreational species not regulated by size or possession limits from the requirement that head and caudal fin remains intact. It also excludes the following popular bait fish that are regulated: mullet, Spanish mackerel, and king mackerel, which have been legally harvested by recreational fishermen, provided that the skin remains attached for purposes of identification.
- In Act 335 of 2010, portions of the Hunter Education (HE) laws were changed to allow persons to purchase a hunting license without having hunter education certification and created exemptions allowing such persons to hunt under supervision.

However, other portions of the law that prohibit purchase by persons without HE certification and sale of licenses to persons without HE certification were not changed. In addition, the exemption language seems to create an unintended situation where a person who is not HE certified can supervise another person who is not HE certified. **Senate Bill 341 (Act 364) by Senator Claitor** amends current law to eliminate the requirement for hunter education as a prerequisite for getting a hunting license. The Act also retains the requirement for firearm safety and HE (or the grandfather clause) to hunt or to supervise children or disabled individuals.



- At the request of the alligator industry, **House Bill 570 (Act 267) by Representative Montoucet** amends the Freedom of Information Act to provide an exception for alligator shipping records. It rewords RS 56:253.C.1 to clarify information requirements on alligator shipping tags as to shipper and receiver of alligator skins. This

legislation was necessary to insure the LDWF receives accurate data for its records as some dealers are now reluctant to reveal proprietary information relative to their business which will become public records and available to competitors.

- **House Bill 401 (Act 83) by Representative T. Gisclair** gives the Wildlife and Fisheries Commission (Commission) authority to set net mesh size for shrimp harvest during special and extended seasons, and no longer requires mandatory opening of Zone 2 by the third weekend in May. It also allows the Commission to establish rules and regulations for the direct vessel to vessel sale of bait shrimp, year-round application, and use of Vessel Monitoring System.
- **House Bill 643 (Act 131) by Representative J. Montoucet** amends R.S. 56:279 to replace “fur and refuge division” with “Office of Wildlife” to allow for broader use of funds designed to defray the cost of alligator programs. It clarifies that revenues received from alligator activities and public waters go into the Alligator Resource Fund (These are not new revenues, but have previously been allocated elsewhere).
- Act 237 of the 2011 regular session sets aside 10% of monies in the artificial reef fund for inshore fisheries habitat enhancement projects. In response to Act 237 and to benefit

recreational anglers, LDWF suggested **House Bill 406 (Act 84) by Representative H. Greene** that authorizes the Commission to designate and set aside such areas from the water bottoms of the state as it judges best suited for placement of recreational reef sites and to prohibit oyster harvest from these sites.

- Act 631 of 2010 Regular Session authorized the Commission to establish predetermined uniform regulations for the use of mechanical yo-yo fishing devices and trotlines that local lake commissions could opt to adopt. However, some lake authorities had previously addressed their concerns over these devices through legislation resulting in a hodgepodge regulatory scheme and causing confusion to fishermen. Those affected water bodies are Caddo Lake, Chicot Lake, Lake D’Arbonne, Black Lake, Clear, Lake, Prairie Lake, and Lake St. Joseph. **House Bill 651 (Act 133) by Representative Lambert** amends R.S. 56:410.4, et seq. as needed to remove specific yo-yo and trotline regulations currently in statute for individual water bodies and allow for lake commissions to adopt predetermined uniform regulations at their option. This does not remove the absolute prohibition on Lake Poverty Point.
- Currently 100% of funds derived from the Wild Louisiana Stamp sales go into the natural heritage account to fund natural heritage and non-game programs within the department, but

limits expenditures for the maintenance and stewardship of department lands to 25% of those proceeds. **House Bill 486 (Act 128) by Representative H. Burns** amends R.S. 56:1833(B) to remove the 25% limit for the maintenance and stewardship of department administered lands within the natural heritage account.

Other LDWF bills of interest of the 2012 Regular Legislative Session include:

**Senate Bill 202 (Act 541) by Senator Morrish** provides that between 1 July 2012 and 30 June 2014, oyster harvesting in Calcasieu Lake requires a special permit issued annually by the LDWF. It also limits the number of permits to 126 permits annually. Sixty-three of the permits will be issued to a person who can prove through trip ticket landings that he commercially harvested oysters from Calcasieu Lake any time since January 1, 2001. The remaining 63 permits may be issued to any person.

**House Bill 1190 (Act 293) by Representative Dove** gives authority to the LDWF to issue an alternative oyster culture permit authorizing alternative oyster culture activities within the confines of an existing oyster lease on a state water bottom. The permit may only be issued to a leaseholder and, upon written authorization from the leaseholder, to a person who holds a commercial fishing license and oyster harvester license. It also allows for a \$100 application fee and an annual fee of \$2 per acre per year for the area permitted, not to exceed \$1,000 per year.

**Senate Bill 531 (Act 561) by Senator Peacock** adds to present law penalties in which a person convicted of criminal trespassing who has killed or otherwise misappropriated any "wildlife," as defined by present law, in the course of Commission of the offense must forfeit the misappropriated wildlife to the law enforcement authority, and is to be ordered to pay the value of the misappropriated wildlife into the Conservation Fund of the LDWF. The new law also places the value of the wildlife that was misappropriated will be determined by the guidelines adopted by the current law of Wildlife and Fisheries Commission.

Had **House Bill 142 (Considered in the House Natural Resources Committee 25 April 2012) by Representative Billiot** passed, it would have provided for a bounty on litter collected from designated areas along highways, roadways, waterways and beaches. The proposed law would have also allowed payment to be made to any nonprofit organization or student group conduct an organized collection of litter.

**House Study Request 4 by Representative Billiot (Study Request Approved)** requests the House Committee on Natural Resources and Environment to study litter abatement and to report their findings to the House of Representatives prior to the convening of the 2013 Regular Session.

**House Bill 216 (Act 61) by Representative Harrison** and eleven other legislators authorizes the LDWF to promulgate rules authorizing the purchase of commercial fish licenses via the internet. A license may be issued to the person who held that same license in the immediately preceding license

year. It also authorizes the imposition of a fee not to exceed \$2 per license for use of the internet application system, with such fees dedicated to the costs necessary to develop and operate the internet system and that such fees will be in addition to any transaction fee imposed by a contractor that has been hired by the department to operate the system.

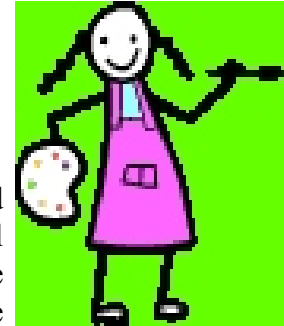
**House Bill 230 (Act 68) by Representative Thibaut** provides for a breech loading rifles of .35 or larger caliber to be used during the primitive firearm deer season. The Louisiana Wildlife and Fisheries Commission approved a list of primitive firearm calibers, smaller than .38 that would be legal for deer hunting in the state beginning with the 2012-13 hunting season. The list specifies primitive firearm calibers are no longer needed since the .35 caliber or larger designation includes the calibers the Commission approved. The new definition of a legal firearm for the primitive firearm season will now include: single shot, breech loading rifles, .35 caliber or larger, having an exposed hammer that uses metallic cartridges loaded either with black powder or modern, smokeless powder.

**House Concurrent Resolution 49 (Filed with the Secretary of State) by Representative Ortego** and twelve other legislators request the LDWF to study Bayou Teche for possible inclusion into the Historic and Scenic Rivers Program.

**House Concurrent Resolution 64 (Filed with the Secretary of State) by Representative Schroder** requests the LDWF to study for possible implementation, and a system for the issuance of hunting and recreational fishing licenses that would involve a term of effectiveness for each license for a year from the date of issuance. A license term that is a year from the date of purchase means that every person who purchases a hunting or fishing license will receive the same value and same term of effectiveness.

## Women & Children

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### 2012 REGULAR SESSION

The 2012 legislative session was a very active and productive year as it relates to the select committee on Women & Children. There were a multitude of commendations given for those who championed the rights of Women & Children. There were several bills that were proposed to further champion the cause of the aforementioned group.

The 2012 Women of Excellence Awards Gala was held in Baton Rouge. There were seven categories for the Women of Excellence Awards: Business, College Woman of Excellence, Education & Research, Government & Law, High School Woman of Excellence, Science, Technology, Engineering & Mathematics, and Volunteerism and Civic Involvement. The award Recipients were: Jennifer Young Tu, Dr. Annete Oertling, Dr. Alma Thornton, Dawn Sharpe-Brackette, Madison Julia Matherne, Danielle Lauren Borel and Shelly Deckert Dick.

**Senate Resolution 56 by Senator Peterson (filed with Sec of State)** recognized Monday, May 7, 2012, as Children's Defense Fund Day and commends the Children's Defense Fund. The Children's Defense Fund (CDF) is the foremost national proponent of policies and programs that provide children with the resources they need to succeed; and the CDF champions policies that will lift children out of poverty, protect them from abuse and neglect, and ensure their access to health care,

quality education, and a moral and spiritual foundation; and the CDF grew out of the Civil Rights

Movement under the leadership of Marian Wright Edelman. The CDF provides a strong, effective, and independent voice for all the children of America who cannot vote, lobby, or speak for themselves; and the nation about the needs of children and encourages preventive investments before they get sick, drop out of school, get into trouble, or suffer family breakdown; and the CDF pays particular attention to the needs of poor and minority children and those with disabilities and advocates to dismantle the cradle-to-prison pipeline across America to ensure that all children become successful and law-abiding adults; and it is appropriate to set aside a special day in recognition of the outstanding work of the Children's Defense Fund.

**Senate Resolution 146 by Senator Peterson (filed with Sec of State)** requested the Louisiana Department of Education and the State Board of Elementary and Secondary Education to conduct a survey or study to determine school compliance with the state law regarding vending machines in schools and the requirement of thirty minutes of physical activity in the public schools. The rate of obesity for children has significantly increased in recent years; and, obesity increases the child's risk of numerous health



problems and can create emotional and social problems; and, the United States Department of Agriculture relates childhood obesity, in part, to poor nutritional resources available to children which have little or no nutritional value; and the promotion of physical activity as well as consumption of snacks having higher nutritional value during the school day will assist in combating this problem of obesity and changing the attitudes and behavior of students of the health benefits derived from participation in physical activity and consumption of more highly nutritious snacks.

**Senate Bill 577 by Senator Peterson (vetoed by the governor)** creates the Louisiana Equal Pay Task Force to study and make recommendations relating to equal pay issues in the state of Louisiana, would have provided for the task force to study the extent of wage disparities between men and women in certain public sectors; study factors that cause wage disparities and the consequences; collect data on women's pay; and develop actions, including legislation, which may eliminate and prevent wage disparities requires the task force to make monthly reports detailing its progress to the Senate committees on Labor and Industrial Relations and Finance and House committees on Labor and Industrial Relations and Appropriations, would have required the task force to submit its final report to the legislature and governor by March 1, 2013.